

### Composition of subscribed capital

The subscribed capital (share capital) of BMW AG amounted to €655,566,568 at 31 December 2011 (2010: €655,158,608) and, in accordance with Article 4 (1) of the Articles of Incorporation, is subdivided into 601,995,196 shares of common stock (91.83%) (2010: 601,995,196; 91.89%) and 53,571,372 shares of non-voting preferred stock (8.17%) (2010: 53,163,412; 8.11%), each with a par value of €1. The Company's shares are issued to bearer. The rights and duties of shareholders derive from the German Stock Corporation Act (AktG) in conjunction with the Company's Articles of Incorporation, the full text of which is available at [www.bmwgroup.com](http://www.bmwgroup.com). The right of shareholders to have their shares evidenced in writing is excluded in accordance with the Articles of Incorporation. The voting power attached to each share corresponds to its par value. Each €1 of par value of share capital represented in a vote is entitled to one vote (Article 18 (1) of the Articles of Incorporation). The Company's shares of preferred stock are non-voting within the meaning of §139 et seq. AktG, i.e. they only confer voting rights in exceptional cases stipulated by law, in particular when the preference amount has not been paid or has not been fully paid in one year and the arrears are not paid in the subsequent year alongside the full preference amount due for that year. With the exception of voting rights, holders of shares of preferred stock are entitled to the same rights as holders of shares of common stock. Article 24 of the Articles of Incorporation confers preferential treatment to the non-voting shares of preferred stock with regard to the appropriation of the Company's unappropriated profit. Accordingly, the unappropriated profit is required to be appropriated in the following order:

<sup>1</sup> Disclosures pursuant to §289 (4) HGB and §315 (4) HGB

- (a) subsequent payment of any arrears on dividends on non-voting preferred shares in the order of accrument,
- (b) payment of an additional dividend of €0.02 per €1 par value on non-voting preferred shares and
- (c) uniform payment of any other dividends on shares of common and preferred stock, provided the shareholders do not resolve otherwise at the Annual General Meeting.

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

As well as shares of common stock, the Company has also issued non-voting shares of preferred stock. Further information relating to this can be found above in the section "Composition of subscribed capital".

When the Company issues non-voting shares of preferred stock to employees in conjunction with its employee share scheme, these shares are subject to a company-imposed vesting period of four years, measured from the beginning of the calendar year in which the shares are issued. During this time the shares may not be sold.

Contractual holding period arrangements also apply to shares of common stock required to be acquired by Board of Management members in conjunction with the share-based remuneration scheme (see also note 47 for further information).

### Direct or indirect investments in capital exceeding 10% of voting rights

Based on the information available to the Company, the following direct or indirect holdings exceeding 10% of the voting rights at the end of the reporting period were held at the date stated:<sup>2</sup>

	Direct share of voting rights (%)	Indirect share of voting rights (%)
Stefan Quandt, Bad Homburg v. d. Höhe, Germany	17.4	17.4
AQTON SE, Bad Homburg v. d. Höhe, Germany	17.4	17.4
Stefan Quandt Verwaltungs GmbH, Bad Homburg v. d. Höhe, Germany	17.4	17.4
Stefan Quandt GmbH & Co. KG für Automobilwerte, Bad Homburg v. d. Höhe, Germany	17.4	17.4
Johanna Quandt, Bad Homburg v. d. Höhe, Germany	0.4	16.3
Johanna Quandt GmbH, Bad Homburg v. d. Höhe, Germany		16.3
Johanna Quandt GmbH & Co. KG für Automobilwerte, Bad Homburg v. d. Höhe, Germany	16.3	16.3
Susanne Klatten, Munich, Germany		12.6
Susanne Klatten Beteiligungs GmbH, Bad Homburg v. d. Höhe, Germany		12.6
Susanne Klatten GmbH, Bad Homburg v. d. Höhe, Germany		12.6
Susanne Klatten GmbH & Co. KG für Automobilwerte, Bad Homburg v. d. Höhe, Germany	12.6	12.6

<sup>2</sup> Based on voluntary balance notifications provided by the listed shareholders at 31 December 2008

The voting power percentages disclosed above may have changed subsequent to the stated date if these changes were not required to be reported to the Company. Due to the fact that the Company's shares are issued to bearer, the Company is generally only aware of changes in shareholdings if such changes are subject to mandatory notification rules.

#### **Shares with special rights which confer control rights**

There are no shares with special rights which confer control rights.

#### **Nature of control over voting rights when employees participate in capital and do not exercise their control rights directly**

The shares issued in conjunction with the employee share programme are shares of non-voting preferred stock which are transferred solely and directly to employees. Like all other shareholders, employees exercise their control rights over these shares on the basis of relevant legal provisions and the Company's Articles of Incorporation.

#### **Statutory regulations and Articles of Incorporation provisions with regard to the appointment and removal of members of the Board of Management and changes to the Articles of Incorporation**

The appointment or removal of members of the Board of Management is based on the rules contained in § 84 et seq. AktG in conjunction with § 31 of the German Co-Determination Act (MitbestG).

Amendments to the Articles of Incorporation must comply with § 179 et seq. AktG. All amendments must be resolved by the shareholders at the Annual General Meeting (§ 119 (1) no. 5, § 179 (1) AktG). The Supervisory Board is authorised to approve amendments to the Articles of Incorporation which only affect its wording (Article 14 no. 3 of the Articles of Incorporation); it is also authorised to change Article 4 of the Articles of Incorporation in line with the relevant utilisation of Authorised Capital 2009. Resolutions are passed at the Annual General Meeting by simple majority of shares unless otherwise explicitly required by binding provisions of law or, when a majority of share capital is required, by simple majority of shares represented in the votes cast (Article 20 of the Articles of Incorporation).

#### **Authorisations given to the Board of Management in particular with respect to the issuing or buying back of shares**

The Board of Management is authorised to buy back shares and sell repurchased shares in situations specified

in § 71 AktG, e.g. to avert serious and imminent damage to the Company and/or to offer shares to persons employed or previously employed by BMW AG or one of its affiliated companies. In accordance with Article 4 (5) of the Articles of Incorporation, the Board of Management is authorised – with the approval of the Supervisory Board – to increase BMW AG's share capital during the period until 13 May 2014 by up to €3,624,790 for the purposes of an employee share programme by issuing new non-voting shares of preferred stock, which carry the same rights as existing non-voting preferred stock, in return for cash contributions (Authorised Capital 2009). Existing shareholders may not subscribe to the new shares. There is no conditional capital in place at the reporting date.

#### **Significant agreements entered into by the Company subject to control change clauses in the event of a takeover bid**

BMW AG is party to the following major agreements which contain provisions for the event of a change in control or the acquisition of control as a result of a takeover bid:

- An agreement concluded with an international consortium of banks relating to a syndicated credit line (which was not being utilised at the balance sheet date) entitles the lending banks to give extraordinary notice to terminate the credit line (such that all outstanding amounts, including interest, would fall due immediately) if one or more parties jointly acquire direct or indirect control of BMW AG. The term "control" is defined as the acquisition of more than 50 % of the share capital of BMW AG, the right to receive more than 50 % of the dividend or the right to direct the affairs of the Company or appoint the majority of members of the Supervisory Board.
- A cooperation agreement concluded with Peugeot SA relating to the joint development and production of a new range of small (1 to 1.6 litre) petrol-driven engines entitles each of the cooperation partners to give extraordinary notification of termination in the event of a competitor acquiring control over the other contractual party and if any concerns of the other contractual party concerning the impact of the change of control on the cooperation arrangements are not allayed during the subsequent discussion process.
- BMW AG acts as the guarantor for all of the obligations arising from the joint venture agreement relating to BMW Brilliance Automotive Ltd. in China. This agreement grants an extraordinary right of termination to either joint venture partner in the event that, either directly or indirectly, more than 25 % of the shares of the other party are acquired by a third party

or the other party is merged with another legal entity. The termination of the joint venture agreement may result in the sale of the shares to the other joint venture partner or in the liquidation of the joint venture entity.

- Regarding the trading of derivative financial instruments, framework agreements are in place with financial institutions and banks (ISDA Master Agreements), each of which contain extraordinary rights of termination which trigger the immediate settlement of all current transactions, in the event that the creditworthiness of the respective party is materially weaker following the direct or indirect acquisition of beneficial ownership of equity securities having the power to elect a majority of the Supervisory Board of a contractual party or any other ownership interest enabling the acquirer to exercise control of a contractual party or a merger or transfer of assets.
- Financing agreements in place with the European Investment Bank (EIB) entitle the EIB to request early repayment of the loans in the event of an imminent or actual change in control at the level of BMW AG (which is in most cases the guarantor, in two cases, however, the borrower), if the EIB has reason to assume – either after the change of control has taken place or 30 days after it has requested to discuss the situation – that the change in control could have a significantly adverse impact, or if – as stated in three of the contracts – the borrower refuses to hold such discussions. A change in control of BMW AG arises if one or more individuals take over or lose control of BMW AG, with control being defined in the above-mentioned financing agreements as (i) holding or having control over more than 50% of the voting rights, (ii) the right to stipulate the majority of the members of the Board of Management or Supervisory Board, or (iii) the right to receive more than 50% of dividends payable, and, in two cases as an additional alternative (iv) other comparable controlling influence over BMW AG.
- BMW AG is party to an agreement with SGL Carbon SE, Wiesbaden, relating to the joint ventures SGL Automotive Carbon Fibers LLC, Delaware, USA, and SGL Automotive Carbon Fibers GmbH & Co. KG, Munich. The agreement includes call and put rights in the event that 50% or more of the voting rights relating to the relevant other shareholder of the joint venture are either directly or indirectly acquired by a third party, or in the event that 25% of such voting rights are acquired by a third party who is a competitor of the party not affected by the acquisition of voting rights. In the event of such acquisitions of voting rights by a third party, the non-affected share-

holder has the right to purchase the affected shareholder's shares in the joint venture or to demand the sale of its own shares in the joint venture to the affected shareholder.

- BMW AG is party to an agreement with Peugeot SA, Paris, relating to the joint venture BMW Peugeot Citroën Electrification B.V., the Netherlands. The agreement includes call and put rights in the event that 50% or more of the voting rights relating to the relevant other shareholder of the joint venture are either directly or indirectly acquired by a third party, or in the event that one-third of such voting rights are acquired by a third party who is a competitor of the party not affected by the acquisition of voting rights. In the event of such acquisitions of voting rights by a third party, the non-affected shareholder has the right to purchase the affected shareholder's shares in the joint venture or to demand the sale of its own shares in the joint venture to the affected shareholder.
- An engine supply agreement between BMW AG and Toyota Motor Europe SA relating to the sale of diesel engines entitles each of the contractual parties to give extraordinary notification of termination in the event that one of the contractual parties merges with another company or is taken over by another company.

#### **Compensation agreements with members of the Board of Management or with employees in the event of a takeover bid**

The BMW Group has not concluded any compensation agreements with members of the Board of Management or with employees for situations involving a takeover bid.