

The asset and liability structure of Bayer AG is dominated by its role as a holding company in managing the subsidiaries and financing corporate activities. This is primarily reflected in the high level of investments in affiliated companies and of receivables from, and payables to, Group companies.

Total assets of Bayer AG grew in 2009 by €0.7 billion to €39.2 billion, the increase being almost entirely due to a €0.6 billion increase in cash and cash equivalents.

Financial assets included investments in subsidiaries amounting to €34.1 billion (2008: €34.1 billion), or 87.1% (2008: 88.4%) of total assets. Receivables from subsidiaries amounted to €1.9 billion (2008: €1.7 billion) while payables to subsidiaries totaled €14.0 billion (2008: €15.1 billion). These amounts accounted for 4.9% of total assets and 35.6% of total equity and liabilities, respectively.

Of the €39.2 billion in total assets as of December 31, 2009 (2008: €38.5 billion), €14.4 billion (2008: €10.8 billion) was equity-financed. The equity ratio therefore rose from 28.0% to 36.7%. The conversion of the €2.3 billion mandatory convertible bond issued by Bayer Capital Corporation B.V., Netherlands, in 2006 contributed to the €3.6 billion increase in equity, while €2.2 billion came from net income. Equity was diminished by the €1.1 billion dividend payment for 2008. A further €0.2 billion resulted from reversals of provisions allocated directly to retained earnings upon first-time application of the German Accounting Law Modernization Act (BilMoG).

Provisions declined by €0.3 billion to €3.3 billion in 2009. This decline relates to provisions for pensions and other post-employment benefits, with €0.2 billion being due to the first-time application of the new German accounting legislation mentioned above.

Liabilities decreased by €2.7 billion to €21.5 billion as of December 31, 2009. External financial debt, in particular, was reduced by €1.5 billion, comprising €1,600 million in bond redemptions, €369 million in repayments of liabilities to banks, and €110 million in repayments relating to a commercial paper program that was no longer required. Promissory notes were issued in the amount of €620 million.

## 6. Takeover-Relevant Information

### Report pursuant to Sections 289 Paragraph 4 and 315 Paragraph 4 of the German Commercial Code (HGB)

The capital stock of Bayer AG amounted as of December 31, 2009 to €2,117 million (2008: €1,957 million), divided into 826,947,808 (2008: 764,343,225) no-par registered shares. Each share confers one voting right.

A small number of shares may be subject to temporary trading restrictions, such as retention periods, in connection with employee stock participation programs.

We received three notifications from Capital Research and Management Company, United States, in 2009 of direct or indirect holdings of shares in Bayer AG that exceed 10% of the capital stock. This company initially notified us that the proportion of voting rights it held via shares in our company fell below the 10% threshold on September 25, 2009, and that on that date it held 9.9% of the voting rights. In a further notification, the company informed us that its proportion of voting rights exceeded the 10% threshold on September 30, 2009, and that on that date it held 10.04% of the voting rights. In a subsequent notification, the company informed us that its proportion of voting rights fell below the 10% threshold again on November 26, 2009, and that on that date it held 9.97% of the voting rights.



We publish statements on voting rights at  
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Pursuant to Section 84, Paragraph 1 of the German Stock Corporation Act (AktG), the members of the Board of Management are appointed and dismissed by the Supervisory Board. Since Bayer AG falls within the scope of the German Codetermination Act, the appointment or dismissal of members of the Board of Management requires a majority of two thirds of the votes of the members of the Supervisory Board on the first ballot. If no such majority is achieved, the appointment may be approved pursuant to Section 31, Paragraph 3 of the Codetermination Act on a second ballot by a simple majority of the votes of the members of the Supervisory Board. If the required majority still is not achieved, a third ballot is held. Here again, a simple majority of the votes suffices, but in this ballot the Chairman of the Supervisory Board has two votes pursuant to Section 31, Paragraph 4 of the Codetermination Act. Under Section 6, Paragraph 1 of the Articles of Incorporation of Bayer AG, the Board of Management must comprise at least two members. The Supervisory Board may appoint one member to be Chairman of the Board of Management pursuant to Section 84, Paragraph 2 of the German Stock Corporation Act or Section 6, Paragraph 1 of the Articles of Incorporation.

Under Section 179, Paragraph 1 of the German Stock Corporation Act, amendments to the Articles of Incorporation require a resolution of the Stockholders' Meeting. Pursuant to Section 179, Paragraph 2 of the German Stock Corporation Act, this resolution must be passed by a majority of three quarters of the voting capital represented at the meeting, unless the Articles of Incorporation provide for a different majority. However, where an amendment relates to a change in the object of the company, the Articles of Incorporation may only specify a larger majority. Section 17, Paragraph 2 of the Articles of Incorporation of Bayer AG utilizes the scope for deviation pursuant to Section 179, Paragraph 2 of the German Stock Corporation Act and provides that resolutions may be passed by a simple majority of the votes or, where a capital majority is required, by a simple majority of the capital.

Provisions of the Articles of Incorporation concerning Authorized Capital I and Authorized Capital II are entered in the commercial register of Bayer AG. With the approval of the Supervisory Board and until April 27, 2011, the Board of Management may use the Authorized Capital I to increase the capital stock by up to a total of €465 million. The issue of new shares may take place in exchange for cash and/or contributions in kind, but capital increases in exchange for contributions in kind may not exceed a total of €370 million. If the Authorized Capital I is used to issue shares in return for cash contributions, stockholders must be granted subscription rights. With the approval of the Supervisory Board and until April 26, 2012, the Board of Management is also authorized to increase the capital by up to €195 million in one or more installments by issuing shares out of the Authorized Capital II in exchange for cash contributions. The stockholders must be granted subscription rights. However, the Board of Management is authorized, with the approval of the Supervisory Board, to exclude subscription rights for stockholders provided the capital increase out of the Authorized Capital II does not exceed 10% of the capital stock existing at the time this authorization becomes effective or the time this authorization is exercised and the issue price of the new shares is not significantly below the market price of the already listed shares.

The 2008 Annual Stockholders' Meeting adopted two resolutions creating conditional capital of €195,584,000 each in connection with two authorizations for the issuance of bonds with warrants or convertible bonds, profit-sharing rights or profit participation bonds (collectively referred to as "bonds") with a total face value of €6 billion. The Board of Management may, with the consent of the Supervisory Board, exclude the subscription rights that in principle are granted to stockholders for such bonds provided, among other things, that the proportionate amount of the shares covered by such subscription rights does not exceed 10% of the capital stock. Any other shares issued without granting subscription rights to the stockholders in direct or analogous application of Section 186, Paragraph 3, Sentence 4 of the Stock Corporation Act shall be credited against this 10% limit. Further, the Annual Stockholders' Meeting on May 12, 2009 authorized the Board of Management to purchase and sell company shares representing up to 10% of the capital stock. This authorization expires on November 11, 2010.

A material agreement entered into by Bayer AG that is subject to the condition precedent of a change of control pertains to the €7 billion syndicated loan granted to Bayer AG on March 23, 2006. This agreement contains provisions entitling the banks participating in the syndication to terminate the agreement in the event of a change of control and demand repayment of any outstanding sums. The loan was valued at €1.25 billion as of December 31, 2009, unchanged from the previous year. However, a subsidiary of Bayer AG purchased receivables of €365 million in 2009 using the syndicated credit facility. There is also an undrawn €3.5 billion syndicated credit facility, arranged by Bayer AG and its u.s. subsidiary Bayer Corporation on March 31, 2005, that is available until 2012. The participating banks are entitled to terminate the credit facility in the event of a change in control at Bayer and demand repayment of any loans that may have been granted under this facility up to that time.

Finally, the terms of the €4.0 billion (as of December 31, 2009) in notes issued by Bayer in the years 2006 to 2009 under its multi-currency Euro Medium Term Notes program also contain a change-of-control clause. Holders of these notes have the right to demand the redemption of their notes by Bayer AG in the event of a change of control if Bayer AG's credit rating is downgraded within 120 days after such change of control becomes effective.

In the event of a takeover offer for Bayer AG, the following agreements exist for members of the Board of Management whose service contracts were concluded prior to the entry into force of the amendments to the German Corporate Governance Code in June 2008:

The severance indemnity clause for these members described in the Compensation Report is supplemented by a change-of-control clause which, like the severance indemnity clause, only takes effect if a change of control results in the termination of a Group Management Board member's service contract and his leaving the Bayer Group prior to his 60th birthday. The potential benefits are the same as under the severance indemnity clause.

However, this clause is now obsolescent and of only limited significance. The Supervisory Board has decided to follow the recommendation of the German Corporate Governance Code, as amended in June 2008, and limit severance payments under new service contracts. Under only two existing members' contracts could the clause still be invoked. In the case of the remaining contracts, either the clause is no longer applicable because the member has reached the age of 60 or a cap on severance payments in the event of a change of control has been agreed. Under these contracts such payment claims, including ancillary benefits, are limited to the value of three years' compensation and may not compensate more than the remaining term of the contract. The annual compensation defined for this purpose is based on the sum of the fixed salary and the target value of the short-term incentive for the previous year and, if appropriate, also the current year.