

# **Report on Observance of Corporate Governance Rules at ING Bank Śląski S.A.** for the year 2008



**REPORT  
ON OBSERVANCE OF CORPORATE GOVERNANCE RULES  
AT ING BANK ŚLĄSKI S.A.**

Pursuant to § 29 (5) of the WSE Rules and the Resolution no. 1013/2007 of the Management Board of the Warsaw Stock Exchange dated 11 December 2007, hereby the Management Board of ING Bank Śląski S.A. presents the *Report on Observance of Corporate Governance Rules at ING Bank Śląski S.A.*

This Report is an enclosure with the Annual Report of ING Bank Śląski S.A.

**I. Observance of corporate governance rules set forth in the “Best Practices for Companies Listed on WSE”.**

The Management Board of ING Bank Śląski S.A. declares that in 2007 the Bank and its authorities abided by the adopted corporate governance rules as set forth in the “Best Practices for Companies Listed on WSE”, following the statement made by the Bank on 2 January 2008.

There were no cases of non-observance of the corporate governance rules in the period covered by this report.

To facilitate adherence to the requirements specified in “Best Practices” the Bank amended its internal statutory documents so that they include the regulations reflecting the corporate governance rules including those applicable to the functioning of the General Shareholders Meeting and the rights of shareholders, the rules and scopes of operation of the Supervisory Board and its Committees, and also the criteria of independence of the Supervisory Board members.

It should be stressed that four members of the Supervisory Board meet the criteria of independence set forth in Annex No. 2 to European Commission Recommendations dated 15 February 2005 on the roles of non-executive directors or supervisory directors of listed companies /.../, and that there are two committees functioning within the Supervisory Board: Audit Committee and Remuneration and Nomination Committee. The committees’ scopes of activities are in line with Annex No. 1 to the above EC Recommendation and there are two independent members of the Supervisory Board in each committee.

At the same time, the Bank Management Board inform that in view of the requirement to consolidate financial reports and the related unified approach of ING Group to principles of changing the auditor, which is in line with applicable EU regulations, Rule IV.8 as presented in “Best Practices for Companies Listed on WSE” is not applied by the Bank.

The Bank will make a relevant declaration in that matter in current report no. 01/2008 of 2 January 2008.

## **II. Operation of the General Shareholders Meeting, its essential rights as well as the rights of shareholders and mode of their exercise.**

The General Shareholders Meeting is convened by way of an announcement in “Monitor Sądowy i Gospodarczy” /*Court and Economic Monitor*/ and it functions according to the principles defined in the regulations of the Commercial Companies Code and the Charter as a General or Extraordinary Shareholders Meeting.

The General Shareholders Meeting shall be valid irrespective of the number of shares represented at it. The resolutions of the General Shareholders Meeting shall be generally passed with the absolute majority of votes. The regulations of the Commercial Companies Code and the stipulations of the Charter define the exceptions to that rule.

Apart from the Commercial Companies Code, the issues regarding the functioning of the General Shareholders Meeting are governed by the Bank Charter and the Bylaw of the General Shareholders Meeting.

General Shareholders Meetings are held at the Company’s registered office in Katowice.

The Company adopted the rule that the General Meetings are held at the time enabling all the eligible and concerned shareholders to attend them. When an Extraordinary General Shareholders Meeting is convened, the Management Board presents the rationale for its convening and inclusion of specific matters in the agenda or asks for presentation of the rationale if convening of the general meeting is requested by another eligible entity.

Draft resolutions are presented to the General Shareholders Meeting by the Management Board after being advised by the Bank Supervisory Board. Draft resolutions are presented to the General Shareholders Meeting along with the rationale, except for the ones which should be obligatorily passed by the General Shareholders Meeting.

The debate of the General Shareholders Meeting may be watched by shareholders on the Internet. The debate of the General Shareholders Meeting may be also attended by the media representatives acting as observers; they may also use the Internet transmissions.

All significant materials for the General Shareholders Meeting are available to all the shareholders concerned at least 7 days before the convening date; this rule does not apply to HR matters.

A General Meeting should be attended by members of the Management Board and the Supervisory Board who can answer questions submitted at the General Meeting. If a member of the Management Board or the Supervisory Board cannot attend the Meeting for material reasons, the General Shareholders Meeting participants are presented with the reasons of their absence. Chartered auditor is invited for the debate of the General Shareholders Meeting when an item pertaining to the financial matters of the Company is included in the agenda of the meeting.

The General Shareholders Meeting has a solid bylaw setting forth detailed principles of debating and passing resolutions. In particular, the Bylaw includes the provisions regarding elections, including election of the supervisory board by voting in separate groups. Any amendments to the bylaw come into force as of the subsequent General Shareholders Meeting.

In line with the regulations of the Commercial Companies Code, the Banking Law and the stipulations of the Bank Charter, the base authorities of the General Shareholders Meeting are as follows:

- consideration and approval of the Management Board report on the company's operations and the financial statements for the previous financial year,
- acknowledgement of the fulfillment of duties of the Management Board and Supervisory Board Members in the previous financial year,
- distribution of the Bank's profit after tax,
- appointment and recall of the Supervisory Board Members; determination of the number of the Supervisory Board Members; and determination of the principles of their remuneration,
- making amendments to the Charter, inclusive of raising or lowering the initial capital of the Bank,
- redemption of shares,
- taking decisions on the usage of the statutory provision and reserve capital,
- disposal and lease of the Bank's business or its organized part and establishment of limited property right on them,
- issue of convertible bonds or bonds with pre-emptive right,
- other matters provided for by the legal regulations, the Charter or raised by the Supervisory Board, the Management Board or eligible shareholders.

Furthermore, the General Shareholders Meeting passes a resolution regarding observance of the corporate governance rules.

### **III. Composition and rules of operation of the Bank's governing and supervisory bodies and their committees.**

#### **1. Supervisory Board**

The Supervisory Board shall consist of 5 to 11 Members appointed by the General Shareholders Meeting for a 5-year term. The General Shareholders Meeting shall determine the number of the Supervisory Board Members for a given term. The members of the Supervisory Board may be recalled any time with the resolution of the General Shareholders Meeting.

Complying with the rules of Corporate Governance, the Bank introduced the institution of the independent members of the Supervisory Board. In line with the Charter, at least two members of the Supervisory Board should have no relations with the Bank, its shareholders or employees, if such relations could have a significant impact on the ability of such member to take impartial decisions (Independent Members). The Bank Charter stipulates detailed criteria of independence.

In 2008, the Members of the Supervisory Board included:

Anna Fornalczyk	– Chair	(Independent Member)
Eli Leenaars	– Deputy Chair	
Wojciech Popiołek	– Secretary	(Independent Member)
Ralph Hamers	– Member	
Jerzy Hausner	– Member	(Independent Member)
Mirosław Kośmider	– Member	(Independent Member)
Marc van der Ploeg	– Member	(through 24.04.2008)
Igno van Waesberghe	– Member	(through 24.04.2008)
Tom Kliphuis	– Member	(from 24.04.2008)
Nicolaas Cornelis Jue	– Member	(from 24.04.2008)

The primary mission of the Supervisory Board is to perform the supervisory function – the Supervisory Board conducts ongoing oversight of the Bank's operations in all areas.

Special rights and duties of the Supervisory Board include appraisal of the report on the Bank's operations and financial reporting for the previous financial year, motions of the Management Board regarding profit distribution or covering the losses, as well as submitting the annual written report on the results of the said appraisal to the General Shareholders Meeting

Apart from the above mentioned rights and duties, the Supervisory Board shall also have authorities pertaining to the following:

- determining the directions of Bank's development and the long-term plans of the Bank's development and annual financial plans,
- approving the principles of safe and steady management of the Bank,
- granting consent to transactions involving non-current assets, the value of which exceeds EUR 5,000,000 and financial assets of that value or accounting for at least 20% of the initial capital of another legal entity,
- granting consent to Bank's actions regarding other property rights whenever the value of the right subject to such actions exceeds one tenth of the Bank's equity, including, notably, consent to concluding by the Bank of a significant agreement with an entity affiliated with the Bank,

- determining the number of the Management Board Members and appointing, dismissing and concluding agreements with members of the Management Board,
- selecting the chartered auditor to carry out the audits of the Bank's financial statement, based on the recommendation of the Supervisory Board's Audit Committee,
- approving the Bank's policy on risk of non-compliance,
- approving the principles concerning processes of internal capital assessment, capital management and capital planning,
- approving the Management Board Bylaw, Organizational Bylaw and the Bank's Internal Audit System.

The resolutions of the Supervisory Board are passed with the absolute majority of votes, whereas in case of a tie, the Chair of the Supervisory Board shall have the casting vote.

The resolutions of the Supervisory Board may be passed, if more than a half of the Supervisory Board Members are present at the meeting, including its Chair or Deputy Chair, to which all Supervisory Board Members have been invited.

In principle, the meetings of the Supervisory Board are convened by its Chair, or by Deputy Chair or the Secretary of the Supervisory Board who acts based on the authorization granted by the Chair, in line with the annual plan or on an *ad hoc* basis.

The meetings of the Supervisory Board shall take place at least 5 times a year.

In cases stipulated in the Charter and the Supervisory Board Bylaw, the resolutions of the Supervisory Board may be passed without holding a meeting, using the written mode or by means of remote communication.

The office service of the Supervisory Board shall be provided by the Bank Management Board Bureau.

Detailed principles of the operations of the Supervisory Board are determined in the Bank Charter and the Supervisory Board Bylaw approved by the Supervisory Board.

The Supervisory Board shall appoint members of the Audit Committee and of the Remuneration and Nomination Committee out of their number to support the Supervisory Board in performing their duties.

### **1.1. Audit Committee**

The Audit Committee supports the Supervisory Board in the process of monitoring and supervision over internal and external audits and management system at the Bank and its related entities. In particular this covers the adequacy and efficiency of the internal and external audit system and risk management system including non-compliance risk, and the relations between the Bank and its related entities as well as between the Bank and the entity auditing the Bank's financial statements.

The activities of the Audit Committee are described in more detail in the Charter and the Audit Committee Bylaw.

The Audit Committee consists of at least three members, including at least one Independent Member of the Supervisory Board. The independent member should have qualifications and experience in accounting and finances.

In 2008, the members of the Audit Committee included:

Mirosław Kośmider	– Chair
Ralph Hamers	– Member
Jerzy Hausner	– Member
Igno van Waesberghe	– Member (through 24.04.2008)
Tom Kliphuis	– Member (from 24.04.2008)

The Audit Committee meets at least once per quarter.

While performing their tasks, the Audit Committee may make use of experts' assistance.

## **1.2. Remuneration and Nomination Committee**

The Remuneration and Nomination Committee supports the Supervisory Board in the area of monitoring and supervision over the Bank's personnel and payroll area, including in particular plans of succession, the process of employees' turnover, measuring the Bank employees' satisfaction, and policy of remuneration and rewarding system.

The Remuneration and Nomination Committee consists of at least three members of the Supervisory Board, including at least one Independent Member.

In the year 2008, the members of the Remuneration and Nomination Committee included:

Anna Fornalczyk	– Chair
Eli Leenaars	– Member
Wojciech Popiołek	– Member
Igno van Waesberghe	– Member (through 24.04.2008)
Nicolaas Cornelis Jue	– Member (from 24.04.2008)

The Remuneration and Nomination Committee meets at least once per quarter.

While performing their tasks, the Committee may make use of experts' assistance.

## **2. Management Board**

The Management Board is composed of 3 to 8 members appointed by the Supervisory Board for the term of 5 years. At least one half of the Management Board members have to be Polish citizens. In principle, two Management Board members, inclusive of the President, are appointed with the consent of the Banking Supervision Commission.

The Supervisory Board determines the number of Management Board members for a given term.

Management Board members may be dismissed at any time with the resolution of the Supervisory Board.

In the year 2008, the Management Board members included:

Brunon Bartkiewicz	– President
Mirosław Boda	– Vice-President
Michał Szczurek	– Vice-President
Oscar Swan	– Vice-President
Marlies van Elst	– Vice-President (through 31.05.2008)

Ben van de Vrie	– Vice-President (through 30.06.2008)
Justyna Kesler	– Vice-President (from 1.06.2008)
Małgorzata Kołakowska	– Vice-President (from 1.07.2008)
Michał Bolesławski	– Vice-President (from 1.07.2008)

Any matters not restricted to the authorities of other Bank's bodies shall fall within the scope of the Management Board's activity. The tasks of the Management Board shall be:

- to fulfill commercial, operational and financial objectives through determining and monitoring their execution by the organizational units,
- to organize and supervise the risk management process in the Bank,
- to organize and supervise the efficiency and effectiveness of processes supporting the Bank's commercial activity,
- to ensure efficient functioning of the Bank's organizational structure and adequate security level,
- to create the Bank corporate culture, norms of co-operation, principles of ethics and a friendly work environment for employees,
- to draw up rules and implement informational policy as regards the Bank and its operational strategy.

The Bank Management Board formulates the strategy of the Bank's operations as part of a three-year rolling action plan, to be approved by the Supervisory Board.

Furthermore, the authorities of the Management Board shall also include decisions on assuming obligations or managing assets, if their total value for one entity exceeds 5% of the Bank's equity, unless those decisions have been reserved as the authority of the Supervisory Board or a relevant Committee, or unless they have been referred by the Management Board to another decision-taking level.

The following matters are within the exclusive authority of the Management Board:

- establishment of Committees, determination of their scope of activities and composition as well as issue of bylaws thereto,
- establishment of Projects, determination of their objectives, rules of operations and requisite resources.

Apart from the matters covering the management of the Bank's business processes, the Management Board is authorized and obligated to undertake actions related to the Bank's operations as a joint-stock company (e.g. convening the General Shareholders Meeting). The tasks of the Management Board in that respect cannot be delegated to others.

The Management Board shall act collegially with the reservation of issues which, pursuant to the stipulations of the Management Board Bylaw or the Organizational Bylaw, may be entrusted to individual Management Board Members.

The matters requiring a resolution by the Management Board are set forth in the Management Board Bylaw. The Management Board shall pass resolutions, provided that the meeting is attended by more than a half of the members and all Management Board members were invited. Resolutions of the Management Board shall be passed with the absolute majority of votes, except for appointment of a proxy, which shall require consent of all Management Board members and revocation of the proxy, which can be done by each Management Board member. In the case of a tie, the Executive President shall have the casting vote.

Management Board meetings shall be convened and chaired by the Executive President. The meetings shall be held as necessary, but at least once every other week, in practice once a week. Management Board members shall supervise individual Divisions and organizational units in accordance with the segregation of duties defined by the Supervisory Board at the



request of the Executive President, and bear responsibility for implementation of their missions and core tasks. In the event when a Management Board member cannot temporarily perform his/her authority, the Executive President defines the rules of deputation.

Organization of the Management Board' work, the scope of matters requiring a resolution of the Management Board and the mode of its performance are defined in the Management Board Bylaw passed by the Management Board and approved by the Supervisory Board. Authorities of individual Management Board members are defined in the Organizational Bylaw of the Bank and the regulations concerning functioning of their areas as enacted by the Management Board.

#### **IV. Base features of internal control and risk management systems applied by the Bank in the process of financial reports development.**

Financial reports are developed by the Finance Division; the process is one of the key elements of compliance with standards. The basic elements allowing realization of this process comprise: the Accounting Policy adopted by the Bank Management Board and the accounting structure within the Bank, defining the main principles of recording of business events at the Bank. Recording of events leads to formation of Bank books, which, in turn, are the basis for development of financial reports.

The following risks were identified in the process of financial reports development:

- risk of incorrect input data,
- risk of inappropriate presentation of data in financial reports,
- risk of use of incorrect estimates,
- risk of lack of integration of IT systems and operating and reporting applications.

To mitigate the aforementioned risks, the process of financial reports development was structured in two layers: application- and content-related.

The application part of the process comprises flow of data from the core operating systems of the Bank via various interfaces to the base of reporting data which host reporting applications. The application layer is controlled in line with the IT systems security policy adopted by the Bank. The following elements are controlled in particular: user management, developing environment management and integrity of data transmission systems (including correct operation of interfaces with particular attention to completeness of data transfer from operating systems to reporting environment).

So that the process of financial reports development is appropriately managed, the process was described in line with the principles in force at the Bank. The description lists all activities present in the process, determines their performers and the situations “if ... then...”. It also indicates the key controls embedded in the process of financial reports development which include but are not limited to:

- control of quality of input data for the financial reports, supported by the data control applications; a variety of principles concerning data correctness, error correction track and close monitoring of data quality were defined in the applications,
- control of data mapping from source systems to the financial reports, guaranteeing correct data presentation,
- analytic review based on the experts’ knowledge, whose main objective is to confront business know-how with the financial data and identify indications of incorrect data presentation or incorrect input data – if present.

The estimates adopted by the Bank and compliant with IFRS were detailed in the Accounting Policy. To avoid the risk of incorrect estimates, the following solutions were adopted, among others:

- to estimate loan impairment – specific models and applications as well as internal regulations for credit risk assessment were implemented;
- to measure financial instruments quoted in active markets or whose measurement is based on those quotations – the requisite functionality of core systems was implemented and, furthermore, the control exercised by the market risk management units was instituted,
- to measure financial instruments not quoted in active markets – measurement models were implemented, which underwent an independent verification before application,

- to estimate the reserves for retirement and pension pays – an independent actuary was commissioned to make an estimate,
- to estimate the reserves for bonuses for employees and executive staff – the calculations used are in line with the General Terms and Conditions of Bonus Award adopted at the Bank and take account of forecasts of Bank's results,
- to value investment estates and own properties – the following rule was adopted: the appraisal is obtained from independent experts on a semi-annual basis for investment estates of significant value, and every three years for other estates.

The organizational structure introduced at the Bank makes it possible to retain the segregation of duties between the front office, back office, Risk and Finance. In addition, institution of an adequate internal control system enforces implementation of control of transactions and financial data in back office and support units. The area is subject of independent and objective assessment by the Internal Audit Department in terms of adequacy: of the internal audit system and risk management, and in terms of corporate governance.