

**MANDATORY PUBLIC TAKEOVER BID  
POSSIBLY FOLLOWED BY A SQUEEZE-OUT**

by

**ODDO ET CIE SCA**



**ODDO & CIE**

for

**all shares not yet owned by Oddo et Cie SCA**

issued by

**BHF KLEINWORT BENSON GROUP SA**

**BHF Kleinwort Benson**

**RESPONSE MEMORANDUM OF THE BOARD OF DIRECTORS  
OF BHF KLEINWORT BENSON GROUP SA**

**21 JANUARY 2016**

**Financial Advisor to BHF Kleinwort Benson Group SA**

**Spencer House Partners LLP**

**SPENCER HOUSE PARTNERS LLP**

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## 1. INTRODUCTION

### 1.1 Description of the Counterbid

#### 1.1.1 Introduction

On 27 November 2015, Oddo et Cie SCA (*Oddo*) announced that it was to launch a voluntary and conditional bid in cash for all shares of BHF Kleinwort Benson Group SA (the *Company*) not yet owned by Oddo (the *Voluntary Counterbid*). Oddo stated that it had obtained an irrevocable commitment from AQTON to tender its 11.283% in the Company and had signed a conditional share purchase agreement with Franklin Templeton to purchase its 17.549% of the Company (the *Commitments*).

On the same day, the Belgian Financial Services and Markets Authority (the *FSMA*) published a notice in relation to the Voluntary Counterbid and notified the Company in accordance with article 7 of the Royal Decree of 27 April 2007 on public takeovers (the *Takeover Decree*).

On 2 December 2015, the FSMA published a supplemental notice announcing that Oddo recharacterised its Voluntary Counterbid as a mandatory public takeover bid in cash (the *Mandatory Counterbid*) and notified the Company in accordance with article 7 *juncto* article 57 of the Takeover Decree.

On 19 January 2016, the FSMA approved Oddo's prospectus (the *Prospectus*), which can be accessed on [www.fsma.be](http://www.fsma.be).

#### 1.1.2 Shares and Bid Price

The Mandatory Counterbid extends to the total of 75,541,866 shares, with coupon n°1 *et seq.* attached, not yet owned by Oddo, at a price of €5.75 per share in cash (the *Bid Price*).

If the Company declares or pays a distribution (in capital or a dividend) on the Company's shares with coupon n°1 attached, prior to the acquisition of the Company's shares by Oddo, the price to be paid for a share of the Company pursuant to the Mandatory Counterbid shall be reduced by one EUR per each EUR of the distribution per share of the Company paid to the shareholders or to which they are entitled by detaching the coupon or otherwise prior to the sale of the Company's shares to Oddo.

#### 1.1.3 Conditions precedent

Pursuant to the exemption granted by the FSMA, Oddo has made its Mandatory Counterbid subject to the following conditions precedent:

- (i) The Mandatory Counterbid is not subject to investigation by any governmental authority responsible for regulating antitrust, competition or merger matters in any jurisdiction, beyond the initial examination to determine the applicable jurisdiction (which, for Germany, means any investigation beyond the one-month examination period pursuant to Section 40 §1(1) of the Act prohibiting restrictions on competition – *Gesetz gegen Wettbewerbs-beschränkungen* or *GWB* – following the filing of the complete notification with the German Federal Cartel Office), and no substantive conditions are imposed in the decisions taken during the initial examination periods approving the Mandatory Counterbid, in accordance with article 4 of the Takeover Decree.
- (ii) On or no later than 30 April 2016, the Guernsey Financial Services Commission in Guernsey, the Jersey Financial Services Commission in Jersey, the Central Bank of Ireland in Ireland, the Financial Market Supervisory Authority in Switzerland, and the Prudential Regulation Authority/Financial Conduct Authority in the United Kingdom, in their capacity as the

authorities competent for the regulated subsidiaries of the Company established in Guernsey, Jersey, Ireland, Switzerland and the United Kingdom, respectively, as well as the European Central Bank, the Federal Financial Supervisory Authority of Germany (*Bundesanstalt für Finanzdienstleistungsaufsicht*) and the Commission de Surveillance du Secteur Financier (the regulatory authority for the financial sector in Luxembourg), as the authorities competent for the regulated subsidiaries of the Company established in Luxembourg and Germany, and any competent authority in any other relevant jurisdiction (including the European Central Bank), have granted their final approval in writing, or have notified in writing their absence of an objection within the time period specified to formulate objections, to the acquisition or increase in control by Oddo (and its group of companies (as the case may be)) of the regulated subsidiaries of the Company established in the aforementioned jurisdictions that would result from the acquisition of the Company's shares by Oddo and, at the time the results of the Mandatory Counterbid are announced each such approval or notice of no objection is still valid or has been extended or renewed, if required.

## 1.2 Recent developments

### 1.2.1 21 May 2015: Trading update covering the three months ended 31 March 2015

The Company highlighted the following information in its trading update for the three months ended 31 March 2015:

- Assets under Management (*AuM*) up €5.7 billion (11%) compared to 31 March 2014 and up €4.4 billion (8%) compared to 31 December 2014.
- Operating income of €9.6 million for the first quarter of 2015, with both BHF-BANK and Kleinwort Benson reporting steady top line revenue growth.
- Operating expenses falling by 4% reflecting the benefit of ongoing efficiency measures.
- €10.9 million adjusted operating profit for the first quarter.
- Strong capital position with a Tier 1 capital ratio of 16%.

The Company confirmed that the Group remained on track to deliver its targets for 2017 and continued to focus on the development of its franchises with a view to assisting its clients to protect and grow their wealth. Further, the Company announced that Kleinwort Benson was close to finalising a strategic partnership with a firm to launch a digital private banking platform by Q2 2016.

### 1.2.2 25 May 2015: Samena investment in Kleinwort Benson Bank

Kleinwort Benson Bank entered into an investment agreement (the *KBBL Investment Agreement*) with, *inter alia*, Samena KB Holdings and Samena Pioneer Holdings (together, *Samena Capital*). Under the KBBL Investment Agreement, it was intended that Samena Capital would acquire 31.2% of the voting rights in Kleinwort Benson Bank, and would be entitled to acquire up to a total of 39.9% of the voting rights during 3 years following completion of the transaction. The transaction was intended to bring together an unparalleled group of high net worth, entrepreneurial shareholders from Europe and across the SAMENA markets (*i.e.*, Subcontinent, Asia, Middle East and North Africa) with a view to advancing their shared desire for a return to relationship-driven banking and access to differentiated investment opportunities. The KBBL Investment Agreement was originally expected to close by Q2 2015 subject to certain conditions precedent. However, on 31 December 2015 the KBBL Investment Agreement was terminated. Neither the Company nor any of its subsidiaries is party to any other agreement under which Samena Capital has the right to acquire an interest in any subsidiary of the Company.

### 1.2.3 24 July 2015: Notification of the Fosun Bid

Billion Eastgate (Luxembourg) S.à r.l., a wholly owned indirect subsidiary of Fosun International Limited (together with the Fosun group, *Fosun*), announced that it was to launch a voluntary and

conditional public takeover bid in cash for all shares of the Company not yet held by Fosun or otherwise economically transferred to Fosun (the *Fosun Bid*).

On the same day, the FSMA published a notice in relation to the Bid and notified the Company in accordance with article 7 of the Takeover Decree.

#### 1.2.4 25 July 2015: Set up of Bid Committee

In response to the Fosun Bid, the Board agreed to form a special sub-committee (the *Bid Committee*) to review all aspects of the Fosun Bid and any other public takeover bid that might be launched on the Company in response of the Fosun Bid and make recommendations to the Board, as appropriate, reflecting the interests of all shareholders and other stakeholders. The Bid Committee met on a regular basis to discuss developments in respect of the Fosun Bid and any other public takeover bid launched on the Company after the Fosun Bid.

The Bid Committee consisted of independent directors Gerd Häusler, Anne van Aaken and Konstantin Graf von Schweinitz and executive director Leonhard Fischer (CEO).

#### 1.2.5 27 August 2015: Financial results for the six months ended 30 June 2015

The Company highlighted the following information in its financial results for the six months ended 30 June 2015:

- AuM up 8% (€4.2 billion) to €8.5 billion compared to 31 December 2014, with strong inflows from international investors and good growth in the private banking business' net new money.
- Operating income rose by €18.3 million or 11% to €191.3 million compared to the six months ended 30 June 2014, with both BHF-BANK and Kleinwort Benson reporting strong revenue growth and including a gain of €7.9 million on the partial repurchase of BHF-BANK's subordinated debt.
- Operating expenses down 2% (€3.0 million to €172.8 million) year-on-year after excluding foreign exchange translation impact of €6.5 million and ahead of initial cost saving target of €20 million.
- Operating profit of €8.0 million improved by €23.8 million, confirming steady progress in the implementation of the growth strategy across all geographies and sustained cost discipline.
- Robust capital position with a Tier 1 capital ratio of 17%.
- Consolidated net asset value increased to €20 million or €6.20 per share (31 December 2014: €6.03).

The Company informed shareholders that the Group was seeing sustained improvements across most key business lines, and thereby reconfirmed its target of more than €60 million profit before tax in 2017. Significant progress was also being achieved in streamlining businesses, delivering capital and operational efficiencies and building the international investment proposition. The Company also reported that the disposal of Kleinwort Benson's non-core fund administration business, to streamline further the business, would yield a gain of €12.7 million upon completion, which subsequently occurred during the second half of 2015. The planned transformation of Kleinwort Benson's private banking platform to an outsourced solution, including enhanced online and digital offerings by H1 2016, was expected to commence in H2 2015. Finally, the Company announced that it saw substantial opportunities in the strategic collaboration of its key businesses, bringing the strong international investment capabilities of Kleinwort Benson into BHF-BANK's distribution capabilities in the fast growing German market.

#### 1.2.6 ***19 November 2015: Trading update for the nine months ended 30 September 2015***

The Company highlighted the following information in its trading update for the nine months ended 30 September 2015:

- AuM up €2.5 billion (5%) year on year and up €1.8 billion (3.3%) compared to 31 December 2014 year end. The quarter on quarter decrease of 4.2% was entirely attributable to market movements.
- Underlying adjusted operating profit of €2.9 million, excluding impact of unrealized fair value losses and foreign exchange translation at Kleinwort Benson Wealth Management, compared to an adjusted operating loss of €1.6 million.
- Operating income of €61 million increased by €4.7 million compared to the same period in the previous year, and included unrealized fair value losses of €3 million from widening credit spreads.
- Operating expenses fell by €1 million year-on-year after excluding a foreign exchange translation impact of €8 million.
- Robust capital position with a Tier 1 capital ratio of 16%.
- Consolidated net asset value of €793 million or €6 per share.
- Near to mid-term business prospects at risk of being adversely impacted by the uncertainty resulting from the regulatory approval process related to the Fosun Bid.

The Company informed shareholders that the Group continued to take steps to reposition BHF-BANK to capture sustainable mid to long term growth opportunities and achieve targeted profitability in 2017. However, the Company expected performance in the near term to be impacted by the remedial actions taken to deliver sustainable profitability at BHF-BANK.

Kleinwort Benson may also be at risk of being impacted in the short term by the uncertainty in respect of the Fosun Bid; however it was expected that the underlying momentum across the business lines would continue, bolstered by a number of new initiatives in private wealth management including the implementation of an enhanced online service and a digital acquisition channel to deliver superior services to clients.

#### 1.2.7 ***27 November 2015: Notification of Voluntary Counterbid***

As described in Subsection 1.1.1, first paragraph, the Board was informed of Oddo's Voluntary Counterbid by the FSMA.

#### 1.2.8 ***2 December 2015: Notification of recharacterisation to Mandatory Counterbid***

As described in Subsection 1.1.1, third paragraph, the Board was informed of the recharacterisation of Oddo's Voluntary Counterbid into a mandatory public takeover bid by the FSMA.

#### 1.2.9 ***18 December 2015: Fosun's withdrawal of the Fosun Bid***

Pursuant to article 17, 1° of the Takeover Decree, Fosun announced its decision to withdraw the Fosun Bid.

#### 1.2.10 ***14 January 2016: Oddo increases shareholding to 42.618%***

Oddo announced in a press release that it had met the two conditions precedent required by the European Central Bank in order to proceed with its Mandatory Counterbid. In this respect, Oddo confirmed that its Mandatory Counterbid had become unconditional and that it had completed the acquisition of 23,203,881 shares under the conditional share purchase agreement with Franklin Templeton on 13 January 2016. As a result thereof, Oddo's shareholding in the Company had increased to 42.618%.

### 1.3 Definitions

Capitalized terms used in this Memorandum shall have the meaning set forth below or elsewhere in this Memorandum. If not defined in this Memorandum, capitalized terms shall have the meaning ascribed to such terms in the Prospectus.

<b>AQTON</b>	shall mean AQTON SE.
<b>AuM</b>	shall mean assets under management.
<b>BHF-BANK</b>	shall mean BHF-BANK AG.
<b>Bid Committee</b>	has the meaning set forth in Subsection 1.2.4, first paragraph.
<b>Bid Price</b>	shall mean the price of €5.75 for each share, with coupon n°1 <i>et seq.</i> attached.
<b>Board</b>	the board of directors of the Company.
<b>Commitments</b>	has the meaning set forth in Subsection 1.1.1, first paragraph.
<b>Company</b>	shall mean BHF Kleinwort Benson Group SA.
<b>CRD IV</b>	shall mean the directive No. 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC.
<b>CRR</b>	shall mean regulation No. 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012.
<b>IFRS</b>	shall mean the international financial reporting standards, as adopted by the European Union.
<b>Fosun</b>	shall mean the entire Fosun group, including Fosun International Limited.
<b>Fosun Bid</b>	has the meaning set forth in Subsection 1.2.3, first paragraph.
<b>Frankfurt Trust</b>	shall mean BHF-BANK's asset management subsidiary.
<b>Franklin Templeton</b>	shall mean Franklin Templeton Institutional LLC and its affiliates.
<b>FSMA</b>	shall mean the Belgian Financial Services and Markets Authority.
<b>Group</b>	shall mean the Company and any of its direct and indirect subsidiaries.
<b>KBBL Investment Agreement</b>	has the meaning set forth in Subsection 1.2.2, first paragraph.
<b>Kleinwort Benson</b>	shall refer to the combination of Kleinwort Benson Bank, Kleinwort Benson Channel Islands and Kleinwort Benson Investors.
<b>Kleinwort Benson Bank</b>	shall mean Kleinwort Benson Bank Limited.
<b>Kleinwort Benson Investors</b>	shall mean Kleinwort Benson Investors Dublin Limited.
<b>Kleinwort Benson Channel Islands</b>	shall mean Kleinwort Benson (Channel Islands) Limited.
<b>Kleinwort Benson Wealth Management</b>	shall refer to the combination of Kleinwort Benson Bank and Kleinwort Benson Channel Islands.
<b>Mandatory</b>	has the meaning set forth in Subsection 1.1.1, third paragraph.



## ***Counterbid***

<b><i>Memorandum</i></b>	shall mean this response memorandum.
<b><i>Oddo</i></b>	shall mean Oddo et Cie SCA.
<b><i>Prospectus</i></b>	shall mean Oddo's prospectus approved by the FSMA on 19 January 2016.
<b><i>RSU</i></b>	shall mean restricted stock units.
<b><i>RSU Plans</i></b>	shall mean current equity incentive plans.
<b><i>Samena Capital</i></b>	has the meaning set forth in Subsection 1.2.2, first paragraph.
<b><i>Société Générale</i></b>	shall mean Société Générale S.A.
<b><i>Spencer House Partners</i></b>	shall mean Spencer House Partners LLP.
<b><i>Takeover Decree</i></b>	shall mean the Royal Decree of 27 April 2007 on public takeovers.
<b><i>Takeover Law</i></b>	shall mean the Law of 1 April 2007 on public takeovers.
<b><i>Voluntary Counterbid</i></b>	has the meaning set forth in Subsection 1.1.1, first paragraph.

## **2. COMPOSITION OF THE BOARD**

The Board is composed of the following six directors:

<b><u>Name</u></b>	<b><u>Position</u></b>
Gerd Häusler	Independent director, Chairman
Leonhard Fischer	Director, Chief Executive Officer
Johannes Fritz	Non-executive Director
Anne van Aaken	Independent director
Konstantin Graf von Schweinitz	Independent director
Patrick Lei Zhong	Non-executive Director

On 21 January 2016, the Board met to approve the submission of this Memorandum to the FSMA for approval and has unanimously approved this Memorandum.

## **3. ASSESSMENT OF THE MANDATORY COUNTERBID**

### **3.1 Effect on the shareholders' interests**

#### **3.1.1 *Oddo's statements***

Oddo is offering €5.75 for each share, with coupon n°1 *et seq.* attached, not yet owned by Oddo (the ***Bid Price***). Oddo's justification of the Bid Price is described in Subsection 7.2.2 of the Prospectus.

#### **3.1.2 *The Board's view***

##### **(a) General**

The Board engaged Spencer House Partners as the Board's financial adviser for the purposes of evaluating the Mandatory Counterbid. The Company provided Spencer House Partners access to its financial projections and management.

(b) Bid Price

The Board considered several different valuation approaches used by Spencer House Partners, including going concern and break-up methodologies. The Board noted that Oddo's strategy envisages a break-up of the Group (through the sale of, at least, Kleinwort Benson Wealth Management), and concluded that in the current circumstances a break-up approach is likely to yield the highest valuation.

On the basis of its own evaluation of the break-up alternative<sup>1</sup>, the Board concluded that such a course of action was likely to realise a valuation outcome within a range, the upper and lower levels of which were based on its determination of reasonably likely scenarios. The Bid Price is within this range. It should be noted, however, that a break-up would likely be complex, and this analysis (and therefore the range) involves a substantial number of judgements, uncertain timescales, and probabilities and risks which are difficult to ascertain.

The Board notes the Commitments stated in the Prospectus to have been provided to Oddo by Franklin Templeton and AQTON, which will result in Oddo holding a minimum of 54.16% of the Company and therefore having control of the Board. As a consequence, the potential outcomes of a Board managed break-up of the Group are of interest in terms of considering valuation but do not represent a real alternative available to shareholders because any such break-up could be blocked by Oddo through its majority shareholding.

(c) Implications of not accepting the Mandatory Counterbid

The Board has further considered the risks for shareholders if they do not accept the Mandatory Counterbid.

(i) *Uncertainty regarding the future profile of the Company*

Once under the control of Oddo, the future asset composition, financial profile, balance sheet and profitability of the Group is not yet clear to the Board. Firstly, it is likely but not certain that the Group will effect the sale of Kleinwort Benson Wealth Management to Société Générale as described in the Prospectus. More broadly, whilst minority shareholders would continue to have certain protections, Oddo may seek to change (and succeed in changing) the structure and composition of the Group, potentially through the sale of certain of the Group's existing assets or the contribution to the Group of other assets or liabilities held currently or in the future by Oddo. Whilst such transactions would need to comply with the regulations concerning related parties, minority shareholders' influence may be limited in ensuring the value of their equity is protected adequately and appropriately. In particular, to the extent that any changes in the Company may require a shareholder vote approved by a simple majority, Oddo would likely be able to control the passing of such a vote.

(ii) *Delisting*

Oddo has announced that it may request the delisting of the shares of the Company from the regulated market of Euronext Brussels. The FSMA can object to any such request in the interest of investors' protection. The Board notes that such request has been granted only in exceptional cases, each time in circumstances that were different from the ones in the case at hand.

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<sup>1</sup> The Board notes the existence of tax losses available for carry forward at the Company's Belgian holding company level, which amount to €124 million as at 31 December 2014. The Board has ascribed minimal value to these tax losses given the limited expected quantum of taxable income likely to be generated by the Belgian holding company in the short- to medium-term. Furthermore, the Board cannot fully exclude that loss limitation rules will apply in case of a change of control.

(iii) *Squeeze Out*

Subject to the wider acceptance of the Mandatory Counterbid, Oddo may seek to follow the Mandatory Counterbid by a squeeze out of any remaining minority shareholders at the Bid Price. In accordance with article 42 *juncto* article 57 of the Takeover Decree the squeeze out must take place within three months after the acceptance period. To the extent that Oddo does not achieve a 95% shareholding as a result of the Mandatory Counterbid, and reaches that level through further share purchases or other routes (*e.g.*, a contribution of an asset in exchange for equity in the Company), the timing and pricing of such a squeeze out would be uncertain.

If Oddo owns insufficient shares to launch a squeeze out, Oddo may still seek to continue to acquire shares from remaining shareholders. The price that Oddo offers for such shares is uncertain and may be lower than the Bid Price.

(iv) *Liquidity*

Taking into account Oddo's future minimum equity holding of 54.16% combined with Fosun's shareholding of 28.61% (whether remaining in Fosun's ownership or sold to Oddo), the Board believes that the liquidity of the Company's shares would be considerably reduced further which may affect their value and the ability of minority shareholders to exit their shareholding in an acceptable period of time.

(d) Conclusion

Taking into account the valuation analysis considered by the Board, combined with the risks for shareholders who do not tender their shares in light of Oddo having already achieved control, the Board recommends that shareholders accept the Mandatory Counterbid.

### 3.2 Effect on the creditors' interests

#### 3.2.1 *Oddo's statements*

Oddo states in Subsection 7.14.1 of the Prospectus:

“(…)

*These funds form the object of (i) a deposit in an escrow account opened with the Société Générale (Paris branch) in the name of Oddo et Cie in an amount of EUR 216,366,391, and (ii) for the rest, an irrevocable and unconditional credit line granted to Oddo et Cie by the Société Générale (Brussels branch) and JP Morgan Europe for a total of EUR 380,000,000.*

(…)”

#### 3.2.2 *The Board's view*

(a) General

The Company is a regulated financial holding company and is required to maintain sufficient financial resources, including own funds and liquidity resources of an amount and quality to ensure there is no significant risk that its liabilities cannot be met as they fall due. The Company has a strong balance sheet with no debt financing. Its Tier 1 capital ratio of 16% at 30 September 2015 was comfortably in excess of the minimum regulatory requirements set by the Prudential Regulation Authority in the UK in accordance with the applicable provisions of the CRR and CRD IV. The Board believes that balance sheet strength is essential to the further development of the Company's merchant banking activities.

(b) Acquisition debt financing

The Board takes note that the Mandatory Counterbid is debt financed for more than 60% through an irrevocable and unconditional credit line granted by Société Générale (Brussels branch) and JP Morgan Europe Limited for a total of €380,000,000. The Board understands from Oddo's statements in Subsection 6.4.1 of the Prospectus that Kleinwort Benson Wealth Management will be sold to Société Générale. The amount of the pre-agreed sale price has not been disclosed. However, the Board assumes that the amount of the sale proceeds should be close to the book value of Kleinwort Benson Wealth Management, as articulated in the financial press. This would place Oddo in a position to reduce the acquisition debt in a significant manner.

Moreover, the Board takes comfort that Oddo will have demonstrated to the banking regulators that the Company will be in a position to comply with all applicable solvency ratios after the closing of the Mandatory Counterbid in order to obtain the approval of such regulators. In this respect, the Board refers to Oddo's press release dated 7 January 2016 stating that "On 31 December 2015, Oddo Group completed its capital increase of 100 million euros. With shareholders' equity of 705 million euros, Oddo Group has increased its shareholders' equity more than tenfold over the past twenty years.". The Board understands that such capital increase was a condition precedent for both the approval of the German deposit guarantee fund and the European Central Bank.

(c) Conclusion

In this context, the Board takes the view that, based on Oddo's statements in the Prospectus, there is no reason to believe that the Mandatory Counterbid will have a material adverse impact on the creditors' interests, provided however that Oddo neither undertakes a debt push down to the Company nor proceeds with any other financial engineering with similar effects.

### **3.3 Effect on the employees' interests, including consequences for employment**

#### **3.3.1 Oddo's statements**

Oddo states in Subsection 6.4.2 of the Prospectus:

*"Since the public announcement of its Counterbid, Oddo et Cie, based on its current knowledge of BHF KB group companies, has not made and does not currently intend to make any changes to the board of directors of BHF KB, and its affiliated companies, to restructure the management or staff of BHF KB and its affiliated companies, or to modify their working conditions. The Counterbid reflects Oddo et Cie's willingness to accept new colleagues and changes to its corporate culture. Oddo et Cie wishes to preserve the skills and experience of BHF KB's and affiliated companies' personnel. Assuming Oddo et Cie Counterbid would be successful, the only change Oddo et Cie is currently anticipating is that Philippe Oddo intends to apply as Chief Executive Officer of BHF-BANK.*

(...)

*The potential consequences of the implementation of Oddo et Cie's intentions for BHF KB's employees and affiliated companies will be mitigated by adequate accompanying measures adopted in accordance with the following principles: (i) respect for individuals and cultures, (ii) identification of synergies, and (iii) harmonization of procedures and practices within the new group. Ultimately, the Oddo Group's objective for BHF KB is to create value and related employment opportunities."*

### 3.3.2 *The Board's view*

#### (a) General

The Board emphasises that the talented, experienced and motivated employees of the Company and its subsidiaries have contributed significantly to the successful transformation over the last couple of years. The Board is convinced that the employees will continue to play a crucial role in the success of the Company in the future.

In view of Oddo's strategic plans for the Group, the Board has decided to address the impact of the Mandatory Counterbid on the employees' interests of BHF-BANK, Kleinwort Benson Wealth Management, Kleinwort Benson Investors and the Company separately.

#### (b) BHF-BANK

The Board notes Oddo's intention to consolidate its existing German activities (such as the recently acquired Oddo Seydler Bank AG and Oddo Meriten Investment Management GmbH) with BHF-BANK. The Board believes that Oddo's statements do not reveal any indication that the Mandatory Counterbid would be against the employees' interest at BHF-BANK. Due to the increase in size, the Board agrees that such consolidation may indeed create more employment opportunities for the existing workforce within BHF-BANK.

According to the Prospectus, Oddo's workforce in Germany is limited to one quarter of its total 1,300 employees. This is relatively limited compared to the approx. 1,075 employees at BHF-BANK. This being said, the Board cannot exclude the possibility that Oddo would initiate a restructuring of the BHF-BANK's workforce in order to eliminate overlapping positions and create synergies. Depending on its form and scope such restructuring may have to be agreed with the relevant bodies including BHF-BANK's works council. In this respect, the Board notes Oddo's statement that it will mitigate the potential consequences of the implementation of its strategic plans by taking adequate accompanying measures.

#### (c) Kleinwort Benson Wealth Management

In view of Oddo's strategic plans to further develop in the Eurozone, Oddo has decided to negotiate a binding commitment to sell Kleinwort Benson Wealth Management to Société Générale. No information is provided in the Prospectus on Société Générale's intentions *vis-à-vis* the approximately 500 employees at Kleinwort Benson Wealth Management. Therefore, the Board is not in a position to express a view on the employees' interests at Kleinwort Benson Wealth Management.

#### (d) Kleinwort Benson Investors

As described in Section 3.4 of this Memorandum, Oddo has not yet decided on its strategic plans in respect of Kleinwort Benson Investors. The Board assumes that Oddo is not yet in a position to decide whether to retain or sell Kleinwort Benson Investors. Therefore, the Board is not in a position to express a view on the employees' interests at Kleinwort Benson Wealth Management.

#### (e) Company

Oddo expressed in the Prospectus its intention neither to make any changes to the Board, nor to restructure the management or staff of the Company, nor to modify their working conditions. The Board notes that no discussions have taken place in this regard with the Board or management of the Company.

(f) Employment terms

In respect of the employment terms, Oddo has not provided any statement on the Group other than for the Company. Oddo has in particular not made any statement regarding how to address the existing incentive plans under which awards have been made to employees of the Company and other Group companies in view of a possible squeeze-out and delisting and other changes that may be applied to the Group.

The Board believes that the current employment terms are to the benefit of the Group and necessary to attract and retain talented, experienced and motivated employees who will ensure the Group's future success and growth. The Board notes that Oddo has indicated that it would, in the event of a successful Mandatory Counterbid, proceed with a squeeze-out and delisting of the shares, provided it complies with all requirements and procedures. Such squeeze-out and delisting could negatively impact the economic value of the key equity incentive plans used by the Group to attract and retain talent. Under the current equity incentive plans (*RSU Plans*), employees have been awarded restricted stock units (*RSUs*). For each RSU which vests, the award recipient receives one share or, at the option of the Group and subject to the award recipient's consent, a cash amount equal to the fair market value of such share as of the vesting date. The absence of a market for the shares as a result of a squeeze-out and delisting would force the employees to accept (i) shares that are not fungible due to the absence of a market to dispose of them or (ii) a cash amount without any reliable and objective measure of the fair market value of such share at vesting of RSUs. Also should Oddo not be able to proceed with a squeeze-out and delisting of the shares after closing of the Mandatory Counterbid the likely materially reduced number of shareholders in the Company and related limited trading in the shares may negatively affect the formation of a fair market value for the shares and hence the value of the RSUs of the employees.

Certain employees have been granted deferred remuneration in the form of RSUs subject to entitlement criteria that need to be fulfilled for recipients to earn such deferred remuneration (as described in the Company's remuneration report). In view of the sale of Kleinwort Benson Wealth Management and further strategic and other changes Oddo may implement, the currently applicable entitlement criteria will no longer be relevant for some employees as fulfilment of such criteria will become impossible.

In order to ensure retention of key personnel throughout the Group, the Group will have to make adjustments to its compensation plans, particularly its RSU Plans. Under the RSU Plans the respective boards are authorized to amend or accelerate RSU awards in order to address special circumstances including takeover situations. Under the Company's remuneration policy, the Board is obliged to effect, upon recommendation of the Nomination and Remuneration Committee, such adjustments to the entitlement criteria as necessary in order to reflect the impact of such special circumstances on the RSU awards.

(g) Conclusion

Based on the information provided in the Prospectus, the Board is not in a position to exclude the possibility that the Mandatory Counterbid may have a negative impact on the employees' interests or their employment terms.

### **3.4 Oddo's strategic plans for the Group**

#### **3.4.1 *Oddo's statements***

Oddo states in Sections 6.3 and 6.4.1 of the Prospectus:

*“Oddo et Cie aims to become a leading player in the eurozone in the field of asset management and investment banking. With this ambition in mind, the Oddo Group has launched a process of development in Germany, recently acquiring Seydler Bank AG, now called Oddo Seydler Bank*

AG, a bank specializing in Mittelstand, and the asset management company Meriten Investment Management GmbH, now called Oddo Meriten Asset Management GmbH. As a result of these acquisitions, Oddo et Cie currently generates a quarter of its turnover in Germany, where a quarter of its 1,300 workforce is also employed.

Thanks to effective integration processes, these transactions have already generated positive outcomes and illustrate the Oddo Group's capacity for integration.

Oddo et Cie believes that creating closer ties with BHF KB will allow it to become a leading independent player in the eurozone's financial landscape. With respect to the activities carried out by both Oddo et Cie and BHF KB, e.g. private banking, asset management and market activities, their combined size will ensure a comprehensive and innovative offer for investors and issuers, as well as operational synergies and substantial economies of scale. BHF KB's corporate loan business will allow Oddo et Cie to add a new item to its portfolio of services for small and medium-sized businesses.

Notwithstanding the wealth management activities carried out by BHF KB (through its subsidiaries Kleinwort Benson Bank (United Kingdom) and Kleinwort Benson (Channel Islands) Holdings Limited (Guernsey)) outside the eurozone, the takeover should allow the creation of a positive dynamic for all entities of the BHF KB group.

(...)

With this in mind, the Oddo Group aims to consolidate all of its German activities with the entities of the BHF KB group.

The Oddo Group also confirms its intention to develop in the eurozone and it is its intention not to retain the private banking activities in the United Kingdom and the Channel Islands. In view of disposing these operations, Oddo et Cie and Société Générale negotiated an agreement.

In particular; by way of an offer letter dated 11 September 2015 and an amendment dated 23 November 2015, Société Générale has made a binding offer to the Counterbidder (the "Offer"), subject to the completion of the Counterbid, to acquire from BHF KB 100% of the issued and to be issued share capital of two of its subsidiaries involved in the wealth management business, namely Kleinwort Benson Bank Limited, a limited liability company incorporated in England and Wales ("KBBL"), and Kleinwort Benson (Channel Islands) Holdings Limited, a limited liability company incorporated in Guernsey ("KBCIH", such company holding notably 100% of Kleinwort Benson (Channel Islands) Limited ("KBCIL")) (together the "Target Companies"), as well as the full and unencumbered ownership of the Kleinwort Benson trademarks (the "Acquisition").

(...)

The opportunity to sell Kleinwort Benson Investors will also be considered with the management in due time."

### 3.4.2 **The Board's view**

#### (a) General

The Board notes that the primary outcome of Oddo's strategic plans involve the break-up of the Group, and as such the cessation of the Board's current strategy for an integrated German-British financial services company, and instead seeks to create the first independent Franco-German financial services group (having executed the sale of Kleinwort Benson Wealth Management to Société Générale). Whilst the Board believes this would result in the abandonment of certain synergies

targeted under the Board's current strategy, it accepts that new synergies could be developed through the combination of Oddo and BHF-BANK (as stated by Oddo in the Prospectus).

(b) BHF-BANK

The Board notes Oddo's core strategy to become a leading player in the Eurozone by being active in the two most important countries of the Eurozone (*i.e.*, Germany and France). To implement these strategic plans, Oddo wishes to consolidate its German activities (such as the recently acquired German business Oddo Seydler Bank AG and Meriten Investment Management GmbH) with BHF-BANK.

The Board believes that this will enable Oddo to become one of the market leaders in Germany. Oddo's German activities will be able to build on BHF-BANK's strong reputation in order to gain market share. In addition, Oddo will be able to create synergies by consolidating its German activities with BHF-BANK due to the reduction of costs and economies of scale.

(c) Kleinwort Benson Wealth Management

Oddo has stated that it intends to sell Kleinwort Benson Wealth Management, since the private banking and wealth management activities in the United Kingdom and the Channel Islands do not form part of its strategy which is focused on becoming a leading player in the Eurozone. To this effect, Oddo has negotiated a binding commitment from Société Générale and has agreed on an (undisclosed) sale price and the main terms, in order to sell Kleinwort Benson Bank and Kleinwort Benson Channel Islands. This sale is subject to the successful carrying out of the Mandatory Counterbid and standard conditions precedent (such as the performance of a due diligence and the negotiation of a share purchase agreement with the Company) (*See*, Subsection 6.4.1 of the Prospectus).

The press release dated 27 November 2015 issued by Société Générale states that Kleinwort Benson Wealth Management will be combined with SG Hambros making it one of the best private banks in the UK and the Channel Islands. Société Générale will make use of the complementarity of both prestigious brands and their respective strengths. The Board has received no information on and expresses no opinion on Société Générale's intended strategy.

(d) Kleinwort Benson Investors

Oddo has described that the opportunity to sell Kleinwort Benson Investors will be considered with the management in due time. In this respect, the Board notes that Oddo has not yet been able to crystallize its strategic plans for Kleinwort Benson Investors, including its decision whether to retain or sell Kleinwort Benson Investors. Therefore, the Board is not in a position to express a view on Oddo's strategic plans in respect of Kleinwort Benson Investors.

(e) Company

The Board notes that Oddo reserves the right to request the delisting of the shares (*See*, Subsection 6.4.5 of the Prospectus). In this respect, the Board refers to Subsection 3.1.2, (c), (ii) of this Memorandum. Other than with regard to a (potential) delisting Oddo has not clarified its intentions *vis-à-vis* the Company as the financial holding company of the Group.

(f) Conclusion

Based on the information provided in the Prospectus, the Board understands that Oddo aims to create the first independent Franco-German financial services group and thereby will abandon the Company's current strategy for an integrated German-British financial services company. To this effect, Oddo's strategic plans involve the break-up the Group by selling Kleinwort Benson Wealth Management and consolidating BHF-BANK with Oddo's German activities. The Board takes note of



Oddo's strategic plans, but does not have access to sufficiently detailed information to be able to assess the merits of Oddo's strategic plans.

#### **4. OVERALL ASSESSMENT OF THE MANDATORY COUNTERBID**

Taking into account the considerations set forth in Chapter 3, the Board unanimously resolved to recommend the Mandatory Counterbid to its shareholders.

#### **5. DECLARATION OF INTENT FOR SHARES HELD BY THE DIRECTORS AND BY THE PERSONS REPRESENTED IN FACT BY SUCH DIRECTORS**

At the date of this Memorandum, the following shares are held by the directors or by the persons they represent in fact, and the relevant persons have stated the following:

- Gerd Häusler, independent director and Chairman, does not own any shares.
- Leonhard Fischer, director and CEO owns 1,886,571 shares and will tender these shares into the Mandatory Counterbid.
- Johannes Fritz, non-executive director does not own any shares. In addition, Mr Fritz declared that he in fact represents AQTON, which owns 14,921,842 shares. AQTON has entered into an irrevocable commitment *vis-à-vis* Oddo to tender these shares into the Mandatory Counterbid.
- Anne van Aaken, independent director, does not own any shares.
- Konstantin Graf von Schweinitz, independent director, does not own any shares.
- Patrick Lei Zhong, non-executive director, does not own any shares. In addition, Mr Zhong declared that he in fact represents Fosun, which owns 37,838,980 shares. Fosun declared that it will tender these shares into the Mandatory Counterbid.

The Board states that the Company holds 547,189 treasury shares and has decided to tender these shares into the Mandatory Counterbid.

#### **6. APPLICATION OF APPROVAL CLAUSES AND PRE-EMPTION RIGHTS**

The Articles of Association of the Company do not contain any approval clauses or pre-emption rights with respect to the transfer of shares to which the Mandatory Counterbid relates.

#### **7. OPINION OF THE WORKS COUNCIL OF THE COMPANY**

The Company has no works council. In accordance with articles 42 and the following of the Takeover Law, the Company has informed its employees on the announcement of the Mandatory Counterbid and its terms and conditions.

#### **8. GENERAL PROVISIONS**

##### **8.1 Responsible persons**

The Company, a limited liability company (*société anonyme*) incorporated on 23 March 2005, organised under Belgian law, and having its registered office at Avenue Louise 326, B-1050 Brussels, represented by its Board, is responsible for the information included in this Memorandum.

The Board is composed as set forth above in Chapter 2.

The Company, represented by its Board, declares that, to its knowledge, the information in this Memorandum is consistent with the facts and omits no information that, if it were included, would alter the import of the Memorandum.

## **8.2 Approval of the Memorandum by the FSMA**

This Memorandum was approved by the FSMA on 26 January 2016, in accordance with article 28, §3 of the Takeover Law.

This approval does not imply any assessment or judgment by the FSMA on the merits and the quality of the Mandatory Counterbid.

## **8.3 Forward-looking statements**

This Memorandum contains forward-looking statements and estimates, including but not limited to, Chapter 3. Such estimates and forward-looking statements are based mainly on current expectations and estimates of future events and trends, which affect, or may affect, the business and results of operations of the Group. Although the Board believes that these estimates and forward-looking statements are based upon reasonable assumptions, they are subject to risks and uncertainties and are based on information currently available to the Board.

The words “*believe*”, “*may*”, “*should*”, “*may have*”, “*might*”, “*would*”, “*estimate*”, “*continue*”, “*project*”, “*anticipate*”, “*intend*”, “*expect*”, and similar words are intended to identify estimates and forward-looking statements. These forward-looking statements speak only as of the date of this Memorandum, and the Board expressly disclaims any obligation or undertaking to disseminate any updates or revisions to any forward-looking statement or estimates contained herein to reflect any change in the Board’s expectations with regard thereto or any change in events, conditions or circumstances on which any such statement is based, except to the extent such update is required by way of supplement to the Memorandum pursuant to article 30 of the Takeover Law. Forward-looking statements and estimates involve risks and uncertainties and do not guarantee future performance, as actual results or developments may be substantially different from the expectations described in the forward-looking statements and estimates. Shareholders are warned not to place undue reliance on any forward-looking statements or estimates in making decisions regarding the Mandatory Counterbid.

## **8.4 Disclaimer**

Nothing in this Memorandum should be interpreted as investment, tax, legal, financial, accounting or any other advice. This Memorandum is not intended for use or distribution to persons if making the information available to such persons is prohibited by any law or jurisdiction. Shareholders must make their own assessment of the Mandatory Counterbid before making any investment decision and are invited to seek advice from professional advisors in order to assist them in making such decision.

## **8.5 Supplement**

The information contained in this Memorandum refers to the status as of the date of the Memorandum. Any new significant fact, or material error or inaccuracy concerning the information contained in the Memorandum, that can influence the assessment of the Mandatory Counterbid and which arises or becomes known to the Board between the date of the approval of the Memorandum and the end of the Acceptance Period will be made public in Belgium by means of a supplement to the Memorandum in accordance with article 30 of the Takeover Law.

## **8.6 Languages**

The Memorandum is available in English, which is the version approved by the FSMA, and in French. The Company has verified and is responsible for the consistency between the language versions. In case of differences between the English and French versions, the English version shall prevail.

## **8.7 Disclaimer for financial advisor**

Spencer House Partners is acting as financial advisor to the Company in relation to the Mandatory Counterbid and no one else and will not be responsible to anyone other than the Company (whether or not a recipient of this document) for providing the protections afforded to clients of Spencer House Partners nor for providing advice in relation to the transaction(s) described in this document or any other matter referred to in this document. Apart from the responsibilities and liabilities, if any, which may be imposed on Spencer House Partners by any applicable law, rule or regulation, Spencer House Partners accepts no responsibility or liability for the contents of this document or for any other statement made or purported to be made in connection with the Company or the Mandatory Counterbid. Spencer House Partners accordingly disclaims all and any responsibility or liability whether arising in tort, contract or otherwise (save as referred to above) which it might otherwise have in respect of this document or any such statement.

## **8.8 Availability of the Memorandum**

This Memorandum is available electronically on the following website: [www.bhfkleinwortbenson.com](http://www.bhfkleinwortbenson.com).

Hard copies of the Memorandum can be obtained, free of charge, at the registered office of the Company or by sending an e-mail request to [investor-relations@bhfkleinwortbenson.com](mailto:investor-relations@bhfkleinwortbenson.com).