

Explanatory note:

Description of the proposed modifications to the Articles of Association of bpost NV/SA, a company limited by shares under public law

On December 16, 2015 the Belgian Parliament adopted a new law (the “**December 2015 Law**”), amending the Law of March 21, 1991 on the reform of certain economic public companies (the “**1991 Law**”). The December 2015 Law entered into force on 12 January 2016 and modernizes the 1991 Law, in particular by:

- relaxing organizational constraints for certain public companies, including bpost, in order to create a more level playing field with competing (private) companies;
- further aligning the corporate governance of listed public companies with the corporate governance rules for listed (private) companies in Belgium; and
- defining the framework allowing the government to decrease its participation below 50% plus one share, and the consequences thereof.

The Board of Directors prepared a new version of the Articles of Association (the “**Articles**”) incorporating the modifications made to the 1991 Law. The Board of Directors also seized this modification as an opportunity to perform a thorough review of the Articles, proposing additional changes to further strengthen bpost’s corporate governance, and to improve readability. The new version of the Articles is submitted for approval to the extraordinary general meeting of shareholders of May 11, 2016.

A coordinated version of the Articles which includes the proposed changes is made available on the website of bpost: <http://corporate.bpost.be/investors/shareholders-meetings/2016>.

The proposed modifications are presented below in 3 categories:

- A.** implementation of the amended 1991 Law, as modified by the December 2015 Law
 - 1. creation of a “level playing field
 - 2. governance of (listed) economic public companies
 - 3. possibility for the Belgian State to decrease its participation below 50% plus one share
- B.** strengthening of bpost’s corporate governance
- C.** simplifications to improve the readability of the Articles

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A. Modifications further to the implementation of the 1991 Law, as modified by the December 2015 Law

1. Creation of a “level playing field”: ordinary Board approval quorum for the acquisition of equity participations in other legal entities and for the establishment of subsidiaries

→ *Deletion of the reference to article 13 of the 1991 Law in Article 29 paragraph 2, 1°*

The December 2015 Law rendered article 13 of the 1991 Law inapplicable. Consequently, the decisions regarding the acquisition of equity participations in other legal entities and the establishment of subsidiaries are no longer subject to a mandatory special 2/3 majority approval quorum in the Board of Directors, as set forth in article 13 §2 of the 1991 Law. In view thereof, this special majority quorum is removed from the Articles: such decisions are now subject to the ordinary approval quorum of a simple majority.

2. Governance of (listed) economic public companies

One of the December 2015 Law's key objectives is to align the corporate governance of listed public companies with the ordinary rules for listed (private) companies in Belgium. To this effect, several provisions from the 1991 Law relating to the governance of bpost which constituted a deviation from the ordinary rules of the Belgian Companies Code, were made inapplicable to bpost.

2.1. Appointment and dismissal of directors

→ *Modification of Article 21, paragraphs 1 and 4*

The December 2015 Law abolished the rule that (i) the King directly appoints a number of Directors *pro rata* its shareholding, and that (ii) the other Directors (including at least 3 independents) are directly appointed by the other shareholders (without interference of the Belgian State). Hence, in accordance with the ordinary rules of the Belgian Companies Code, all Directors have to be appointed and removed by the Shareholders' Meeting.

To allow for a reasonable representation of significant and stable shareholders, the Board of Directors proposes for each shareholder holding at least 15% of the shares of bpost a right to nominate a number of directors *pro rata* its participation, with a view to their appointment by the Shareholders' Meeting (see below under B.1).

2.2. Calculation basis of the variable remuneration

→ *Modification of Article 22 paragraph 2*

The December 2015 Law abolished the principle that the calculation basis of variable remuneration may not contain elements that are to be considered as operating expenses. Consequently, this rule is also removed from the Articles.



2.3. Appointment and dismissal of the Chairperson of the Board of Directors and the CEO

→ *Modification of Articles 23 and 32*

The December 2015 Law abolished the rule that the Chairperson of the Board of Directors and the CEO are appointed or dismissed through Royal Decree debated within the Council of Ministers. In accordance with the ordinary rules of the Belgian Companies Code, the CEO and the Chairperson of the Board of Directors will be appointed and dismissed by the Board of Directors.

2.4. Gender diversity, incompatibilities and linguistic parity

→ *Modification of Articles 19, §2, 20 and 21, §3*

The December 2015 Law has not changed the rules on linguistic parity, gender diversity and incompatibilities for the Directors formerly appointed by the Belgian State. The Articles are amended to clarify that these rules remain applicable for Directors nominated by public institutions.

2.5. Deletion of the provisions on the Management Committee

→ *Deletion of Article 25 paragraph 2 and Articles 34, 35 and 36*

The 1991 Law contained several provisions detailing the composition, appointment and functioning of a Management Committee. Following the December 2015 Law, these provisions no longer apply to bpost and can therefore be deleted from the Articles.

As was already the case, the operational management of bpost is and will continue to be undertaken by the Group Executive Management under the leadership of the CEO. The Management Committee will remain in force for the limited purposes and tasks assigned to it by the amended 1991 Law, i.e. the negotiation of the management contract.

2.6. Deletion of certain special majority requirements for the adoption of certain resolutions of the Shareholders' Meeting

→ *Deletion of Article 45 paragraph 3 (new Article 41)*

The reference to the concepts 'Strategic Partner' and 'Private Shareholder' have become irrelevant. Furthermore, as the December 2015 Law abolished the rule that the King directly appoints a number of Directors pro rata its shareholding, the appointment and dismissal of Directors is now governed by the ordinary rules of the Belgian Companies Code. Consequently, the special majority requirements for the adoption of certain resolutions of the Shareholders' Meeting are no longer required.



2.7. Abolishment of unilateral rights of the Belgian State to intervene in bpost's governance

→ *Deletion of Article 39*

→ *Deletion of the reference to the Minister of public undertakings in Article 38 paragraph 4 (new Article 35)*

→ *Deletion of Article 49 paragraph 4 (new Article 45)*

The December 2015 Law has put an end to a number of measures of extraordinary control and unilateral intervention by the Belgian State in the governance of listed economic public companies, namely:

- the appointment and mission of the Government Commissioner
- the obligation to submit the annual accounts, annual report and report of the Board of Auditors to the Minister of public undertakings and the Minister of Budget

3. Possibility for the Belgian State to decrease its participation below 50% plus one share

→ *Modification of Article 16*

The December 2015 Law creates the possibility for the Belgian State to decrease its participation in bpost's share capital to less than 50% plus one share. A reference to this possibility is included in Article 16.

B. Modifications to strengthen bpost's corporate governance

1. Nomination right for the appointment of Directors

→ *Modification of Article 21 paragraph 2*

→ *Modification of Article 24*

In line with the recommendations of the Belgian Corporate Governance Code of 2009, the Board can only nominate candidate Directors for appointment who are nominated by the Remuneration and Nomination Committee. The same applies in case of vacancy of a Director's mandate.

In view of the shareholding reflection in the Board of Directors, the Nomination and Remuneration Committee intends, amongst other things, to take the principle of a reasonable representation of significant stable shareholders into account. To that end, each shareholder holding at least 15% of the shares, has a right, laid down in the Articles, to nominate Directors for appointment by the Shareholders' Meeting *pro rata* its shareholding.

bpost's Corporate Governance Charter will contain rules on how this nomination right is organised in practise. To this end, the Board of Directors will adopt a new version of the Charter after the Extraordinary Shareholders' Meeting of May 11, 2016.



The nomination right will substantially be organised as follows (to be further elaborated upon in the Charter by the Board of Directors):

- the number of Directors for which a shareholder can nominate candidates pursuant to the nomination right (if any) is calculated on a fixed date (f.ex. January, 1st);
- the result of this *pro rata* calculation is rounded down;
- changes to the shareholder structure after the “fixed date” (cf. first indent) have as such no impact on the current mandates;
- when nominating candidates, shareholders should take into account the Board of Directors competency profile;
- in case of insufficient vacancies, because the Board of Directors must at all times count at least three independent directors, the number of Directors that each shareholder is entitled to nominate shall be decreased *pro rata* the available vacant positions to be filled. The result of this calculation is rounded down.

2. Term of Board mandate

→ *Modification of article 19 paragraph 1*

In line with the Belgian Corporate Governance Code, the Articles should now provide that Directors are appointed for a renewable term of four years.

3. Number of independent Directors

→ *Modification of Article 19 paragraph 4*

The Board of Directors proposes to have all Directors other than the Chief Executive Officer and the Directors nominated by shareholders be independent (without prejudice however to the existing Board mandates). Hence, the number of independent directors may increase (depending on the shareholder structure and the nomination rights exercised). As before, the Board of Directors always has to count at least three independent Directors.

4. Restrictions on delegations by Board of Directors

→ *Deletion of the restrictions in Article 25, paragraph 3*

The restrictions for the Board of Directors to delegate special and limited powers to the Chief Executive Director and other members of senior management (namely, for acts entailing expenses which exceed EUR 6.2 mio or revenues which exceed EUR 25 mio) are deleted in order to improve efficiency in operations by the Board of Directors.

5. Signing of extract of minutes

→ *Modification of Articles 31 and 47 (new Article 43)*



In order to facilitate bpost's governance, the company secretary is made competent to sign extracts or copies of minutes of the Board meetings and/or Shareholders' Meetings, destined for third parties.

C. Modifications for simplification to improve the readability of the Articles

1. Deletion of provisions without relevant content

- *Deletion of definition of "Strategic Partner", "Private shareholder" and "Principal Subsidiary" in Article 2*
- *Deletion of the transitional regime in Articles 55-56/1*

Certain definitions as well as the transitory provisions at the end of the Articles are no longer relevant.

2. Deletion of provisions which are merely a reflection of the law

- *Deletion of the reference to Articles 4, §2 and 35 §3 and §4 of the 1991 Law in Article 29*

The requirement that a special Board majority is required for decisions referred to in Article 4, §2, first paragraph and in Article 35, §3, 2° and §4, second paragraph of the 1991 Law is a mere reflection of the 1991 Law. There is no need to copy this in the Articles.

- *Deletion of the reference to the 1991 Law in Article 33§2*

3. Other

- *Inclusion of 'as amended from time to time' in the definition of 'Law of March 21, 1991' in Article 2*
- *The order of the definitions in Article 2 is made uniform throughout the different language versions of the Articles.*
- *Throughout the Articles, where possible, provisions have been made gender neutral*