

**POLISH FINANCIAL SUPERVISION AUTHORITY**

**Current report No 7/2011**

Date of preparation: 01<sup>st</sup> April, 2011

Abbreviated name of the Issuer:

ELZAB

**Subject:**

**Shareholders motion for convening extraordinary general meeting**

**Legal foundation:**

Art. 56 section 1 point 1 of the Law on the offer – current and periodic information

**The text of the report:**

The Management Board of ELZAB S.A. Computer Works in Zabrze informs on received from the Shareholder RELPOL 2 Sp. z o.o. motion for convening Extraordinary General Meeting along with justification.

The text of the motion and the justification is attached.

**SIGNATURES OF PERSONS REPRESENTING THE COMPANY**

<b>Date</b>	<b>Full name</b>	<b>Position / Function</b>	<b>Signature</b>
2011-04-01	Jerzy Biernat	Deputy Chairman of the Management Board, CEO	
2011-04-01	Jerzy Malok	Member of the Management Board	

**RELPOL 2 LIMITED LIABILITY COMPANY**

**Warsaw, 29th March, 2011**

**The Management Board**

**of ELZAB S.A. with registered office in Zabrze**

**ul. Kruczkowskiego 39**

**41-813 Zabrze**

**SHAREHOLDER'S MOTION**

**FOR CONVENING EXTRAORDINARY GENERAL MEETING**

I hereby motion, acting for and on behalf of Relpol 2 Sp. z o.o. with registered office in Warsaw – a shareholder representing at least one twenty fifth of the share capital of ELZAB S.A. with registered office in Zabrze (“The Company”), in virtue of art. 400 § 1 of Commercial Companies Code, for convening Extraordinary General Meeting of the Company on the Company premises, at the earliest convenience possible, no later than by 11<sup>th</sup> May, 2011. The agenda should include adopting resolutions on the following:

1. Changes in the Supervisory Board membership.
2. Amendments to the Company Statute.
3. Adopting resolution settling that the costs of convening and holding the Meeting shall be borne by the Company.

Please, find enclosed suggested draft resolutions requested by the Shareholder.

Should the Company plan convening its Annual General Meeting by 11<sup>th</sup> May, 2011, I hereby motion for including the points mentioned above in the agenda of the Meeting.

For Relpol 2 Sp. z o.o.

/-/ Andrzej Dudziuk – Chairman of the Management Board

Attachments:

1. Draft resolution
2. Shareholding Certificate
3. Excerpt from KRS [National Court Register]

**Draft resolutions**

I.

Draft resolutions on changes in the Supervisory Board membership:

Resolution No [\*\*\*]  
of Extraordinary General Meeting  
of ELZAB Joint Stock Company  
with registered office in Zabrze ("The Company")

dated [...] 2011

on dismissal of Supervisory Board members

Acting in virtue of art. 385 § 1 of Commercial Companies Code, the Extraordinary General Meeting of the Company hereby resolves the following:

§ 1

The Extraordinary General Meeting hereby dismisses from the Supervisory Board:

1. [...]
2. [...]
3. [...]
4. [...]
5. [...]

§ 2

The resolution shall come into full force and effect on the day of being passed.

Resolution No [\*\*\*]  
of Extraordinary General Meeting  
of ELZAB Joint Stock Company  
with registered office in Zabrze (“The Company”)

dated [...] 2011

on appointing Supervisory Board members

Acting in virtue of art. 385 § 1 of Commercial Companies Code, the Extraordinary General Meeting of the Company hereby resolves the following:

§ 1

The Extraordinary General Meeting hereby appoints the Supervisory Board members:

1. [...]
2. [...]
3. [...]
4. [...]
5. [...]

§ 2

The resolution shall come into full force and effect on the day of being passed.

## II.

Draft resolution on amendments to the Company Statute.

Resolution No [\*\*\*]  
of Extraordinary General Meeting  
of ELZAB Joint Stock Company  
with registered office in Zabrze ("The Company")

dated [...] 2011

on amendments to the Company Statute

Acting in virtue of art. 430 § 1 of Commercial Companies Code, in relation to § 30 par. 1 section 5 of ELZAB S.A. Statute, the Extraordinary General Meeting of the Company hereby resolves the following:

### § 1

1. In § 30 of the Company Statute:

a. paragraphs 4 to 9 are hereby added, reading as follows:

"4. For matters defined in § 30 par. 1, section 2, 4, 5, 6, 7, 8, 9, 10, 11, 12 of the Company Statute and in case of the Company division, the General Meeting resolutions are passed by majority of 90% votes.

5. The right to vote of the Company shareholders is restricted in such a way that none of the Company shareholders may exercise the right to vote at the General Meeting from more than 10% of the total number of votes existing in the Company on the day of holding the General Meeting. The restriction, however, does not release from such duties the purchasers of significant packages of shares as provided in the Law of 29<sup>th</sup> July, 2005 on public offer and conditions of introducing financial instruments into the organized turnover system and on public companies.

6. A shareholder in the meaning of paragraph 5 is every person, including its parent company and subsidiary entitled directly and indirectly to vote at the General Meeting in virtue of any legal title. It also refers to a person who does not hold shares in the Company, particularly a user, lienor and a person entitled to attend the General Meeting, in spite of selling the shares held after the day of settling the right to attend the General Meeting.

7. If at least one of the following circumstances occurs between two or more shareholders:

a) holding the status of “a parent entrepreneur” or “a subsidiary entrepreneur” in the meaning of the Law of 16<sup>th</sup> February, 2007 on protection of competitors and consumers, or

b) holding the status of “a parent company” or “a subsidiary company” in the meaning of the Law of 15<sup>th</sup> September, 2000 Commercial Companies Code, or

c) holding the status of “a parent entity” or “subsidiary entity” in the meaning of the Law of 29<sup>th</sup> July, 2005 on financial instruments turnover.

d) holding the status of “a parent entity” or “subsidiary entity” in the meaning of the Law referred to in par. 5 above.

e) also in case of a shareholder whose votes resulting directly or indirectly from the Company shares held are subject to accumulation with the votes of another person or persons under the principles defined in the Law indicated in par. 5 above, in relation to holding, selling or buying significant packages of shares in the Company,

such shareholders shall be called “A Group”.

8. The votes held by the Group are subject to accumulation and reduction, according to the provisions of paragraph 9 below. The accumulation of votes consists in adding up the votes held by the particular shareholders of a given Group, even though the right to vote from shares were restricted or excluded by virtue of the Statute, agreement or the law. The reduction of votes consists in the reduction of the total number of votes in the Company eligible at the General Meeting to the shareholders included in such Group so that it would not infringe the limit defined in paragraph 5 above.

9. The reduction of votes is performed under the following principles:

a) the number of votes of the shareholder who has the largest number of votes in the Company among all the shareholders of the Group shall be reduced by the number of votes equal to the excess over 10% of the total number of votes in the Company eligible to all the shareholders of the Group in total,

b) if, despite the reduction mentioned under letter (a) above, the total number of votes eligible at the General Meeting to the shareholders of the Group exceeds the threshold defined in paragraph 5, the votes held by the other shareholders of the Group shall be further reduced. The further reduction of the votes of the particular shareholders takes place in the sequence settled in virtue of

the number of votes at the disposal of the particular shareholders of the Group (from the highest to the lowest). The further reduction is made until a level is achieved when the total number of votes at the disposal of the shareholders of the Group shall not exceed 10% of the total number of votes in the Company.

c) in either case the shareholder who had the exercise of the right to vote restricted shall maintain the right to exercise one vote minimum.

d) the restriction of exercise of the right to vote also refers to a shareholder not attending the General Meeting.

## § 2

The Supervisory Board is hereby authorized to prepare a uniform text of the Company Statute.

## § 3

The resolution shall come into full force and effect on the day of being passed.

### III.

Draft resolution on covering the costs of the General Meeting.

Resolution No [\*\*\*]  
of Extraordinary General Meeting  
of ELZAB Joint Stock Company  
with registered office in Zabrze ("The Company")

dated [...] 2011

on covering the costs of convening and holding the Extraordinary General Meeting

Acting in virtue of art. 400 §4 of Commercial Companies Code, the Extraordinary General Meeting hereby resolves as follows:

## § 1

The Extraordinary General Meeting of the Company hereby decides that the costs of convening and holding this Extraordinary General Meeting shall be borne by the Company.

§ 2

The resolution shall come into full force and effect on the day of being passed.

## **RELPOL 2 LIMITED LIABILITY COMPANY**

Warsaw, 30th March, 2011

The Management Board of

ELZAB S.A. Computer Works

ul. Kruczkowskiego 39

41-813 Zabrze

Dear Sirs,

In reference to the motion dated 29<sup>th</sup> March, 2011 for convening extraordinary General Meeting of the Company and in reply to the request of ELZAB S.A. Zabrze Management Board ("The Company") to provide justification for draft resolutions, I hereby inform that the suggested resolutions are the consequence of the fact that Novitus S.A., as a result of public invitation for subscription to sell shares in the Company, reached the threshold of 66% of the total number of votes at the Company General Meeting. Upon acquisition of the Company shares, Novitus S.A. became "the parent company" of Elzab, in the meaning of art. 4 § 1 par. 4 of the Law of 15<sup>th</sup> September, 2000, the Commercial Companies Code. The Company informed of the fact in its current report No 62/2010 dated 26<sup>th</sup> November, 2010. Simultaneously, as a result of the same event, Novitus S.A. became "the parent company" of Elzab in the meaning of art. 4 section 14 of the law of 20<sup>th</sup> July, 2005 on the public offer and the terms and conditions of introducing the financial instruments into the organized trading system and on public companies ("The Law").

As of the date of taking over the control of the Company by Novitus S.A. (i.e. 24<sup>th</sup> November, 2010), the Company was (and still is ) the holder of 510.272 own shares, representing 3,16% of the share capital and 2,88 % votes at the Company General Meeting. Therefore, in virtue of art. 4 section 14) and 27) and art. 85 par. 5 section 1) of the Law, Novitus S.A. indirectly acquired the Company's own shares and thus exceeded the threshold of 66% votes at the Company General Meeting. In virtue of art. 87 par. 5 section 3) of the Law, the circumstance that the Company does not exercise the right to vote from its own shares does not affect settling the total number of votes in the Company, acquired by Novitus S.A.

In light of the above, Novitus S.A. should add the Company's own shares held by the Company to the total package of shares in the Company, acquired as a result of public invitation and in consequence, as of 24<sup>th</sup> November, 2010, Novitus S.A. held directly and indirectly – through the Company as its subsidiary, the total of 10.772.750 shares in the Company, representing 66,75 of the Company share

capital and 12.197.030 votes, which corresponds to 68,88% of the total number of shares at the Company General Meeting.

According to art. 74 par. 1 of the Law, the threshold of 66% of votes may take place as a result of invitation to subscribe for sale or exchange of all the other shares in a public company. If the threshold was exceeded as a result of indirect purchase of shares (which was the case here), Novitus S.A. as an entity who acquired indirectly shares, exceeding the threshold of 66% votes, Novitus S.A. should have announced invitation to sell or exchange of all the other shares in the Company within 3 months from the date of exceeding the threshold, (i.e. from 24<sup>th</sup> November, 2010 to 24<sup>th</sup> February, 2011). Novitus S.A. would have been excused from the duty, if, within the said timeframe, the share of Novitus S.A. (with subsidiaries) had dropped below the threshold of 66% as a result of the Company capital increase, change of the Company statute or expiration of preference of the Company shares held by Novitus S.A. or the Company. None of the circumstances enumerated herein occurred within the 3-monthly period stipulated above. In consequence, by virtue of art. 89 par. 1 section 2) and par. 2 of the Law, due to the fact that Novitus S.A. did not exercise the duties resulting from art. 74 par. 2 of the Law within the said period, it cannot exercise the right to vote from all the Company shares it [i.e. Novitus S.A.] holds.

Taking the above into the consideration, Relpol 2 Sp. z o.o. has motioned for convening the Extraordinary General Meeting.

Including the point referring to the changes in the membership of the Supervisory Board in the agenda is the consequence of the need to reflect in the supervisory body a realistic arrangement of votes eligible to the particular shareholders.

Furthermore, the admissibility of the suggested changes in the Company Statute results from art. 411 § 3 and 4 of Commercial Companies Code. The proposals presented are to provide protection of minority shareholders' rights in the future, in view of the lack of any information on the plans and further strategy of Novitus S.A. concerning the Company. At the moment the merger between Novitus S.A. and Comp S.A. is in progress. The transformations, however, do not include the Company. Novitus S.A. is a direct competitor of the Company and therefore a natural fear of minority shareholders arises that the further development of Novitus S.A. Group (e.g. in case of merger with Comp S.A.) might take place at the cost of the Company interest.

Sincerely yours,

/-/ Andrzej Dudziuk, Chairman of the Management Board