

**The Management Board and the Supervisory Board herewith issue the following opinion on IMMOFINANZ AG's motion for the amendment of the agenda and on the pertaining resolution proposals.**

After a careful review, S IMMO AG's Boards reject the resolution proposals submitted by IMMOFINANZ AG as not being in the interest of the company and its stakeholders. Specifically, this opinion has been based on the following grounds:

- The voting rights exercisable by IMMOFINANZ AG would nearly double at the expense of the voting weight of the remaining shareholders. This could result in the acquisition of de-facto control without having launched a takeover bid.
- The independence of S IMMO AG's decision-making process is thereby at risk.
- In case of implementation of the resolution proposals, there is a risk of negative impacts on S IMMO AG's share price.

**On the Proposal to Repeal Section 13 para 3 of the Articles of Association (Removal of the Maximum Voting Right):**

1. Since September 21, 2018 IMMOFINANZ AG has been S IMMO AG's largest shareholder holding 29.12% of its shares. The voting rights are limited by a maximum voting right of 15% under Section 13 para 3 of the Articles of Association. IMMOFINANZ AG could nearly double its voting weight by repealing the maximum voting right. IMMOFINANZ AG could thereby gain de-facto control without being obliged to launch a public takeover bid to the remaining shareholders.

This was precisely not the intention of the Management Board and the Supervisory Board when adopting the resolution proposals for the Annual General Meeting in 2018. When preparing the Annual General Meeting in 2018, the Management Board and the Supervisory Board of S IMMO AG were still confident that both company law and takeover law would offer sufficient safeguards for minority rights and against the acquisition of control by a shareholder (Konzerneingangsschutz). This assessment was based on an entirely different shareholder structure of S IMMO AG: at that time, S IMMO AG had three major groups of shareholders, each of them owning stakes of similar size. Moreover, none of them were competitors of S IMMO AG. The public announcement of the potential acquisition of 29.14% of S IMMO AG's shares by IMMOFINANZ AG was made on April 18, 2018. The foreseeable concentration of shares by IMMOFINANZ AG was one essential reason why the Annual General Meeting in 2018 voted against repealing the Maximum Voting Right from S IMMO AG's Articles of Association.

2. Furthermore, S IMMO AG itself holds a substantial shareholding in IMMOFINANZ AG. Considering the significant reciprocal shareholdings, IMMOFINANZ AG and S IMMO AG have been evaluating various options including a possible combination of their businesses, however, without having proceeded on any specific path thereon. Up to now, S IMMO AG has proceeded on the assumption that any results from such considerations would be examined independently and decided by an independent shareholder base not being subject to control by the other party. Should the changes in the Articles of Association put forward by IMMOFINANZ AG be implemented, these framework conditions on negotiations and decisions on various options would not be met anymore. Therefore, the Management Board and the Supervisory Board of S IMMO AG see the independence of S IMMO AG's decision-making processes potentially at risk.

3. Based on discussions with shareholders and the inherent conflicts of interest, the Management Board and the Supervisory Board of S IMMO AG are concerned that a negative impact on S IMMO AG's share price might be one consequence of the implementation of the changes to the Articles of Association. Clearly, this is neither in the company's nor the shareholders' nor the other stakeholders' interest.

With respect to the Guidelines of the Proxy Advisors mentioned by IMMOFINANZ AG, we would like to point out that these Guidelines state the basic principles in a brief form and in general terms. Specific recommendations on resolution proposals however can only be issued after a thorough assessment of the specific resolution proposal within its essential context. However, these Guidelines do not envisage to recommend shareholders to vote for measures leading to de-facto control of a specific shareholder without offering a public takeover bid; this applies in particular, if and insofar this shareholder is a competitor with interests potentially differing from those of the other shareholders.

**On the Proposal to Repeal Section 13 para 2 (Lowering of the qualified majority requirement for amendments to the Articles of Association):**

4. In order to strengthen its position as shareholder, IMMOFINANZ AG seeks to be able to implement future amendments to S IMMO AG's Articles of Association with a simple majority of the votes cast. Therefore, Section 13 para 2 of the Articles of Association shall be repealed. This provision currently stipulates a qualified majority of capital stock for amendments to the Articles of Association.

Combined with the repeal of the maximum voting rights, IMMOFINANZ AG could be able to implement amendments to the Articles of Association against the will of the other shareholders in future. This is neither in the interest of the other shareholders and stakeholders. Also, the Management Board and the Supervisory Board have not proposed such resolutions to the Annual General Meeting in 2018, specifically for the reason not to put S IMMO AG's Articles

of Association at the disposal of one individual shareholder. This is also the reason why the law, in case of doubt, provides for a qualified majority of capital stock for amendments to the Articles of Association. This protection of minority rights is particularly important for cases where a single shareholder owns the majority of a company's shares.

### **Conclusion and Recommendation**

The Management Board and the Supervisory Board of the company – based on these changed circumstances – do not approve IMMOFINANZ AG's motion to amend the Articles of Association, since IMMOFINANZ AG could thereby acquire de-facto control of S IMMO AG without being obliged to launch a public takeover bid by which free float shareholders might be granted an exit option at a fair share price. These kinds of protective provisions are well known to IMMOFINANZ AG, since they have lowered the threshold triggering a mandatory takeover bid to 15% in its Articles of Association.

The Management Board and the Supervisory Board therefore recommend not to approve the proposed amendments to the Articles of Association in the upcoming Annual General Meeting of 2019.

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Management Board and Supervisory Board of S IMMO AG

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