

# Tiskové zprávy pro investory ECM

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## Výroční zpráva představenstva /12. 04. 2010/

### Annual Report of the Board of the Directors

#### **ECM REAL ESTATE INVESTMENTS A.G.**

*société anonyme*

Registered Office: 9, rue du Laboratoire, L-1911 Luxembourg,

RCS Luxembourg: B-65.153

(the “Company”)

### **REPORT**

of the Board of Directors to the Annual General Meeting of Shareholders of the Company to be held on 27<sup>th</sup> April 2010, prepared in accordance with the provisions of the law of 10<sup>th</sup> August 1915 on commercial companies, as amended

Dear Shareholders,

In order to comply with legal and statutory provisions, the Board of Directors hereby reports to the Company's shareholders and to all who might be concerned, in connection with the Annual General Meeting to be held on 27<sup>th</sup> April 2010, on the statutory accounts of the Company for the financial year ending 31<sup>st</sup> December 2009, so as to provide an overview of all important events and activities of the Company and its subsidiaries (further referred to also as the “Group”) during such financial period, and to provide an outlook for future development as well as a summary of important events that have occurred since the end of the financial year. Please note that the report of the Board of Directors on the consolidated annual accounts of the Company is published separately.

Since the Company is a holding company of numerous project companies, the statutory stand-alone annual accounts of the Company do not fully reflect all significant positions and do not provide a full overview of the position of the Company. More precise overview of the Company can be found in the consolidated accounts for which reason we cross-refer to the report on the consolidated annual accounts.

Despite the continuing global financial crisis, adversely influencing the real estate sector as a whole, the Company achieved several successful transactions. Among these we would like to highlight increase of our ownership participation in “Plot 23” project, which is a retail and office project in Beijing, China, where we secured a senior financing for the acquisition. We also successfully completed project City Tower sale (the tallest office building in Prague, Czech Republic), for total property value of 130 MEUR with underlying yield of 7.0%, which is seen as a very good result, considering the current valuations. In the time period of last quarter 2009 and the first quarter of 2010, we assume that there are already some investors on the market, looking for serious investment opportunities. For this reason we are considering further monetizing of some other assets from our portfolio.

Despite the fact that the Company on a stand-alone basis is closing the 2009 financial year with a loss in a total amount of EUR 20,617,543.47 , we believe that the Company coped well in the real estate sector, which has been

significantly hit by the global crisis. The Company continues in very cost efficient operation of its projects.

We propose to the Annual General Meeting of Shareholders to carry the loss forward and not to distribute any dividends. We further propose to the Annual General Meeting of Shareholders to approve the annual accounts as at 31<sup>st</sup> December 2009 and to approve the proposed allocation of the loss.

We further propose Deloitte S.A., an independent auditor (réviseur d'entreprises agréé), having its registered office at 560 rue de Neudorf, L-2200 Luxembourg, to be appointed as the auditor for period ending immediately after the Annual General Meeting of Shareholders to be held in 2011, to audit both the statutory and consolidated accounts of the Company.

We also kindly request our shareholders to grant the full discharge to the Members of the Board of Directors and to the auditors (réviseur d'entreprises) for the exercise of their mandate in the year ended 31 December 2009.

We further kindly request our shareholders to approve the remuneration of the directors received for their performance of their duties as Members of the Board of Directors during the year 2009 in the total amount of EUR 361,500 and during the period from January 2010 until April 2010 in the total amount of EUR 134,583. In addition, the Members of the Board of Directors received remuneration for the performance of their managerial functions paid from Company's subsidiaries in the total amount of EUR 717,092 thousand during the year 2009 and EUR 105,252 thousand during the period from January 2010 until April 2010. For complete information, the annual general meeting of shareholders approved on 28 April 2009 the remuneration scheme for the Board of Directors for the time period from April 28, 2009 to the general meeting to be held on 27<sup>th</sup> April 2010, in the total amount of EUR 2,500,000, whereas the total remuneration of the Directors including their remuneration for managerial positions within the Company's group for this period amounts to EUR 947,887.

We also kindly request our shareholders to approve the future remuneration scheme of the Directors to be paid by the Company for both the performance of their statutory and managerial functions for the period commencing on the Annual General Meeting of Shareholders to be held on 27<sup>th</sup> April 2010 to the date of the Annual General Meeting of Shareholders to be held in 2011 in the total amount of EUR 700,000.

We propose Mr. Milan Janků and Mrs. Jana Zejdlikova, to be appointed as executive directors (category A directors) for a term ending at the annual general meeting of shareholders to be held in 2013.

As at the date of the Annual General Meeting, the issued capital of the Company amounts to EUR 11,675,756.40, being divided into 6,868,092 shares of a nominal value of EUR 1.7 each; and the authorized capital of the Company amounts to EUR 23,000,000, being divided into 14,000,000 shares of a nominal value of EUR 1.7 each. The shares are freely transferable and each share entitles its holder to one vote. There are no securities with special controlling rights. There are no restrictions on voting rights, such as (i) limitations of the voting rights of the holder, (ii) system of separation of financial rights attached to securities from the holding of securities and (iii) system of control of any employee share scheme. There are no agreements between shareholders which are known to the Company and may result in restrictions on the transfer of securities.

The Company is currently in a court proceeding with one of its bondholders which is claiming that pursuant to condition 4.1.8.1.2.1 of the terms and conditions of the Bonds as set out in a Securities Note and Summary dated 3 October 2007, a Change of Control occurred in December 2008. The Company insists on the conclusion presented already on last Annual General Meeting of its shareholders held on April 29, 2009, that no Change of Event occurred, which we believe will be confirmed by a decision of the competent court.

The Company is currently in breach of the condition defined in article 4.1.8.4 of securities notes as the event of default to its euro bonds with convertible warrants. More precisely it is the condition under 4.1.8.4 (i) the failure to comply with the following ratio:  $(\text{Consolidated Financial Debt}) / (\text{Total Assets}) < 65\%$ . The further devaluation of ECM assets and ongoing negative financial results are among the major causes of the fact that this ratio currently stands around 80%.

In case the defined ratio is breached, the representative of the body of Bondholders may, if so decided by the general meeting of Bondholders, ruling by majority decision, by notification sent to the Company, declare all the

Bonds due and repayable at an amount equal to 125% of par together with accrued interest. A general meeting of the Bondholders may be convened at any time by the representative(s) or by the Board of Directors. The Board intends to actively communicate this fact to the Bondholders and convene a Bondholders meeting for this purpose without delay after the Annual General Meeting of Shareholders, once the results of the Company for the year 2009 are approved. The Board believes either to cure this breach, which can be legally done if the Company remedies the situation no later than the day preceding the general meeting of Bondholders, or to achieve a waiver of this condition after the possible scenarios are properly discussed and solution is reached among the bondholders and the Company.

Except for the above there are no pending litigations or other proceedings with potential adverse effect on the Company.

The controlling shareholder of the Company, ECM Group N.V. , with registered office at Naritaweg 165, 1043BW Amsterdam, holds 5,765,855 shares, which represents an 83,95% share in the voting rights of the Company.

The appointment of the Members of the Board of Directors and their replacement is described in the Rules governing the Board of Directors and in the Articles of Association of the Company which were last amended on 19<sup>th</sup> December 2008; the respective wording of which is as follows:

*The Members of the Board of Directors will be elected by the General Meeting of Shareholders, which will determine their number, for a period not exceeding three years. The Members of the Board of Directors are re-eligible and they may be removed at any time, with or without cause, by a resolution adopted by the General Meeting of Shareholders.*

*The General Meeting of Shareholders may decide to appoint one or several category A directors, being the "executive" directors (the "Category A Directors") and one or several category B directors, being the "non-executive" directors (the "Category B Directors").*

None of the members of the Company's Board of Directors and of former Executive Management Council is, based on a service contract with the Company or any of its subsidiaries, entitled to any benefits upon termination of its service.

The Company committed itself to paying directly or through its subsidiaries fixed remuneration to any Member of the Board of Directors after the termination of their mandate, in case that his or her mandate is terminated and the Company will request the particular member to comply with the non-competition clause stipulated in his or her mandate agreement.

The power of the Board of Directors to issue shares is governed by the Articles of Association; the respective wording of which is as follows:

*The Board of Directors is authorized and empowered within the limits of the authorized capital to (i) realise any increase of the corporate capital in one or several successive tranches, following, as the case may be, the exercise of the subscription and/or conversion rights granted by the Board of Directors within the limits of the authorized capital under the terms and conditions of warrants (which may be separate or attached to shares, bonds, notes or similar instruments), convertible bonds, notes or similar instruments issued from time to time by the Company, by the issuing of new shares, with or without share premium, against payment in cash or in kind, by conversion of claims on the Company or in any other manner; (ii) determine the place and date of the issue or the successive issues, the issue price, the terms and conditions of the subscription of and paying up on the new shares; and (iii) remove or limit the preferential subscription rights of the then existing shareholders of the Company in case of issue under the authorized capital and it may be renewed by a resolution of the general meeting of shareholders adopted in compliance with the quorum and majority rules set by the Articles of Association or, as the case may be, by the Laws for any amendment of the Articles of Association.*

The Company has not issued any new shares in course of the year 2009.

Luxembourg, April 1<sup>st</sup>, 2010  
The Board of Directors

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