



## **Report of the Board of Management pursuant to § 71 para. 1 no. 8 in conjunction with § 186 para. 4 sentence 2 AktG**

§ 71 para. 1 no. 8 AktG gives stock corporations the possibility to acquire treasury shares of up to a total of 10 % of their share capital on the basis of an authorization by the Annual Stockholders' Meeting. Agenda item 4 contains the proposal to grant a corresponding authorization which is limited to 18 months. This is intended to enable the Board of Management to acquire treasury shares in the interests of the Company and its shareholders on the exchange up to a total amount of 10 % of the current share capital of the Company.

The treasury shares acquired by the Company can be sold on through the exchange or by way of a public offering to all shareholders. These possibilities preserve the principal of equal treatment of the shareholders both when acquiring as well as when again issuing the shares.

In addition, the Company can also sell the acquired treasury shares outside of the exchange without a public offering directed to all shareholders if the price of the shares on the stock exchange and at the time of the sale is not materially higher. As a result of this authorization, the possibility available under § 71 para. 1 no. 8 AktG in corresponding application of § 186 para. 3 sentence 4 AktG for facilitating an exclusion of the subscription right is used. In the interests of the Company, this is intended to especially create the possibility of offering shares in the Company to German and foreign institutional investors and to expand the group of shareholders. The requested authorization is intended to place the Company in the position of being able to react quickly and flexibly to beneficial situations on the stock exchange. The financial interests and the voting rights of the shareholders are reasonably protected when doing so. The authorization on excluding subscription rights under § 186 para. 3 sentence 4 AktG when selling treasury shares is limited to a maximum amount of 10 % of the share capital of the Company, including any authorizations for the issuance of new shares or convertible bonds excluding the subscription right under § 186 para. 3 sentence 4 AktG. The basis is the lesser of the share capital when the authorization takes effect or when it is exercised. This maximum limit includes shares which are otherwise issued subject to exclusion of the subscription right in accordance with or under corresponding application of § 186 para. 3 sentence 4 AktG. The concept of protecting the shareholders against dilution is covered by the fact that the shares can only be sold at a price which is not materially lower than the relevant price on the exchange. The final de-

termination of the selling price for the treasury shares is made shortly before the sale. The Board of Management will use its efforts, taking into account the then current situation on the market, to keep any discount compared with the price on the stock exchange as low as possible. Interested shareholders can maintain their proportionate shareholding at substantially the same terms and conditions by making purchases in the market.

A further intention is to enable the Company to offer its treasury shares as consideration in connection with corporate mergers or when acquiring enterprises or divisions or participations in enterprises or for the purpose of acquiring other assets. The proposed authorization is intended to give the Company the necessary leeway in order to be able to quickly and flexibly exploit opportunities which become apparent. This is reflected in the proposed exclusion of the subscription right. When determining the relative valuation, the Board of Management will ensure that the interests of the shareholders are reasonably protected. The Board of Management will normally base its determination of the value of the shares being provided as consideration on the stock exchange price of the shares of the Company.

A fixed link to a stock exchange price is not contemplated, especially so as not to call into question achieved results of negotiations because of fluctuations in the stock exchange price. Specific acquisition projects currently do not exist.

Furthermore, points e) and h) would enable the Company to use treasury shares in order to service stock programs from the years 2000 – 2002. This possibility was not required for the comparable stock programs in the years 2003 and 2004 because these programs were not directed towards the issuance of shares but exclusively towards cash compensation. The employee stock programs established in the years 2005, 2006 and 2007 are also not the subject of the resolution.

The grant of Stock Options and subscription rights to employees and management personnel which entitle them under certain conditions to obtain shares in the Company is an internationally common method of compensation. This is intended to create an incentive to additionally increase the value of the Company by special efforts, and thus to promote the development of the stock exchange price of the shares of the Company in the interests of the shareholders and the Company, also when compared to other businesses. At the same time, the aim is to attract qualified employees and management personnel to the Bayer Group and retain them in the Bayer Group over the long-term. In light of this purpose, shares acquired to service the Stock Programs 2000 – 2002 cannot be offered to shareholders in the event of a sale, but only to the participants in the Stock Programs 2000 to 2002.

All material provisions in the relevant Stock Programs are already set forth in the proposal for the resolution. Therefore, only the most important aspects are explained below:

The proposed authorization is intended to permit the Company to service the Module 1 of the SPP and the sip using treasury shares. The Stock Programs which are to be serviced using treasury shares on the basis of the proposed authorization of the Annual Stockholders' Meeting are based on two or three aspects respectively, which correspond to the specific interests of the Company and its shareholders.

The first aspect consists in the respectively established waiting periods which create a mid-term to long-term relationship between the management personnel and employees on the one hand and the Bayer Group on the other. These waiting periods exceed the waiting periods in stock programs of other companies, in some cases to a substantial degree.

The second aspect consists in personal investment. Only if the relevant employees and management personnel invest in shares of the Company for their own account, and thus for their own risk, can they participate in the Stock Programs as has been described. Accordingly, the Stock Programs have particular importance and a particular weight which differentiate them from many other stock programs of other companies. Not only do the respective employees and management personnel have the opportunity to participate in the development of the Company by using increased efforts, they are also at risk with their own resources, as is the case with the other shareholders.

Finally, the third aspect consists of additional prerequisites for exercising the rights. The participants in the SPP have two available modules. While Module 2, for which no resolution is required here, corresponds to the structure of a normal employee stock program which can be serviced under § 71 para. 1 no. 2 AktG using treasury shares of the Company which are acquired by the Board of Management on the market, Module 1, as a supplement to § 71 para. 1 no. 2 AktG, is an innovative employee stock model which makes the grant of additional shares in the Company dependent on remaining with the Bayer Group and holding a personal investment.

The participants in the sip only receive Incentive Shares if the performance of the stock of the Company for tranches up to and including 2002 (on a total return basis) in each case during the relevant period was better than the performance of the Dow Jones EURO STOXX 50SM (Performance Index). The management personnel of the Bayer Group,

therefore, are prepared to have their performance measured against the performance of the most important listed companies in the European economic region.

The Stock Programs represent in each case elements of compensation which expand the already existing variable compensation components for the purpose of developing even greater motivation and are intended to contribute to a long-term increase in the value of the business. Upon the grant of the Incentive Shares, the management personnel will have already earned them as consideration, therefore, as a result of their own personal performance so that the shares are issued free of charge.

During the year 2007, 94,416 shares were granted free of charge under the SPP Module 1 incentive program, and 17,448 shares were granted free of charge under the sip incentive program to employees and management personnel.

Finally, the authorization permits the Company to cancel treasury shares without requiring any further resolution from the Annual Stockholders' Meeting. Such an authorization is also common. It permits the Company to react in a reasonable and flexible manner to the respective situation in the capital markets. Pursuant to § 237 para. 3 no. 3 AktG, the proposed authorization provides that the Board of Management can also cancel the shares without a reduction of capital. By canceling the shares without a reduction of capital, the proportionate amount of the remaining shares in the share capital of the Company is increased. The Board of Management is authorized in this regard to adjust the Articles of Association with regard to the altered number of shares.

The Board of Management will inform the next Annual Stockholders' Meeting about how the authorization has been used.

Leverkusen, February 26, 2008  
Bayer Aktiengesellschaft

The Board of Management