

## Explanatory notes to the company's Annual General Meeting of May 8, 2012

### I. Explanatory note on agenda item 1 in accordance with Section 124a sentence 1 no. 2 AktG

For agenda item 1

Presentation of the adopted financial statements and the approved consolidated financial statements as of December 31, 2011, the management report for ELMOS Semiconductor Aktiengesellschaft and the group management report (respectively including the explanatory report of the Management Board in accordance with Section 176 (1) sentence 1 AktG (German Stock Corporation Act) on the disclosures required under takeover law pursuant to Sections 289 (4), 315 (4) HGB (German Commercial Code) and the explanatory report on the principal features of the internal control and risk management system with respect to the accounting process in accordance with Sections 289 (5), 315 (2) no. 5 HGB), and the report of the Supervisory Board for fiscal year 2011

there is no resolution proposal as the Supervisory Board approved the financial statements and consolidated financial statements prepared by the Management Board on March 1, 2012 in accordance with Section 172 sentence 1 AktG and the financial statements are thus deemed adopted. A resolution of the Management Board and the Supervisory Board pursuant to Section 173 (1) sentence 1 AktG to entrust the Annual General Meeting with the adoption of the financial statements has not been adopted.

In accordance with Section 175 (1) sentence 1 AktG, the Annual General Meeting therefore merely receives the adopted financial statements and the approved consolidated financial statements including the management report and the group management report for fiscal year 2011.

In accordance with Section 171 (2) sentence 1 AktG, the Supervisory Board shall give a report to the General Meeting in writing on the results of its examination of financial statements and consolidated financial statements, management report and group management report, and the proposal for the appropriation of retained earnings. A resolution of the Annual General Meeting on the Supervisory Board's report is not provided for by law.

### II. Explanatory notes on the rights of the shareholders in accordance with Section 121 (3) sentence 3 no. 3 AktG

The shareholders have the following rights, among others, prior to and during the General Meeting:

#### 1. Supplements to the agenda

Shareholders whose combined share ownership comes to a twentieth of the share capital or the proportionate amount of EUR 500,000 (corresponding with 500,000 shares) are entitled to request, in accordance with Section 122 (2) AktG, that topics are put on the agenda and announced. Each new topic must be accompanied by an explanatory statement or a resolution proposal. The request must be directed to the company's Management Board in writing. It must be received by the company at least 30 days prior to the day of the Annual General Meeting, not including the day of receipt and the day the General Meeting is held. The last possible date of receipt is thus Saturday, **April 7, 2012 before midnight**.

We kindly ask to submit any requests for supplements to the agenda to the following address:

Vorstand der ELMOS Semiconductor Aktiengesellschaft  
Heinrich-Hertz-Straße 1  
44227 Dortmund, Germany

Any supplements to the agenda subject to announcement are – unless they have already been announced upon the convening of the AGM – announced in the electronic Federal Gazette promptly upon the request's receipt and transmitted for publication to media outlets of which it can be expected that they distribute the information throughout the entire European Union. They are also announced on the Internet at [www.elmos.com/english/investor-relations/annual-general-meeting](http://www.elmos.com/english/investor-relations/annual-general-meeting).

These rights of the shareholders are based on the following provisions of the German Stock Corporation Act (excerpts, convenience translation):

**Section 122 (1), (2) AktG:**

- (1) The general meeting shall be convened if shareholders whose combined share ownership reaches or exceeds a twentieth of the share capital request the convening in writing, supplying the purpose and the reasons for convening the general meeting; such request must be addressed to the management board. The articles of incorporation may link the right to request the convening of the general meeting to another form of submission of the request and to share ownership of a smaller percentage of the share capital. Section 142 (2) sentence 2 shall apply mutatis mutandis.
- (2) Similarly, shareholders whose combined share ownership reaches or exceeds a twentieth of the share capital or the proportionate amount of EUR 500,000 may request that items be placed on the agenda and be announced. Each new item must be accompanied by an explanatory statement or a resolution proposal. Requests within the meaning of sentence 1 must be received by the company at least 24 days prior to the general meeting or, respectively, at least 30 days prior to the general meeting with respect to listed stock corporations; the day of receipt is not included in this period.

**Section 142 (2) sentence 2 AktG:**

The parties requesting the motion shall furnish evidence that they have been holders of the shares for no less than three months prior to the date of the general meeting and that they will hold the shares until a decision on the motion is made.

## **2. Countermotions and election proposals**

In accordance with Section 126 (1) AktG, each shareholder is entitled to submit countermotions with regard to the resolution proposals on the agenda items. If countermotions are meant to be made accessible by the company, they must be received by the company together with an explanatory statement and proof of shareholder capacity at least 14 days prior to the General Meeting, i.e. before **midnight of April 23, 2012**, at the following address

ELMOS Semiconductor Aktiengesellschaft  
Hauptversammlungsstelle  
Heinrich-Hertz-Straße 1  
44227 Dortmund, Germany  
Fax: +49 (0)231/7549-548  
E-mail: [Hauptversammlung@elmos.com](mailto:Hauptversammlung@elmos.com)

Otherwise addressed countermotions will not be made accessible. Subject to Section 126 (2) and (3) AktG, shareholders' countermotions to be made accessible will be made available on the Internet at [www.elmos.com/english/investor-relations/annual-general-meeting](http://www.elmos.com/english/investor-relations/annual-general-meeting), including the shareholder's name and the explanatory statement as well as any corresponding statements by the administration.

In accordance with Section 127 AktG, these provisions apply analogously to a shareholder's proposal for the election of Supervisory Board members or auditors. Those proposals do not require explanatory statements, though. In addition to the reasons given by Section 126 (2) AktG, the Management Board does not have to make an election proposal accessible if the proposal does not contain the candidate's name, actual occupation, and place of residence. Proposals for the election of Supervisory Board members do not have to be made accessible, either, if they do not contain information on the Supervisory Board candidates' membership in other statutory supervisory boards pursuant to Section 125 (1) sentence 5 AktG.

Even if countermotions and election proposals are submitted to the company in advance, they will be regarded in the Annual General Meeting only if they are proposed or submitted orally in the General Meeting again.

These rights of the shareholders are based on the following provisions of the German Stock Corporation Act (excerpts, convenience translation):

**Section 126 AktG:**

- (1) Motions of shareholders, including the name of the shareholder and an explanatory statement, as well as any comment by the administration, must be made accessible to the parties entitled pursuant to Section 125 (1) through (3) on the conditions stipulated therein if the shareholder has submitted a countermotion to a proposal of the management board or supervisory board for a specific item on the agenda, together with an explanatory statement, at least 14 days prior to the company's general meeting to the address provided for this purpose in the notice of convening the general meeting. The day of receipt is not included in this period. Listed stock corporations shall make the motions accessible on the company's website. Section 125 (3) shall apply mutatis mutandis.
- (2) Countermotions and associated explanatory statements do not need to be made accessible
  1. if the management board would commit a criminal offense by making them accessible,

2. if the countermotion would result in a shareholders' resolution that would be in violation of the law or the articles of incorporation,
3. if the key points of the explanatory statement include information that is obviously incorrect or misleading, or if they contain defamation,
4. if a countermotion of the shareholder based on the same matter has already been made accessible to a general meeting of the company in accordance with Section 125,
5. if the same countermotion of the shareholder, with an explanatory statement that gives essentially the same reasons, has already been made accessible to at least two of the company's general meetings in accordance with Section 125 within the last five years and if it had received less than a twentieth of the votes of the represented share capital,
6. if the shareholder makes it known that he or she will not participate in the general meeting and will not have him or herself represented, or
7. if the shareholder has not proposed, or has not had proposed, a countermotion that he or she had previously submitted with respect to two general meetings in the last two years.

The explanatory statement does not have to be made accessible if its total volume exceeds 5,000 characters.

- (3) If more than one shareholder submits a countermotion to the same matter that is subject to resolution, the management board may combine the countermotions and the associated explanatory statements.

#### **Section 127 AktG:**

Section 126 shall apply accordingly to the proposal of a shareholder for the election of Supervisory Board members or auditors. The election proposal does not need to provide reasons. The management board does not need to make the election proposal accessible if the proposal does not include the information required under Section 124 (3) sentence 3 [rather sentence 4 – editing mistake of the legislator] and Section 125 (1) sentence 5.

#### **Section 124 (3) AktG:**

The management board and the supervisory board or, in case of elections of supervisory board members or auditors, the supervisory board alone, shall propose resolutions for each agenda item up for shareholders' resolution in the notice of convening the general meeting.

With respect to companies within the meaning of Section 264d HGB, the supervisory board's proposal for the election of the auditor shall be based on the audit committee's recommendation. Sentence 1 shall not apply if the general meeting is bound to election proposals for the election of supervisory board members pursuant to Section 6 of the Act on Codetermination in the Coal and Steel Industry (Montan-Mitbestimmungsgesetz – MontanMitbestG) or if the subject of the resolution proposal has been placed on the agenda upon a minority's request. The proposal for the election of supervisory board members or auditors shall furnish the candidate's name, actual profession, and place of residence. If the supervisory board must consist in part of employee representatives, supervisory board resolutions on proposals for the election of supervisory board members require only the majority of the shareholder representatives; Section 8 MontanMitbestG shall remain unaffected.

#### **Section 125 (1) sentence 5 AktG:**

With respect to listed stock corporations, proposals for the election of supervisory board members must furnish information on their membership of other statutory supervisory boards; information on their membership of comparable domestic and international supervisory bodies of business enterprises shall be furnished as well.

### **3. Requests for information**

In accordance with Section 131 (1) AktG, the Management Board must give information on the company's matters upon any shareholder's request at the General Meeting insofar as the information is necessary for the proper assessment of an item on the agenda and as no right to withhold information applies. The Management Board's duty to provide information also includes the legal and business relationships ELMOS Semiconductor Aktiengesellschaft maintains with its affiliates. The duty to provide information furthermore includes the situation of the ELMOS Group and the subsidiaries included in the consolidated financial statements of ELMOS Semiconductor Aktiengesellschaft.

These rights of the shareholders are based on the following provisions of the German Stock Corporation Act (excerpts, convenience translation) and the articles of incorporation:

#### **Section 131 AktG:**

- (1) Each shareholder is entitled to receive information from the management board on the company's affairs upon request in the general meeting to the extent the information is necessary to make an informed judgment on any given agenda item. The obligation to provide information also includes the company's legal and business relations with affiliated companies. If a company makes use of the easing of terms provided for respectively under Section 266 (1) sentence 3, Section 276, or Section 288 of the German Commercial Code (Handelsgesetzbuch – HGB), each shareholder is entitled to request that the financial statements be presented to him or her in the general meeting

concerned with the financial statements in the form they would have if said provisions did not apply. The obligation of a parent company's management board (Section 290 (1) and (2) HGB) to provide information in the general meeting to which the consolidated financial statements and the group management report are presented also includes the position of the group and of the companies included in the consolidated financial statements.

- (2) The information must comply with the principles of diligent and accurate accountability. The articles of incorporation or the rules of procedure pursuant to Section 129 may authorize the chairman of the meeting to limit the shareholders' rights to ask questions and to speak to a reasonable period of time and to determine any details in this respect.
- (3) The management board may refuse to provide information
  1. if it would be capable, according to the judgment of a prudent businessman, of inflicting a material disadvantage on the company or an affiliated company,
  2. if it relates to the tax carrying amounts or the amounts of individual taxes;
  3. on the difference between the amount at which items have been recognized in the statement of financial position and a higher value of these items, unless the general meeting adopts the financial statements,
  4. about the accounting policies and valuation methods insofar as the disclosure of these policies and methods in the notes to the financial statements is sufficient in order to present a true and fair view of the company's assets, liabilities, financial position, and profit or loss for the purpose of Section 264 (2) HGB; this does not apply if the general meeting adopts the financial statements;
  5. if the management board would commit a criminal offense by providing it;
  6. if, in the case of a bank or financial service institution, information on the accounting policies and valuation methods applied as well as offsets made does not have to be disclosed in the financial statements, management report, consolidated financial statements, or group management report, or
  7. if the information has been permanently accessible on the company's website at least seven days prior to and during the general meeting.

Providing requested information may not be refused for any other reason.

- (4) If a shareholder has been provided with information outside the general meeting in his or her shareholder capacity, this information must be provided to each other shareholder upon request in the general meeting even if the information is not required to make an informed judgment on any given agenda item. The management board may not refuse to provide the information under para. 3 sentence 1 nos. 1 through 4. Sentences 1 and 2 shall not apply if a subsidiary (Section 290 (1) and (2) HGB), a joint venture (Section 310 (1) HGB), or an associated company (Section 311 (1) HGB) provides the information to a parent company (Section 290 (1) and (2) HGB) for the purpose of including the company in the parent company's consolidated financial statements and if the information is required for this purpose.
- (5) If a shareholder is refused requested information, he or she may request that his or her question and the reason for refusing to provide the requested information are recorded in the minutes of the meeting.

In addition, the chairman of the general meeting is authorized to take various regulatory and control measures in the General Meeting. These include the limitation of the right to ask questions and to speak. These measures are based on the following provisions in the articles of incorporation (convenience translation):

#### **Section 12 (4) of the articles of incorporation of ELMOS Semiconductor Aktiengesellschaft**

The chairman of the general meeting decides the order of speakers and of the treatment of the agenda items, and he or she may, if admissible under law, decide the integration of several items up for resolution into one item, provided such items are associated by subject matter, and determine adequate limitations of the time to speak or ask questions, or the combined time for speaking and asking questions for the entire General Meeting, for individual agenda items, and for individual speakers, either at the beginning or during the course of the General Meeting, and, if deemed necessary to safeguard the General Meeting's orderly procedure, to order the end of debate.

### **III. Total number of shares and voting rights at the time of convening the Annual General Meeting, Section 124a sentence 1 no. 4 AktG**

The company's share capital amounts to EUR 19,414,205 as of the convening of the Annual General Meeting and is divided into 19,414,205 no-par bearer shares. Each no-par share grants one vote in the Annual General Meeting. The total number of shares as well as the total number of voting rights is thus 19,414,205 as of the convening of the Annual General Meeting.

Please take note that the company holds 105,931 treasury shares as of the convening of the Annual General Meeting. According to Section 71b AktG, the company cannot derive any rights from these shares, particularly no voting rights.

*The German version of this document is the only legally binding version.  
This English translation is a convenience translation.*