

LIQUIDATION PARTICIPATION

- (A) By decrees of the Financial Market Authority as resolution authority ("**FMA**"), in the context of the resolution of HETA ASSET RESOLUTION AG ("**HETA**") pursuant to the Federal Act on the Recovery and Resolution of Banks (*Sanierungs- und Abwicklungsgesetz - BaSAG*), Federal Law Gazette I No. 98/2014 as amended, the eligible non-subordinated liabilities of HETA including the interest accrued until 28 February 2015 (together hereinafter referred to as the "**Eligible Non-Subordinated Liabilities**") have been initially reduced to 46.02% by applying the bail-in tool pursuant to § 50 para 1 no. 1, § 74 para 2 no. 4, § 90 para 1 no. 5 BaSAG and subsequently twice, most recently by decree of the FMA dated 13.09.2019, increased to 86.32% in accordance with § 50 para 1 no. 1, § 74 para 2 no. 4, § 85, § 88 para 3 BaSAG in conjunction with § 68 para 2 of the Austrian General Administrative Procedure Act.
- (B) If the resolution authority reduces the nominal value or outstanding residual amount of a liability in part or in full by applying the bail-in tool, the debt shall be deemed discharged in the amount of the reduced amount (§ 95 para 2 no 1 BaSAG). According to the legal view of the FMA, the reduced amount of the Eligible Non-Subordinated Liabilities of HETA, which have been reduced to 86.32%, continues to exist as an imperfect obligation, which cannot however be enforced by legal means (*Naturalobligation*) (hereinafter the "**Imperfect Obligations of the Eligible Non-Subordinated Liabilities**"). These are the subject of this Liquidation Participation.
- (C) The Common Equity Tier 1 items, the nominal value of supplementary capital (*Ergänzungskapital*) and the nominal value of the other subordinated liabilities of HETA were reduced to zero by the decrees of the FMA. These are not subject of this Liquidation Participation, as there will be no payment on or revaluation of these under any circumstances from an economic perspective.
- (D) By decree dated 2 May 2017, FMA-AW00001/0044-AWV/2016, "*the shareholder's right to participate in the liquidation proceeds (§ 212 Stock Corporation Act) ... was cancelled.*" The FMA added (page 77) that the "*creditors of the ... eligible liabilities will participate in a distribution of any remaining assets (liquidation proceeds) at the time of the resolution to dissolve ... on a pro rata basis in accordance with the amount of their original claim.*" From an overall view of the meaning and purpose of the Bank Recovery and Resolution Directive (BRRD) and the BASAG, it follows in the view of the FMA that a distribution of the liquidation proceeds to the former creditors of the Eligible Non-Subordinated Liabilities (now holders of the Imperfect Obligation of the Eligible Non-Subordinated Liabilities and hereinafter referred to as the "**Holders of Imperfect Obligations**") is in line with the objective of these two legal bases even without an explicit legal obligation. Pursuant to the Austrian Stock Corporation Act (*Aktiengesetz; AktG*), it is possible for the articles of association to

provide for a dedication of the liquidation proceeds completely excluding the shareholders, or for such dedication to be resolved by the General Meeting on the basis of an authorization under the Articles of Association.

- (E) HETA has paid in full the amount outstanding on the 86.32% quota of Eligible Non-Subordinated Liabilities. The wind-down has been completed (§ 84 para 10 BaSAG). The General Meeting of HETA will now adopt a resolution to liquidate HETA pursuant to § 203 para 1 no 2 AktG (§ 84 para 11 BaSAG) and the FMA will declare the termination of the operation of HETA as a wind-down unit (§ 84 para 12 BaSAG). HETA will then no longer be a wind-down unit within the meaning of the BaSAG and HETA will be liquidated in accordance with the AktG (§§ 205 et seq. AktG) (to distinguish from the wind-down according to the BaSAG, hereinafter referred to as the "**Liquidation**").
- (F) In order to allow the Holders of Imperfect Obligations to participate in any residual assets of HETA, HETA was obliged in the Articles of Association to grant the Holders of Imperfect Obligations a debt instrument under which HETA is obliged to make payments on the Imperfect Obligations of the Eligible Non-Subordinated Liabilities upon the occurrence of certain conditions during and at the end of its Liquidation. This is intended to ensure that any residual assets of HETA, excluding the shareholder, are allocated to the Holders of Imperfect Obligations as early as economically possible and in accordance with this Liquidation Participation. As a result, the Holders of Imperfect Obligations will also receive the excess proceeds resulting from the termination of the Liquidation of HETA.
- (G) In addition, an amendment to the Articles of Association was resolved, according to which any assets remaining after settlement of all debts pursuant to § 212 AktG are also to be distributed to the Holders of Imperfect Obligations.

Now therefore HETA grants the Holders of Imperfect Obligations a financial participation in the economic result of the Liquidation of HETA subject to the following provisions (hereinafter the "**Liquidation Participation** "):

1 Liquidation Participation

1.1 HETA acknowledges and undertakes,

- (i) conditionally upon satisfaction of the condition precedent set forth in Section 2,
- (ii) on the due dates set forth in Section 3, and
- (iii) pro rata in accordance with the distribution set out in Section 4,

to make payments on the Imperfect Obligations of the Eligible Non-Subordinated Liabilities and, to that extent and insofar, to waive their lack of enforceability to that extent.

- 1.2 The Liquidation Participation brings only benefit to the Holders of Imperfect Obligations and is therefore effective even without their express acceptance.

2 Condition Precedent

- 2.1 The condition precedent within the meaning of this Liquidation Participation shall occur if (i) during the Liquidation of HETA the prerequisites pursuant to Section 2.2 or (ii) at the end of the Liquidation of HETA the prerequisites pursuant to Section 2.3 are met.

- 2.2 The liquidator shall determine during the Liquidation in a written report pursuant to this Section 2.2 that HETA has sufficient liquidity for a payment on Imperfect Obligations of the Eligible Non-Subordinated Liabilities because the following conditions are met:

- (i) the payment is in line with the liquidity planning and the existing future risks from the Liquidation of HETA;
- (ii) sufficient liquidity is maintained for HETA's business operations over the entire liquidation period;
- (iii) the claims of the creditors of non-eligible liabilities have been satisfied to the extent that their claims are due or the satisfaction of such claims is assured;
- (iv) HETA has surplus cash, taking into account its other liabilities and the expenses of the liquidation; and
- (v) payment is possible and reasonable in the professional judgement of HETA's liquidator; and
- (vi) the orderly Liquidation of HETA will not be jeopardized by the payment.

In order to determine the occurrence of the condition precedent pursuant to this Section 2.2, the liquidator of HETA shall, within eight weeks after the preparation of each set of annual financial statements prepared as of a date subsequent to the date of the opening liquidation balance sheet, submit a written report to the General Meeting (the "**Report**") stating, taking into account the criteria set out in Section 2.2, whether the conditions for a payment on the Imperfect Obligations of the Eligible Non-Subordinated Liabilities are met and, if so, what amount can be paid (the "**Liquidation Participation Payment**").

If the conditions for a Liquidation Participation Payment are met during the year, the liquidator may also submit a report to the General Meeting at any time during the year and propose that a resolution shall be passed.

The Report shall in each case be reviewed by an auditor in accordance with agreed

auditing procedures and approved by the General Meeting if the conditions precedent are met.

- 2.3 At the end of the Liquidation, the liquidator shall establish in a written report pursuant to this Section 2.3 that all other debts of HETA have been settled or secured and that, taking into account the remaining costs and expenses still to be paid at the end of the Liquidation, HETA has assets remaining to make payments on the Imperfect Obligations of the Eligible Non-Subordinated Liabilities.

In order to establish the occurrence of the condition precedent pursuant to this Section 2.3, the liquidator of HETA shall, upon termination of the Liquidation, prepare a final report (the "**Final Report**") applying Section 2.2 *mutatis mutandis*, which shall also contain interim financial statements (the "**Preliminary Closing Liquidation Balance Sheet**"). In the Preliminary Closing Liquidation Balance Sheet, the Liquidation Participation Payment on the Imperfect Obligations of the Eligible Non-Subordinated Liabilities shall be shown, which can be paid by HETA by making full use of liquidation proceeds otherwise arising pursuant to § 212 AktG. The provisions for the opening liquidation balance sheet pursuant to § 211 AktG shall apply *mutatis mutandis* to the Preliminary Closing Liquidation Balance Sheet.

The Preliminary Closing Liquidation Balance Sheet shall be reviewed by an auditor. The Final Report shall be approved by the General Meeting if the conditions precedent are met.

3 Occurrence of Claims / Maturity

- 3.1 Only upon resolution of the General Meeting pursuant to Section 2.2 or Section 2.3 the Imperfect Obligations of the Eligible Non-Subordinated Liabilities shall be acknowledged by HETA on a pro-rata basis as a legally binding obligation, the objection to their lack of enforceability shall be waived on a pro-rata basis and the Imperfect Obligations of the Eligible Non-Subordinated Liabilities shall thus be converted into an enforceable claim of the respective Holder of Imperfect Obligation to receive a pro-rata share of the Liquidation Participation Payment. This provision shall also apply in the event of any payments in instalments. In this case, a claim arises only in the amount of the partial amount of a Liquidation Participation Payment as resolved by the General Meeting.
- 3.2 The claim to a pro-rata Liquidation Participation Payment shall become due two weeks upon approval by the General Meeting.

4 Distribution of the Liquidation Participation

- 4.1 The Liquidation Participation Payment shall be distributed pro rata among the Imperfect Obligations of the Eligible Non-Subordinated Liabilities. The basis for the distribution is the list of liabilities which, based on the decrees of the FMA, most recently the FMA's decree dated 13 September 2019, FMA-AW00001/0004-AWV/2019, was updated for the final distribution in October 2021 as of 30 September

ber 2021 and reviewed by the auditor in accordance with agreed auditing procedures. The list of liabilities will be maintained by HETA and updated as of each date of determination of the Liquidation Participation Payment by HETA and reviewed by the auditor in accordance with agreed auditing procedures.

- 4.2 The Liquidation Participation shall be limited to a maximum of 100% of the Eligible Non-Subordinated Liabilities, taking into account payments already received, in particular from previous distributions and payments and on the basis of any settlements or other agreements entered into.
- 4.3 The liquidators shall distribute the Liquidation Participation in accordance with the principle of equal treatment of creditors.

5 Reporting obligations

In order to meet the information needs of the Holders of Imperfect Obligations with respect to the Liquidation Participation, HETA will publish the following information on an annual basis:

- (i) audited annual financial statements (in German) including a short summary in German and English (in the form of a press release) within two weeks of the approval of the annual financial statements;
- (ii) brief summary of the annual financial plan including the development of the liquidation participation quota (in German and English) and information on the expected duration of the Liquidation within two weeks of the approval of the annual financial statements;
- (iii) a summary of the review of the conditions for a Liquidation Participation Payment and information on the amount thereof (in the form of a press release) within two weeks of the approval of the Report by the General Meeting; and
- (iv) information for bondholders (in German and English) on the payment of the Liquidation Participation Payment per bond.

6 Announcements

- 6.1 All notices by HETA to the Holders of Imperfect Obligations shall be published on the website of HETA <https://heta-asset-resolution.com/de/liquidation>.
- 6.2 HETA will additionally transmit all notices concerning the Liquidation Participation to each clearing system, through which the settlement for the debt instruments concerning the Eligible Non-Subordinated Liabilities of HETA is processed, for forwarding to the Holders of Imperfect Obligations.

HETA ASSET RESOLUTION AG

Burggasse 12 • 9020 Klagenfurt am Wörthersee • Austria
phone +43 (0) 50209 - 0 • fax +43 (0) 50209 - 3000 • holding@heta-asset-resolution.com • www.heta-asset-resolution.com
SWIFT/BIC: HAABAT22 • Shortcode 52200 • Registration Landesgericht Klagenfurt am Wörthersee • FN 108415i
Supervisory authority: Austrian Financial Market Authority (FMA) • DVR 0000892 • VAT no.: ATU 25775505

7 Applicable law

This Liquidation Participation shall be governed by Austrian law, excluding the conflict of law rules of Austrian private international law and the UN Convention on Contracts for the International Sale of Goods.

8 Jurisdiction

For all disputes arising from or in connection with this Liquidation Participation, the exclusive jurisdiction of the court having subject-matter jurisdiction for Klagenfurt is agreed.

HETA ASSET RESOLUTION AG

HETA ASSET RESOLUTION AG

Burggasse 12 • 9020 Klagenfurt am Wörthersee • Austria
phone +43 (0) 50209 - 0 • fax +43 (0) 50209 - 3000 • holding@heta-asset-resolution.com • www.heta-asset-resolution.com
SWIFT/BIC: HAABAT22 • Shortcode 52200 • Registration Landesgericht Klagenfurt am Wörthersee • FN 108415i
Supervisory authority: Austrian Financial Market Authority (FMA) • DVR 0000892 • VAT no.: ATU 25775505