

# Summary of differences in shareholder rights in Bermuda and Sweden

## Introduction

The Company is incorporated in Bermuda under the Companies Act. The conduct of the Company is governed not only by the Companies Act, but also by the Company's Memorandum of Association and bye-laws and by Bermudian common law. The Company's shares have been issued in accordance with the Companies Act.

The Company was incorporated and registered with the Bermuda Registrar of Companies on May 28, 2015 with registered number 50298. The registered address of the Company is Clarendon House, 2 Church Street, Hamilton HM 11, Bermuda.

## Memorandum of association

The memorandum of association sets out some basic provisions in respect of the Company, such as the Company's name and authorised share capital along with the objectives and powers of the Company. The Company's name is Vostok Emerging Finance Ltd. and the authorised share capital is USD 10,000,000 divided into shares of par value USD 0.01 each. The objects of the Company are unrestricted and therefore includes carrying on the business of an investment company, acquiring or selling securities or holding securities by way of investment, either directly or by wholly-owned subsidiaries.

The Company's memorandum of association is a matter of public record. It may be amended by a resolution at a General Meeting with the support of a majority consisting of two-thirds of the votes cast.

## Bye-laws

The organisation of the Company and its affairs are regulated by its bye-laws. The Companies Act requires that the bye-laws include, among other things, provisions with respect to the transfer of shares, the keeping of the company accounts and the duties of the secretary of the Company.

The bye-laws are considered as internal rules and are not filed or registered with any public authority. The bye-laws of the Company may be amended by a resolution at a General Meeting of shareholders with the support of a majority consisting of two-thirds of the votes cast.

## Shares and Register of shareholders

### Shares and shareholders' rights

All shares in the Company carry equal rights. Each share carries one vote. Furthermore, all shareholders shall be treated equally and the Company may not enter into any transactions that are likely to give an undue advantage

to a shareholder or a third party to the detriment of the Company or any shareholders. There are no restrictions on payment of dividend or special procedures for shareholders resident outside Sweden. Shareholders are further entitled to a share in the surplus in the event of liquidation in proportion to the number of shares owned by the holder.

The Companies Act provides for the Company to have the right to issue shares of different classes and to resolve that certain shares shall have preferential or subordinated rights or other special terms and conditions. This requires the authorisation of a resolution passed in a General Meeting or an amendment to the Company's bye-laws. However, the Board may determine the number of shares that are common shares of the Company and the number of shares that are redeemable shares of the Company, subject to the Company's authorised share capital. Redeemable shares are liable to be redeemed at the option of the Company by resolution of the Board.

### Register of shareholders and Swedish Depository Receipts

In the register of shareholders of the Company, all shares will be registered in the name of Pareto Securities as custodian. As described in "Shares, share capital and ownership structure" –shares issued by the Company are represented by SDRs. Euroclear Sweden AB, the Swedish Securities Register Center, will be responsible for keeping a register in respect of the SDRs, in accordance with the Swedish Share Accounts Act, (Sw: lagen om kontoföring av finansiella instrument (1998:1479)) and any other relevant provisions applicable to the book-entry system kept by Euroclear Sweden AB. Therefore, the provisions of the Companies Act and the bye-laws governing the register of shareholders and transfer of shares are of limited interest to holders of SDRs. Nevertheless, it should be noted that the terms applicable to the SDRs provide that holders of SDRs shall be entitled to exchange their SDRs for shares by a written application to Pareto, in which case Pareto will charge a fee in accordance with its normal rate.

## Share issues, change in share capital etc.

### Share issues

The General Meeting as well as the Board of Directors may resolve to issue new shares, warrants or convertible securities of the Company provided that the authorised share capital of the Company is not exceeded by way of the new issue. If the authorised share capital would be exceeded by such issue, a General Meeting must first resolve to increase the authorised share capital.

Shareholders have a preferential right to subscribe for additional shares, pro rata to the number of shares held by them. It is possible to deviate from the shareholders' preferential right if approved by the General Meeting with a majority consisting of at least two-thirds of the votes cast. A corresponding preferential right applies in respect of warrants or convertible securities. However, such a preferential right does not apply in the case of a new issue in consideration for the contribution of noncash property or the set-off of claims. Only a General Meeting may approve new issues against the contribution of non-cash property or the set-off of claims. Shares and other securities may only be issued in exchange for full payment.

A notable difference between Swedish laws and Bermuda laws is that Swedish law requires that the board of directors to be mandated by a resolution passed in a General Meeting in order for the board to be able to resolve on share issuances.

#### **Purchase by the Company of its own shares, etc.**

The Company's memorandum of association provides that the Company has the right to purchase its own shares, in accordance with the Companies Act. The Company may also issue shares that are, at the option of the holder, redeemable.

#### **Redemption of shares held by a minority**

The Companies Act provides for the purchase of the shares of minority shareholders by a majority representing not less than 95 percent of the shares in the Company. The minority shareholders can apply to the court to appraise the value of the shares to be redeemed.

A notable difference between Swedish laws and Bermuda laws is that the threshold is 90 percent of the shares in the Company under Swedish law.

#### **General Meeting of Shareholders**

The provisions contained in the bye-laws governing General Meetings of shareholders, such as the rules regarding matters to be dealt with at the General Meetings and the proceedings of such meetings, largely reflect the Swedish Companies Act.

Under the bye-laws the notice convening a General Meeting shall be sent by mail to Shareholders whose addresses are known to the Company, at the earliest five weeks and at the latest two weeks before the meeting. A person shall be entitled to participate in a General Meeting, provided he is listed as a shareholder in the Company's register of shareholders five days prior to the General Meeting.

Pursuant to the terms applicable to the SDRs, notices convening any General Meeting shall be distributed by Pareto to the holders of SDRs. Such notices shall include information on the measures required by the holder of SDRs desiring to attend and vote at any such General Meeting. Furthermore, Pareto Securities shall, before the General Meeting, provide the Company with proxies authorising the holders of SDRs to represent and vote on behalf of the shares represented by their SDRs.

The bye-laws provide that General Meetings shall be held in Stockholm.

#### **Management of the Company**

The rules governing the management of the Company are, like the provisions in respect of General Meetings, based on the Swedish Companies Act.

Under the bye-laws the Board of Directors can represent the Company and execute all powers of the Company, subject to any provision of the Companies Act or the bye-laws or any prior Shareholders' resolution, requiring a matter to be resolved by the General Meeting. The bye-laws provide that the Board of Directors shall consist of not less than three and not more than 15 directors.

The Board of Directors may authorise a director or any other person to represent and sign on behalf of the Company. However, this authority is not noted in any official register. Under Swedish laws it would be possible to register such authority, if desired.

Under the bye-laws the Board of Directors may delegate to any committee, director, officer or other individual any of the powers exercisable by it.

The duties and obligations of the directors and other officers of the Company derive from common law and the provisions of the Companies Act.

The Companies Act provides that every officer of a company, in exercising his powers and discharging his duties, shall (i) act honestly and in good faith with a view to the best interests of the Company and (ii) exercise the care, diligence and skill that a reasonably prudent person would exercise in comparable circumstances. Furthermore, the Companies Act states that every officer shall comply with the Companies Act, the regulations and the bye-laws of the Company.

As is the procedure in many other jurisdictions, the auditor does not perform an audit of the management's administration and consequently does not give an opinion in respect of the discharge from potential liability of the Company's Managing Director and Board of Directors. Consequently, this is not considered at the General Meeting.

In this context, it should be noted that the auditor of a Swedish company will perform an audit of the management's administration, and, other than in very rare cases, will give an opinion in respect of the discharge from potential liability of the Company's Managing Director and Board of Directors.

### **Dividends**

Resolutions on dividends and other distributions ("Dividends") are resolved by the General Meeting. Dividends may be paid in any currency or any way in kind. However, the General Meeting may not declare a Dividend higher than that recommended by the Board of Directors. Those who are recorded as shareholders in the Company's register of shareholders on the record date specified in the resolution declaring the dividend shall be deemed to be entitled to receive such Dividends. If a shareholder cannot be contacted, the shareholder's claim on the Company regarding the dividend amount remains and is restricted only by rules on period of limitation. When the period of limitation ends the dividend amount will pass over to the Company.

The bye-laws do not include a provision providing the right for minority shareholders to demand dividend payment. It should be noted that in a Swedish company, shareholders representing 10 percent of the shares in the company are, subject to limitations set out in law, entitled to request dividend payments.

Pursuant to the terms for the SDRs, those who are recorded as holders of the SDRs on the share accounts kept by Euroclear Sweden AB, on the record date specified in the resolution declaring the Dividend, shall be entitled to receive such Dividends. Pursuant to the terms of the SDRs, Dividends shall be paid in Swedish krona (SEK) or euro (EUR).

### **Reserves**

Under Bermudian law the Company is not required to declare Dividends and, therefore, the Company's profits may be accumulated and used for the purposes of the Company. The bye-laws authorise the Board of Directors to set aside such sums as it considers suitable as reserves, before recommending any Dividend.

In this context, it should again be noted that in a Swedish company, shareholders representing 10 percent of the shares in the company are, subject to limitations set out in law, entitled to request dividend payments.

### **Shareholders' rights of action in case of irregularities in the Conduct of General Meetings, etc.**

Class actions and derivative actions are generally not available to shareholders under Bermuda law. Bermuda courts, however, would ordinarily be expected to permit a shareholder to commence an action in the name of a company to remedy a wrong to the company where the act complained of is alleged to be beyond the corporate power of the company or illegal, or would result in the violation of the company's memorandum of association or bye-laws. Furthermore, consideration would be given by a Bermuda court to acts that are alleged to constitute a fraud against the minority shareholders or, for instance, where an act requires the approval of a greater percentage of the company's shareholders than that which actually approved it.

### **Mergers and Amalgamations**

The amalgamation or merger of a Bermuda company with another company or corporation (other than certain affiliated companies) requires the amalgamation or merger agreement to be approved by the company's board of directors and by its shareholders. Unless the company's bye-laws provide otherwise, the approval of 75 percent of the shareholders voting at such meeting is required to, approve the amalgamation or merger agreement, and the quorum for such meeting must be two or more persons holding or representing more than one-third of the issued shares of the company. A dissenting shareholder (that did not vote in favour of the amalgamation or merger) of a Bermuda is entitled to be paid the fair value of his or her shares in an amalgamation or merger.

A squeeze-out by amalgamation/merger requires only 75% (or any lower percentage specified by the bye-laws) and in the event that the acquiring entity is a shareholder in the Company, such party would be allowed to vote unrestricted at the relevant General Meeting.

In this context, it should be noted that there is no requirement for shareholders in the absorbed entity to receive consideration of at least 50% shares in the acquiring entity. This is a material difference when compared to Swedish law, which would require that for shareholders in the absorbed entity to receive consideration of at least 50% shares in the acquiring entity.

The Swedish Corporate Governance Board (Sw. Kollegiet för Svensk Bolagsstyrning) has issued Takeover Rules which shall be adhered to by bidders as part of good practice on the Swedish stock market. It should however be noted that bidders are not legally obligat-

ed to adhere to the Takeover Rules that apply on First North. The Takeover Rules include provisions that apply in relation to mergers or similar procedures (including amalgamations). This provision entails that a general meeting resolution of the absorbed entity regarding approval of an amalgamation/merger must be adopted by a qualified majority and that the shares which the acquiring entity holds in the transferor company must not be taken into account.

#### **Court appointed examiner**

There is no right to retain a special (minority) auditor or examiner.

This is a material difference when compared to Swedish law, which allows for the appointment of a special (minority) auditor (Sw. minoritetsrevisor) or an examiner (Sw. särskild granskningsman) at the request of shareholders representing 10 percent of the shares in the company.

#### **Corporate documents**

The principal corporate documents (such as the register of shareholders, the register of directors and other officers, the minutes of General Meetings, etc.) shall be kept at the registered office of the Company.

#### **Financial year**

The Company was incorporated on May 28, 2015. Hence, the first financial year comprises the period May 28–December 31, 2015. Thereafter the financial year comprises the period January 1–December 31.