

# SAP AG

## General Meeting of Shareholders

on May 25, 2011 at SAP Arena in Mannheim, Germany

### Report of the Executive Board concerning agenda item 7

#### Report of the Executive Board pursuant to Section 221 (4) sentence 2 in conjunction with Section 186 (4) sentence 2 AktG

By two resolutions adopted by the General Meeting of Shareholders of May 9, 2006, the Executive Board was authorized to issue bearer and/or registered convertible and/or warrant-linked bonds on one or more occasions on or before May 8, 2011 in an aggregate principal amount of up to € 5 billion in each case. In view of the fact that these existing authorizations have expired without having been exercised, it is proposed to the General Meeting of Shareholders of May 25, 2011 that a new authorization be granted for the issue of convertible and/or warrant-linked bonds (hereinafter also referred to as the **Bonds**). The authorization proposed under item 7 on the agenda of the General Meeting of Shareholders of May 25, 2011 permits the issue of Bonds carrying conversion or option rights in respect of SAP AG shares representing a pro rata amount of capital stock of up to € 100 million.

Adequate capital resources are an important requirement for the Company's development. The issue of convertible and/or warrant-linked bonds offers the Company attractive financing opportunities at relatively low interest, and the proposed authorization is designed to again open up these opportunities to the Company. The authorization gives the Company the flexibility required to raise capital, depending on the situation prevailing on the market, in the German capital market or even in the international capital market, in particular through direct or indirect majority holdings of SAP AG.

The authorization provides that the convertible and/or warrant-linked bonds are generally to be offered to the shareholders for subscription (Section 221 (4) AktG in conjunction with Section 186 (1) AktG). In order to facilitate implementation, use may in this regard be made of the option to offer the convertible and/or warrant-linked bonds to one or more credit institutions or a syndicate of credit institutions, or enterprises which have an equivalent status under Section 186 (5) sentence 1 AktG, with the obligation to offer the Bonds to the shareholders for subscription in accordance with their subscription rights (indirect shareholders' subscription right within the meaning of Section 186 (5) sentence 1 AktG). If the Bonds are issued by a direct or indirect majority holding of SAP AG, SAP AG must ensure that the subscription rights of SAP AG shareholders are granted in accordance with the foregoing sentences.

The resolution proposal, however, provides for the option to exclude the shareholders' subscription rights in respect of the Bonds in the following cases:

It is proposed that the Executive Board be authorized, subject to the consent of the Supervisory Board, to exclude fractional shares from the shareholders' subscription rights. Such fractional shares may result from the amount of the issue volume and the determination of a practicable subscription ratio. An exclusion of the shareholders' subscription rights in these cases facilitates the implementation of the capital-related measure, in particular of the shareholders' subscription rights.

It is further proposed that the Executive Board be granted the option, subject to the consent of the Supervisory Board, to exclude the shareholders' subscription rights in order to grant to the holders or creditors of previously issued conversion and option rights subscription rights in the scope to which they would have been entitled as shareholders following the exercise of the conversion or option rights. This will permit to grant to the holders or creditors of conversion or option rights already existing at this point in time subscription rights in lieu of a reduction of the conversion or option price as anti-dilution protection. Equipping bonds with anti-dilution protection is in line with standard market practice.

It is further proposed that the Executive Board be authorized, applying Section 186 (3) sentence 4 AktG *mutatis mutandis*, to exclude, subject to the consent of the Supervisory Board, the shareholders' subscription rights if the Bonds are issued at a price that is not substantially below their market value determined in accordance with generally accepted methods in particular of finance mathematics. This can be expedient in order to promptly respond to favorable conditions on the stock exchange and to quickly and flexibly place a Bond in the market on attractive conditions. The equity markets have become clearly more volatile. The ability to promptly react to market developments will therefore be vital for the result of the issue to be as favorable as possible. Favorable conditions that are as "near market" as possible can generally be established only if the Company is not bound by

those conditions for an excessively long offer period. The issue of subscription rights generally requires a significant safety margin to be deducted in order to ensure the attractiveness of the conditions and thus the issue's chances of success over the entire offer period. It is true that Section 186 (2) AktG allows the subscription price (and thus the terms and conditions of the Bonds in the case of convertible and/or warrant-linked bonds) to be published three days prior to the expiration of the subscription period at the latest. In light of the volatility in the stock markets, however, this still involves a market risk, in particular a price change risk, for several days, which may lead to the deduction of safety margins in connection with the determination of the terms and conditions of the bonds and thus to conditions that are not optimal. In addition, even where shareholders' subscription rights are granted, a full placement will not automatically be ensured and an alternative placement with third parties will in any event involve additional expenses given the uncertainty of the exercise of such rights (subscription behavior). Finally, if the Company were to grant subscription rights, it would not be in a position to promptly react to a change in market conditions due to the length of the subscription period but would be exposed to declining share prices during the subscription period, which could lead to less favorable opportunities for the Company to procure capital.

In this case of exclusion of shareholders' subscription rights in connection with the issue of convertible and warrant-linked bonds, the provision set forth in Section 186 (3) sentence 4 AktG regarding the simplified exclusion of shareholders' subscription rights applies *mutatis mutandis* pursuant to Section 221 (4) sentence 2 AktG. In order to comply with the threshold of 10% of capital stock that is applicable to the simplified exclusion of shareholders' subscription rights provided for in Section 186 (3) sentence 4 AktG, the authorization concerning the simplified exclusion of shareholders' subscription rights is limited to the issue of Bonds carrying conversion or option rights in respect of shares representing a pro rata amount of no more than 10% of the Company's capital stock in aggregate. The resolution proposal under agenda item 7 provides that, for the purpose of calculating the 10% threshold, the lower of the amounts of capital stock existing at the time the resolution concerning this authorization is adopted by the General Meeting of Shareholders of May 25, 2011 or at the time the authorization is exercised is to be relevant. Moreover, the resolution proposal provides for a deduction clause pursuant to which the 10% threshold will be reduced to the extent that other authorizations concerning the simplified exclusion of shareholders' subscription rights are exercised after adoption of the resolution by the General Meeting of Shareholders of May 25, 2011.

The interests of the shareholders are safeguarded by the fact that the Bonds must not be issued substantially below their market value. This will prevent a significant economic dilution of the value of the shares. Whether or not the Bonds are issued substantially below their market value will be determined by calculating the market value of the convertible or warrant-linked bonds in accordance with generally accepted methods in particular of finance mathematics and comparing it with the offer price. The Executive Board will in its price determination, taking into account the situation then prevailing on the capital market, ensure that the deduction from the market value will be as low as possible. If the Executive Board considers it appropriate in any given situation to seek professional advice, it may rely on the support of third parties. For instance, a bank (or underwriting bank) involved in the issue may confirm in an appropriate form that the issue price will not be substantially below the market value of the shares. This may also be confirmed by a bank not involved in the issue or an auditing firm or any other expert. Such an effect would reduce the calculated value of a subscription right to virtually zero, so that no appreciable economic disadvantage will be suffered by the shareholders due to the exclusion of their subscription rights.

Irrespective of such an examination by the Executive Board, the establishment of conditions that are in line with market standards and the associated avoidance of any appreciable dilution of the share value may also be achieved by a bookbuilding process. In such a process, the convertible or warrant-linked bonds are not offered at a fixed issue price but the issue price and/or individual conditions of the convertible and/or warrant-linked bonds (e.g. interest rate and conversion or option price) will be established on the basis of the purchase orders submitted by investors. As a result, the total value of the Bonds will be determined "near market".

All of these measures will ensure that the value of the Company's shares is not significantly diluted as a result of the exclusion of shareholders' subscription rights. Moreover, the shareholders intending to maintain their share in the Company's capital stock have the option to acquire shares on the stock exchange on almost identical conditions.

The purpose of Contingent Capital IV that is to be newly created is to service the conversion or option rights linked to the convertible and/or warrant-linked bonds to the extent that no other methods of servicing these rights are used. The issue price of the new shares will be determined in accordance with lit. a) (ff) of the resolution proposed. In this provision, the bases for the determination of the minimum issue amount are stipulated in accordance with Section 193 (2) no. 3 AktG, as a result of which the Company will have extensive flexibility in fixing the terms and conditions of the Bonds.

According to the resolution proposal, the conversion or option price to be determined for each share must, even in the event of a variable conversion ratio or a variable conversion or option price, be equivalent either – in the event that shareholders' subscription rights are excluded – to at least 80% of the average price of the SAP AG share in the XETRA trading system on the Frankfurt Stock Exchange (or any electronic trading system replacing the XETRA trading system) during the ten trading days preceding the day on which the Executive Board adopts the resolution on the issue of the convertible or warrant-linked bond or – in the event that shareholders' subscription rights are granted – to at least 80% of the average price of the SAP AG share in the XETRA trading system on the Frankfurt Stock Exchange (or any electronic trading system replacing the XETRA trading system) in the period from the start of the subscription period to the day immediately preceding the publication of the final terms pursuant to Section 186 (2) sentence 2 AktG. This average price will be the arithmetic mean of the closing auction prices. If no closing auction is effected in the relevant electronic trading system, the closing auction price will be replaced by the price determined in the last auction that takes place in the relevant electronic trading system on a trading day or, in the absence of any such auction, the last price determined in the relevant electronic trading system on that trading day. Section 9 (1) AktG is to remain unaffected, which means that shares must in no event be issued at a price below the pro rata amount of capital stock represented by them. Should any dilution of the economic value of the existing conversion or option rights occur during the term of the Bonds or warrants granting a conversion or option right and should no subscription rights be granted by way of compensation, it is intended that it should be possible for the conversion or option rights to be adjusted, without prejudice to Section 9 (1) AktG, in a manner preserving their value save to the extent that such adjustment is already governed by mandatory law. This will give the Executive Board the opportunity to include such dilution protection provisions as are customarily required in the Bond Terms. In any event, the pro rata amount of capital stock represented by the shares to be subscribed for each Definitive Bond must not exceed the lower of the principal amount or issue price per Definitive Bond.

However, it is intended that it should also be possible to provide in the Bond Terms that the Company, in the event of a conversion or the exercise of an option, will not grant shares in the Company but will pay the equivalent value in cash or that the Company may elect to grant existing shares in the Company rather than new shares.

The Executive Board will report to the General Meeting of Shareholders on each exercise of the authorization to issue convertible and/or warrant-linked bonds.