

**Bundesverband Alternative Investments e.V.  
(BAI)**

Rules of the Association

November 2011

## **A. General Statements**

### **§ 1 Name and Registered Office**

- (1) The Association has the name "Alternative Investments Association e.V." (registered association) (BAI).
- (2) The Association's registered office is in Bonn.

### **§ 2 Objective of the Association**

- (1) It is the Association's objective to comprehensively promote the issues concerning persons and enterprises active in the alternative investments business, in particular to increase the degree of publicity of alternative investments as well as the general public's understanding of it. A constructive dialogue with political decision-makers is to be entered into, with the objective to achieve legal reforms as well as a legislative evolution in the interests of the Association's members. Beyond this, a forum for contacts, discussions and exchange of opinions to the members' benefit will be created.

This statutory objective will be realised in particular through the following activities of BAI:

- (a) it shall maintain the dialogue with politicians and the public regarding all issues concerning the alternative investments;
- (b) it shall seek, through continuous contacts, co-operation with legislative and regulatory bodies as well as other national and international official authorities, associations and other lobby groups;
- (c) it shall actively follow developments in legislation, accompanying them through assessments in the interest of its members;
- (d) it shall inform its members through publications and circulars regarding current developments in the field of alternative investments;

- (e) it carries out seminars and lectures to increase the knowledge of its members and other interested parties;
  - (f) it develops measures for the improvement of investors' protection in Germany and combats dubious market practices;
  - (g) it works towards the promotion of the industry's image in the public.
- (2) The Association is non profit; it shall not follow its own economic interest as a priority. The Association's resources shall only be used for the statutory objectives. Members shall not obtain any gratuities from the Association's resources. No person shall receive benefits resulting from expenses outside the scope of the Association or from unreasonably high remunerations.

### **§ 3 Business Year**

The Association's business year is the calendar year. The first business year commences with the foundation and ends on the following 31st of December (partial business year).

## **B. Admission to and Loss of Membership**

### **§ 4 Types of Membership**

- (1) The Association has Ordinary and Sponsoring Members.
- (2) Admitted as Ordinary Member may be any natural or legal person if the business activities are mainly in the field of Alternative Investments, and any natural or legal person who wishes to support the objectives of the association.
- (3) The decision on the admission of persons as Ordinary Members is within the discretion of the Board. In the case of a refusal, the applicant has the right pursuant to § 5, no. (5).

- (4) It is within the Board's discretion to admit persons qualified for admission as Ordinary Members as Sponsoring Members, provided such persons make a payment towards the Association or provide other contributions to the same value as specified by the Board in each case, or undertake to do so. The Board is authorised to determine the period for which such persons may be regarded as Sponsoring Members of the Association, provided that in general, the Sponsoring Membership shall last for at least one year.
- (5) By way of resolution in the General Meeting, Honorary Membership may be granted to individual persons who have achieved outstanding merits in the support of the Association's objectives.

### **§ 5 Admission to Ordinary Membership**

- (1) Applicants have to send a written admission application to the Board, using the admission forms provided by the Board.  
Furthermore, applicants must furnish all necessary documents and information which are requested by the board and which are suitable to document its business activity in the field of Alternative Investments as well as its trustworthiness and reliability.
- (2) The examination procedure for admission of new members as well as the admission criteria may be further determined by additional rules established by the Board.
- (3) Under consideration of the additional rules pursuant to no. (2), the Board shall decide on the admission.
- (4) The Board may, in its discretion, verify from time to time whether the criteria for the admission to Ordinary Membership are still fulfilled. In the case of such verification of members yielding a negative result, the Board may decide to suspend the membership (maximum of six months) or expel the Member concerned with immediate effect, having first given such Member an opportunity to make a statement.
- (5) Applicants or members shall be entitled to appeal against the rejection of admission to Ordinary Membership or an expulsion pursuant to no. (4), respectively, within one month of the receipt of such rejection to the next Ordinary General Meeting, which will take a final decision on the admission or expulsion.

- (6) The Rules of the Association (and, if applicable, a copy of further mandatory orders) shall be handed to admitted members.

## **§ 6 Termination of Membership**

- (1) The membership ends:

- (a) upon death of a Member;
- (b) upon liquidation of a Member;
- (c) upon destruction of the legal entity or dissolution of the partnership;
- (d) by written notice of withdrawal, directed to the office of the Association, effective at the end of a business year and subject to three months' notice period;
- (e) upon deletion from the members' list;
- (f) upon expulsion from the Association.

- (2) Members may be deleted from the members' list by way of a Board resolution, if they fail to effect payment of membership contributions (levies or fines) after two written reminders. The first reminder shall only be permitted after a minimum of one month past the due date. The second reminder shall be sent three months later by registered mail with return receipt, and shall refer to the impending deletion. This shall only be decided upon if, after a period of two more months after receipt of the second reminder, the dues have not been paid in full. The Member concerned shall be informed of such deletion.

Members may be expelled from the Association if they wilfully contravene the interests of the Association. This is particularly the case if there has been a grave breach of the Rules of the Association or of orders given by the Association's Authorities. Every Member shall be able to file an application towards the expulsion of another member. Such application shall be decided upon by the overall Board. The decision to expel, which must be provided with reasons and notified to the Member concerned by registered mail with return receipt, may be appealed against to the next Ordinary General Meeting, within a period of one month from the notification.

Such appeal shall have suspensory effect. In the case of the Member concerned not filing an appeal, the expulsion shall become effective at the end of the appeal period.

## **C. Members' Duties**

### **§ 7 Financial Contribution Duties**

(1) Each ordinary Member shall be obliged to contribute an annual fee. This shall be paid in advance on the 1st of February each year and become due without reminder. The amount of the annual fee shall be fixed by the General Meeting.

It shall be possible to grant members, who find themselves in financial problems without their fault, a respite for payment on the fees or to waive the fees, in full or in part, for the duration of such problems. The Board shall decide upon an application for respite or waiver.

For persons who are admitted as ordinary members during the respective business year , the annual fee is calculated on a monthly basis pro rata temporis.

(2) The exercise of the member duties according to § 7 no. (1) is precondition for the exercise of the membership rights.

(3) In the case of unforeseen financial requirements of the Association, the General Meeting shall be authorised to decide on charging of levies. These must not exceed five times the annual fee.

(4) Honorary Members shall not be subject to financial contribution duties.

### **§ 8 Other Members' Duties**

Members shall be obliged to support the Association's objectives and to refrain from anything which may impair the Association's reputation.

Members have to avoid any breaches of the Rules of the Association; they shall comply with the orders of the Association's Authorities. If the Board gains knowledge of circumstances indicating a conduct which is harmful to the Association, it may take up any measures necessary for a clarification and request the co-operation of the Member concerned.

Changes of name or address shall be notified to the Board in writing, without delay.

## **D. Authorities of the Association**

### **§ 9 Existing Authorities; Establishment of New Authorities**

The present Authorities of the Association are as follows:

- (1) the General Meeting;
- (2) the Board of Directors;
- (3) the Committees.

The General Meeting may decide on the establishment of additional Authorities of the Association.

### **§ 10 Ordinary and Extraordinary General Meeting**

An Ordinary General Meeting must take place every year. The date of the General Meeting will be fixed by the Board.

An Extraordinary General Meeting must be convened:

- (1) if the Board decides to do so; it shall be obliged to do so if, in the interest of the well-being of the Association, it is necessary to submit particularly urgent issues to the discussion and decision-making of the superior Authority of the Association;
- (2) if such convention is demanded by at least one quarter of the members, under provision of objectives and reasons, to the Board in writing.

### **§ 11 Responsibilities of the General Meeting**

The General Meeting shall be particularly responsible for the following issues:

- (1) acceptance of the Board's annual report, granting or refusal of discharge;
- (2) approval of the draft budget for the next business year, as prepared by the Board;
- (3) fixing of the amount of the annual fee; decision on the charging of levies;
- (4) election and recall of the members of the Board as well as of members of other Authorities, with the exception of the Committees pursuant to § 20;
- (5) decision on changes to the Rules of the Association, including the Association's objectives as well as on the dissolution of the Association;
- (6) granting and forfeiture of Honorary Membership; the forfeiture shall only be permitted in the case of a grave, wilful offence against the Association's objectives;
- (7) instance of appeal for decisions on the admission or expulsion of applicants or members;
- (8) The General Meeting shall be authorised to give instructions to the Board.

### **§ 12 Convention of the General Meeting**

- (1) The General Meeting shall be convened by the Board. The Board shall also determine the agenda. The carrying out of the convention shall be the duty of the Chairman of the Board, if absent, it shall be the duty of one of his Deputy Chairmen.
- (2) The convention of the General Meeting shall be done in writing, stating the agenda and with four weeks' notice. Such notice shall commence on the day following the dispatch of the invitation. The invitation letter shall be deemed received by members if it is sent to the last address which has been notified to the Association by members in writing.

### **§ 13 Discussions and Resolutions**

- (1) The General Meeting shall be chaired by the Chairman of the Board or, if absent, by one of his Deputy Chairmen or any other Board member. In the case of no Board member being present, the meeting shall determine the chairman.

In the case of elections, the chairing of the meeting may be passed, for the duration of such poll and the preceding discussions, to an election committee.

The minute-taker shall be appointed by the chairman of the meeting; a non-member may also be appointed as minute-taker.

- (2) The chairman of the meeting shall determine the type of polls. Polls must be carried out in writing if one third of the members with voting rights present on such poll demands so.
- (3) The General Meeting is not open to the public. The chairman of the meeting may admit guests. The General Meeting shall decide on the admission of press, radio and television.
- (4) A quorum shall be deemed present if the members present hold at least one third of all voting rights. In the absence of a quorum, the Board shall be obliged to convene a second General Meeting with the same agenda within four weeks; such meeting shall have a quorum, irrespective of the number of members present. This shall be pointed out in the invitation.
- (5) In general, the General Meeting shall pass resolutions with the simple majority of valid votes cast, whereby members in consideration of § 7 no. (2) are entitled to one vote each; abstentions shall not be taken into account.

For changes to the Rules of the Association, however, a majority of three quarters, and for the dissolution of the Association, a majority of four fifths of the valid votes are required. Changes to the Association's objectives shall also be resolved by three quarters of the valid votes.

- (6) It shall be permitted to appoint a proxy to vote. Every Member present, however, may only act as proxy for a maximum of three further members. The evidence of proxy must be provided by a written authorisation document which shall be in hand at the Association's office at least three days prior to the General Meeting.
- (7) In the case of elections, the following shall apply: if, in the first ballot, no candidate has achieved more than half of valid votes cast, there shall be a second and final ballot between those candidates having achieved the two highest numbers of votes.

(8) Minutes shall be taken of the resolutions of the General Meeting, which shall be signed by the chairman of the respective meeting and the minute-taker. Such minutes shall contain the following details: place and time of the meeting, the names of the meeting's chairman and the minute-taker, the number of members present, the agenda, the poll results and the type of poll. In the case of changes to the Rules of the Association, the precise wording shall be given.

#### **§ 14 Additional Agenda Items**

Each Member may apply in writing to the Board, no later than one week before the date of the General Meeting, for additional items to be put on the agenda. At the beginning of the General Meeting, the chairman of the meeting shall supplement the agenda accordingly.

Applications for supplementing the agenda which are made during the General Meeting are decided upon by the General Meeting. For the acceptance of an application, a majority of three quarters of the valid votes cast shall be required.

#### **§ 15 The Board**

(1) The Board of the Association shall consist of a minimum of five and a maximum of six persons.

The members of the Board are:

- the Chairman,
- the Deputy Chairmen,
- the Treasurer

(2) The Chairman, his Deputy Chairmen and the Treasurer shall be elected by the General Meeting for a period of two years in separate ballots. All members of the board must be Ordinary members. Each Authority member shall be elected separately.

- (3) Each Board member shall stay in office until a re-election. In the case of the premature withdrawal of a Board member, the remaining Board members shall be authorised within a period of six months to elect a replacement member for the remaining office period of the withdrawn member. Same also applies in case that a board member loses its eligibility requirements, and that the requirements are not restored within this period of time.

### **§ 16 Representing Board**

The Board pursuant to § 26 BGB consists of the Chairman and the Deputy Chairmen, whereby the Association shall be represented by the Chairman and one of the Deputy Chairmen. The authorisation of representation shall be restricted exclusively for the following case: If the Association is to undertake an obligation through a transaction amounting to Euro 25.000 or more, the Representing Board must present a resolution of approval of the overall Board, taken with simple majority.

The Chairman is exempted from the limitations pursuant to § 181 BGB.

### **§ 17 Duties of the Overall Board**

- (1) The overall Board shall be responsible for the management of the Association and the carrying out of its business. It shall carry out those administrative duties which have not expressly been assigned to another Authority of the Association by the Rules of the Association.
- (2) The overall Board shall pass the responsibilities of the management onto the Chairman or another member of the Board who shall then receive adequate payment.
- (3) For supporting the managing Board an Association's Chief Executive shall be appointed.
- (4) In particular, the following shall be included in the Board's field of activities:
- (a) the resolution on whether an Extraordinary General Meeting is to be convened;

- (b) the preparation of General Meetings and the drawing up of an agenda, and, if applicable, its completion;
- (c) the creation of the annual report;
- (d) the convention of a General Meeting;
- (e) the verification of the legality of resolutions of General Meetings as well as the execution of those resolutions which are not void;
- (f) the keeping of accounts, the proper administration and use of the Association's assets;
- (g) the admission, deletion and expulsion of members;
- (h) the employment and dismissal of the Association's employees as well as their supervision.

### **§ 18 Resolutions of the Overall Board**

- (1) There shall be a quorum of the overall Board if all members have been invited and at least three members, including the Chairman or one of the Deputy Chairmen, are present. The invitation by the Chairman or, if absent, one of the Deputy Chairmen, may be effected in writing, by phone or by fax. The publication of an agenda shall not be necessary in the case of the convention of the Board. The Board shall decide with the simple majority of votes. In the case of an equal vote, the vote of the Chairman or the chairman of the meeting shall decide.
- (2) A Board meeting shall not be necessary if all Board members agree in writing to a proposal or resolution.
- (3) Resolutions passed during meetings shall be included in the minutes and signed by the chairman of the meeting. The notes shall contain the following: place and time of the meeting, the names of participants and of the chairman, any apologies, the resolutions passed and the majorities so achieved (yes-votes, no-votes, abstentions). Written agreements to resolutions shall be kept as an annex to the minutes.

### **§ 19 Committees**

- (1) For the preparation of decisions as well as for the execution of its authorities and duties, the Board may appoint Committees.
- (2) The Board shall decide upon the composition of such Committees and may draw up general guidelines for their activities.

## **E. Other Provisions**

### **§ 20 Dissolution of the Association and Disposal of Assets**

The dissolution of the Association may only be decided with the number of votes determined in § 14, no. (5), paragraph 2.

In the absence of other resolutions of the General Meeting, the Chairman of the Board and the Treasurer shall be the jointly authorised representing liquidators. This provision shall also apply in the case of the Association being dissolved for another reason or losing its legal status. The Association's assets remaining after the completion of the dissolution shall be transferred to the members of the Association being existent at the time of the dissolution.

The assets of the Association shall be distributed in the ratio of the annual payments made by the members in the current business year.