

# **REPORT OF THE MANAGEMENT BOARD OF ACTION S.A. IN RESTRUCTURING (the Company, the Issuer) ON OPERATIONS IN 2016**

## **1. Basic figures and development prospects in the next year**

In 2016, ACTION S.A. in restructuring earned sales revenue of PLN 2,585,059 thousand. The operating loss amounted to PLN -154,138 thousand and the net loss amounted to PLN -154,414 thousand. For the first time in its history, the Issuer closed the financial year with a loss both on the operating and the net levels.

The values presented above are affected by the results of the restructuring proceedings within the meaning of the provisions of the Restructuring Law Act of 15 May 2015 (Journal of Laws of 2015, item 978 – hereinafter: the Restructuring Law) pending at the Issuer's Company.

First and foremost, it must be emphasized that the decline in results for 2016 is largely of a non-monetary nature. It is a consequence of a decision taken by the Issuer's Management Board (taking into account the auditor's suggestion) to assume a very conservative approach in determining the result. In particular, the Management Board of the Company states that the provisions recognised amount to 100% of the Company's potential liabilities in respect of the tax decisions received.

The most important events affecting the reported result are presented below:

1) Costs of provisions recognised – costs of provisions recognised for potential liabilities in respect of tax decisions issued in 2016 and provisions for the credit repayment guarantee granted to Lapado GmbH. The above events did not affect the Company's cash flows in 2016. Potential liabilities resulting from the above are subject to arrangement by virtue of law.

2) Costs of impairment write-downs on financial assets – mainly shares in subsidiaries: Sferis Sp. z o.o. and Lapado GmbH. The above events did not affect the Company's cash flows in 2016. The above was related to the implementation of the Restructuring Plan as regards consolidation of the Capital Group of ACTION S.A. in restructuring.

3) Losses related to the sale of goods in the course of remedial proceedings and direct costs of remedial proceedings in 2016, in line with the assumptions of the Restructuring Plan. The amount of the losses were increased by the value of the provision for losses that will be generated when sales continue in 2017.

4) Costs of impairment write-downs on receivables – costs related to the revaluation of receivables from subsidiaries and disputed receivables of ACTION S.A. in restructuring from other counterparties. The above event did not affect the Company's cash flows in 2016.

In the coming year, the Management Board envisages conducting a series of restructuring measures detailed in the Restructuring Plan of 2 November 2016. The main areas for the planned measures and basic pillars of the Company's new strategy are as follows:

- I. Drawing benefits from the difficult market situation.
- II. Substantial changes in the organization of the Capital Group of ACTION S.A. in restructuring.
- III. Strong own brands of ACTION.

In the Management Board's opinion, the main factors influencing the financial performance in the future are:

Regarding internal factors:

- a) Ongoing analysis of progress in the implementation of the Restructuring Plan and effects of changes implemented.
- b) Ongoing analysis of profitability of transactions and markets served, with a clear focus on the small customer market and retail market, in particular e-commerce, in Poland and abroad.
- c) Current supervision over the scope of the commercial offer and entering new markets.
- d) Strict verification of the effectiveness of current assets management, including inventories management.
- e) Further development of Action Europe GmbH and a newly established company in China.
- f) Ongoing monitoring of the risks related to the activities of the Company and undertaking measures to limit or eliminate these risks.
- g) Ongoing analysis and strict control of cost efficiency of the activities performed.
- h) Ongoing control and effective management of finances with the limited financing available.
- i) Effective utilisation of available logistics resources.

Regarding external factors:

- a) Progress in the restructuring proceedings, including in particular the dates of key decisions taken by the Court, the Board of Creditors, the Administrator and other parties to the restructuring proceedings.
- b) Further progress in the fiscal proceedings conducted against the Company and appeal proceedings connected therewith.
- c) Results of the fiscal proceedings conducted against the largest competitors of the Company and their influence on their operating activities and the market structure.
- d) The behaviour of financial institutions, including banks and insurers, towards the results of the fiscal proceedings pending in the industry.
- e) Changes in the distribution market and behaviour of competitors.
- f) Technological changes concerning offered products.
- g) Changes in market shares of the largest suppliers and recipients of the Company.
- h) Economic and political situation in Poland and worldwide.
- i) Consequences of implemented or planned changes in the law, in particular the consequences of the implementation of the Family 500 Plus programme and other regulations supporting consumers.
- j) Scale of investments implemented in Poland, in particular IT-related investment projects.
- k) Changes in the current and long-term monetary policy in Poland and worldwide.
- l) Demand for the goods offered by the Company.

## **2. Material risk factors related to the Company's activities**

Risks connected with the introduction of the Company's new strategy are directly related to factors affecting the entity's operations. The most essential factor, in the perspective of the Restructuring Plan implementation, will be the progress of the Company's restructuring proceedings. Any internal and external factors will predominantly depend on the follow-up of these proceedings.

### **2.1. Risk factors related to the Company's activities**

#### **2.1.1. Stockholding risk**

The main activity of the Company is the sale of technologically advanced goods, which are naturally exposed to the process of ageing and the resulting loss of value. Producers who market new models of products then lower the prices of the products they previously offered. As a result of the price protection clauses contained in the contracts with suppliers and the existing market practice in this area, the Company receives coverage of losses connected with the loss of value from all its key suppliers. Irrespective of the benefits arising from the price protection mechanisms, the Company tries to maintain a high rotation of its stocks.

#### **2.1.2. Risk of losing receivables**

When it comes to value, trade receivables are the most important item in the Company's assets. As with any other entity dealing with trade, the Company is exposed to the risk of losing some part of its

receivables. This risk increases with the increasing economic slow-down in Poland and in the world. Last year, the risk of losing receivables was also significantly affected by the scale of the administrative and tax decisions taken. Bearing in mind the possibility of losing its receivables, the Company insures this risk, using the services of leading insurers.

Detailed information regarding financial instruments in the scope of:

a) price risk, credit risk, cash flow risk and liquidity risk, to which the entity is exposed,  
b) financial risk management objectives and methods adopted by the entity, including the methods which are used to hedge major types of forecasted transactions in respect of which the hedge accounting method is used,  
is presented in Note 30 *Financial Instruments* and in Note 25 *Hedge Accounting* to the Separate Financial Statements.

## **2.2. Risk factors related to the environment in which the Company operates**

### **2.2.1. Risk related to the macroeconomic situation in Poland**

The macroeconomic ratios of the Polish economy and its growth rate have a material impact on the value and trends observed on the IT equipment distribution market. The eagerness of dealers to purchase new IT hardware, and consequently the value of purchases exercised by the recipients of the Company, are essentially related to growth in GDP, the level of investments, and how retail consumers perceive the market situation. Nonetheless, the current and projected rate of economic growth – including that related to the implementation of investment projects – may negatively affect the demand for the IT equipment offered by the Company.

### **2.2.2. Currency risk**

The Company is exposed to the risk of changes in currency exchange rates. ACTION S.A. in restructuring earns over 60% of its sales revenues in PLN and about 55% of goods are imported. Payments for imported goods are made mainly in EUR and in USD. Such a currency structure of cash flows exposes the Company to currency risk. The risk increases proportionally to the changes observed in the currency market. The Company tries to minimise the currency risk. For that reason, in 2011 the Company adopted the FX Risk Management Policy. The rules regarding the FX risk management adopted in the policy set optimal levels of hedging related to the existing currency positions and determine a system for monitoring and control related thereto. In accordance with the adopted hedge accounting principles, the Company is obliged to maintain hedges amounting to nearly 100% of the open currency position on an ongoing basis.

### **2.2.3. Legal environment risk**

The changing laws and various interpretations thereof constitute a risk to the operations of ACTION S.A. Potential changes in the law may lead in a direction that will cause adverse effects for the Company's operations. These changes may significantly influence the legal environment of the business activity. Bringing into effect a new regulation important for business life may lead to interpretation problems, incoherent court decisions, unfavourable interpretations assumed by the public administration organs, etc.

### **2.2.4. Tax policy risk**

The Polish tax system is characterised by frequent changes in the tax regulations. Many of them are inadequately defined and few unequivocal interpretations exist. Interpretations of the tax provisions are subject to frequent changes; however, neither the practices applied by tax authorities nor the court rulings related to taxation are unified. Due to divergent interpretations of the tax provisions, the risk is greater in the case of a Polish company than in the case of a company operating in a more stable tax system. In such circumstances the Company's operation and its tax recognition in income statements and tax returns may be deemed at variance with the tax regulations by the fiscal authorities. It is, however, expected that the proceedings before administrative courts consisting of two instances and the *acquis communautaire* will significantly influence the uniformity of court decisions related to taxes, leading in consequence to higher uniformity of tax law application, as also exercised by the tax authorities. One of the elements of the risk arising from tax regulations are the provisions related to the expiry of the limitation period of the tax obligation, which is connected with the possibility to verify

whether tax liabilities were calculated correctly for the given period. Tax declarations determining the amount of tax liability and the amount of payments made may be verified by the inspection of tax authorities within five years following the end of the year in which the due date for the payment of the tax expired. In the case the tax authorities adopt an interpretation of tax regulations different than the interpretation adopted by the Company, which is the basis for the calculation of the tax liability, the situation may have an adverse impact on the operations of the Company, its financial situation, and, in consequence, its results and growth perspectives.

### 3. Corporate governance principles

ACTION S.A. in restructuring is subject to corporate governance principles included in "Good Practices of WSE Listed Companies" adopted by way of Resolution No 12/1170/2007 of the Supervisory Board of the Warsaw Stock Exchange on 4 July 2007 presented in an appendix to the above-mentioned resolution. Since 1 January 2016, ACTION S.A. in restructuring has been subject to the corporate governance principles: "Code of Best Practice for WSE Listed Companies", adopted by way of Resolution No 26/1413/2015 of the Supervisory Board of the Warsaw Stock Exchange of 13 October 2015. The text of the set of these principles is available on the WSE website ([www.corp-gov.gpw.pl](http://www.corp-gov.gpw.pl)) and on the Company's website ([www.action.pl](http://www.action.pl)). Application of these principles is voluntary.

A statement concerning the application of corporate governance principles by ACTION S.A. in restructuring in 2016, constituting an appendix to this Report, will be published as a separate component of the Annual Report.

### 4. Material proceedings pending before a court, competent arbitration authority or public administration authority

As at the day of submitting this Report, no proceedings were ongoing at any courts, authorities competent for arbitration proceedings or public administration authorities in relation to the Company's liabilities or receivables whose value, determined separately for individual proceedings and in total for all the proceedings, would represent at least 10% of the Company's equity.

### 5. Information on basic groups of goods offered by the Company and their share in total sales

The core business of the Company comprises the distribution of computer hardware and software. The Company's sales volume reflects the market situation and the customers' needs. Based on its long-standing market experience, the Company reacts flexibly to any changes that occur in the demand structure in order to meet the constantly increasing requirements of its customers. The sales structure is presented in the table below.

No.	Name of Group	Sales value in 2016	%	Sales value in 2015	%
1	Complete solutions	829,979	32.11%	1,492,999	31.87%
2	Consumer electronics	957,597	37.03%	2,016,554	43.03%
3	Components	527,745	20.42%	854,001	18.22%
4	Peripherals	83,734	3.24%	115,477	2.46%
5	Consumables and office supplies	88,853	3.44%	97,621	2.08%
6	Software	44,236	1.71%	82,345	1.76%
7	Other	52,915	2.05%	26,981	0.58%
	<b>Total revenue from sales of products, goods and materials</b>	<b>2,585,059</b>	<b>100.00%</b>	<b>4,685,978</b>	<b>100.00%</b>

## 6. Information on sales markets

The Group's basic market is the domestic distribution market of computer hardware and software. In 2016, it generated 66.43% of net revenue from the sale of goods and materials. The sales structure by territory in 2016 was:

Net revenue from the sales of goods and materials (by territory) in PLN '000	Change	2016	2015
1. domestic sales – sales of goods	-44.23%	1,679,487	3,011,199
- including: to related parties	-42.60%	111,544	194,341
2. exports – sales of goods	-78.11%	87,101	397,944
- including: to related parties	100%	350	0
3. EU supplies	-34.42%	780,645	1,190,430
- including: to related parties	-30.21%	203,413	291,483
<b>Total net revenue from the sales of goods and materials</b>	<b>-44.62%</b>	<b>2,547,233</b>	<b>4,599,573</b>
- including: to related parties	-34.90%	315,307	484,376

Both the customers and suppliers of the Company are largely dispersed. None of the Company's counterparties reached a 10% share in total purchases or total sales.

## 7. Information on agreements that are significant for the Company's operations

Within the basic scope of its activity, the Company is in stable trade relations (agreements for sale and purchase of goods) with numerous recipients and suppliers of goods. In the vast majority of cases the Company does not conclude separate agreements but makes trade transactions based on separate (individual) orders confirmed with invoices.

Within the period covered by the Report the following significant agreements were concluded:

1. Annex No 24 dated 23 April 2016 to Overdraft Facility Agreement No 2005/1006392654 dated 14 June 2005. According to Annex No 24 of 23 March 2016 to Overdraft Facility Agreement No 2005/1006392654 the manner of securing the facility repayment changed. Instead of the previous declaration of submission to execution on the basis of a bank enforcement order, a declaration of the Issuer of submission to enforcement under Article 777 § 7 (1) (5) of the Act on Code of Civil Procedure of 17 November 1964 (consolidated text: Journal of Laws of 2014, item 101 as amended) is required in the form and content accepted by the Bank.
2. Annex No 8 dated 23 March 2016 to Master Agreement No 2010/101/DDF of 20 May 2010 states the total amount of guarantees and letters of credit granted by the Bank to the Issuer. According to Annex No 8 of 23 March 2016 to Overdraft Facility Agreement No 2005/1006392654 the manner of securing the facility repayment changed. Instead of the previous declaration of submission to execution on the basis of a bank enforcement order, a declaration of the Issuer of submission to enforcement under Article 777 § 7 (1) (5) of the Act on Code of Civil Procedure of 17 November 1964 (consolidated text: Journal of Laws of 2014, item 101 as amended) is required in the form and content accepted by the Bank.
3. Annex No 4 of 10 March 2016 to Factoring Agreement No 1455/06/2015 of 9 July 2015 concluded between the Issuer and BGŻ Paribas Factoring Sp. z o.o. with its registered office in Warsaw. Under the above annex, the factoring limit of the Issuer was increased from the previous PLN 90,000 thousand to PLN 120,000 thousand.

4. Annex No 6 of 6 May 2016 to Factoring Agreement No 1455/06/2015 of 9 July 2015 concluded between the Issuer and BGŻ Paribas Factoring Sp. z o.o. with its registered office in Warsaw. Under the above annex, the factoring limit of the Issuer was increased from the previous PLN 120,000 thousand to PLN 200,000 thousand.
5. Factoring Agreement No 835/06/2016 of 8 June 2016 concluded between the Issuer and PKO BP Faktoring S.A. with its registered office in Warsaw. Based on the above agreement, the parties agreed on terms to acquire non-matured cash receivables of the Issuer by PKO BP Faktoring S.A. The maximum factoring limit granted to the Issuer amounts to PLN 80,000 thousand. PKO BP Faktoring S.A. is entitled to remuneration in the form of commission and interest. The above agreement is secured by a blank promissory note with a blank promissory note agreement and power of attorney to the client's bank accounts in PKO S.A.
6. Annex No 18 of 23 June 2016 to the Overdraft Facility, Guarantee and Letter of Credit Agreement No 51/2009 of 29 May 2009 concluded by the Issuer and HSBC Bank Polska S.A. with its registered office in Warsaw. Pursuant to Annex No 18, the parties agreed that the total limit currently granted to the Issuer of PLN 100,000 thousand, one which makes it possible to carry out transactions on the account which is not covered by funds on the account as well as to open letters of credit and guarantees, will amount to PLN 60,000 thousand as of 30 September 2016. Pursuant to Annex No 18, the amount of sub-limit in the current account changed and decreased from the previous PLN 80,000 thousand to PLN 40,000 thousand. Sub-limits for letters of credit and bank guarantees have not been changed and continue to stand at PLN 100,000 thousand, subject to the reduction described above. The overdraft facility repayment date was extended until 23 June 2017, the repayment date for the letters of credit was extended until 16 March 2018 and the repayment date for bank guarantees was extended:

- a. for guarantees of less than 13 months (previously, less than one year) until 22 June 2018;
- b. for guarantees of less than 3 years: until 22 June 2020.

The Bank calculates the interest rate for the overdraft facility with respect to the calendar month and the interest rate is calculated as the sum of the Bank's margin and:

- c. 1M WIBOR calculated two business days before the beginning of the relevant interest period or, in the case of the first Interest Period, calculated as of the third business day before the beginning of the calendar month in which the Overdraft was disbursed in PLN, and/or
- d. 1M EURIBOR calculated two business days before the beginning of the relevant interest period or, in the case of the first Interest Period, as of the third Business Day before the beginning of the calendar month in which the Overdraft was disbursed in EUR, and/or
- e. 1M LIBOR for USD calculated two business days before the beginning of the relevant interest period or, in the case of the first Interest Period, as of the third Business Day before the beginning of the calendar month in which the Overdraft was disbursed in USD, and/or
- f. 1M LIBOR for GBP calculated two business days before the beginning of the relevant interest period or, in the case of the first Interest Period, as of the third Business Day before the beginning of the calendar month in which the Overdraft was disbursed in GBP.

Certain collateral for the overdraft facility has been changed, i.e.:

- g. assignment of rights under the agreement of insurance of the pledged assets against fire and other random events: of at least PLN 65,000 thousand, and against theft: of at least PLN 4,000 thousand;
  - h. assignment of claims due to the Borrower from Counterparties;
  - i. a power of attorney granted to the Bank by the Borrower to settle all liabilities and claims of the Bank due on account of the overdraft granted in the account and other accounts of the Borrower opened at the Bank. The power of attorney authorises the Bank to act on behalf of the Borrower and to take legal actions within the meaning of Article 108 of the Civil Code.
7. On 8 August 2016, Bank Societe Generale S.A. Branch in Poland refused to issue a guarantee for one of the contractors of the Issuer in the amount of PLN 15,000 thousand, requested under the provisions of Agreement No 2004/009 dated 30 October 2004 on a limit on guarantees and letters of credit. The Bank pointed out that on the basis of par. 6 of Agreement No 2004/009 of 30 October 2004 it may refuse to issue this guarantee. At the same time, the letter received from the Bank did not indicate that it constituted a notice of termination of the aforesaid agreement. The Bank indicated that it only intended to express its concerns about the control measures taken by the Tax

Office in relation to the Company. In the opinion of the Issuer and specialized advisors in the area of restructuring proceedings with whom the Issuer cooperates on an on-going basis, the Bank's activities have no legal basis and violate the provision of the Restructuring Law Act (Journal of Laws of 2015, item 978 of 14 July 2015). The Company decided to take legal steps.

8. Agreement No 59/16/MBA dated 21 November 2016 between ACTION S.A. in restructuring and Koncept Sp. z o.o. (Koncept Sp. z o.o. is a member of a consortium concluded with another entity for the performance of a public procurement procedure in an open tender announced by the Ministry of National Defence, No. 17/4/23/16). The subject of the Agreement between ACTION S.A. in restructuring and Koncept Sp. z o.o. is the delivery of goods (whose ultimate buyer is the Ministry of National Defence) by ACTION S.A. in restructuring to Koncept Sp. z o.o. The value of Agreement No 59/16/MBA concluded between ACTION S.A. in restructuring and Koncept Sp. z o.o. is PLN 32,749 thousand (including VAT). The agreement was fully implemented and settled.
9. Statement of PKO BP Factoring S.A. with its registered office in Warsaw about the termination of Factoring Agreement No 835/06/2016 dated 6 August 2016, with a one-month contractual notice period. The Issuer stated the conclusion of the aforesaid agreement in Current Report No 22/2016 dated 16 June 2016. The Management Board of ACTION S.A. in restructuring emphasizes that after the opening of restructuring proceedings, the Company did not finance new debt on the basis of factoring services under the aforesaid agreement.

## **8. Information on equity relationships and specification of major capital investments**

ACTION S.A. in restructuring forms the Capital Group of ACTION S.A. in restructuring, in which it acts as the Parent Company. The Capital Group's scope of activities covers wholesale of computer and IT components, parts and devices. The Capital Group conducts its operations within the whole territory of Poland, and ACTION S.A. in restructuring is the main supplier of goods, including for the Group's companies.

In the period covered by the Report, the following entities were members of the Group:

### **Parent company:**

ACTION S.A. in restructuring, with its registered office in Warsaw

### **Subsidiaries and associates:**

SFK Sp. z o.o. in bankruptcy, with its registered office in Krakow – subsidiary (100%)

ACTINA Sp. z o.o., with its registered office in Warsaw – subsidiary (100%)

SFERIS Sp. z o.o., with its registered office in Warsaw – indirect subsidiary (99.89%) <sup>1</sup>

GRAM.PL Sp. z o.o., with its registered office in Warsaw – subsidiary (100%) <sup>2</sup>

ACTION GAMES LAB S.A. with its registered office in Zamienie – subsidiary (40%) <sup>3</sup>

ACTION CENTRUM EDUKACYJNE Sp. z o.o., with its registered office in Warsaw – associate (24.38%) <sup>4</sup>

SYSTEMS Sp. z o.o., with its registered office in Warsaw – indirect associate (24.38%) <sup>5</sup>

ACTIVEBRAND Sp. z o.o., with its registered office in Zamienie – subsidiary (100%) <sup>6</sup>

ACTION EUROPE GmbH, with its registered office in Braunschweig (Germany) – subsidiary (100%) <sup>7</sup>

RETAILWORLD Sp. z o.o., with its registered office in Stara Iwiczna – indirect subsidiary (99.89%) <sup>8</sup>

LAPADO Handelsgesellschaft GmbH, with its registered office in Potsdam (Germany) – indirect subsidiary (51%) <sup>9</sup>

ACTIONMED Sp. z o.o. with its registered office in Zamienie – subsidiary (100%) <sup>10</sup>

ACTION INNOVATIVE SOLUTIONS Sp. z o.o., with its registered office in Bielsko-Biała – subsidiary (51%) <sup>11</sup>

ACTION (GUANGZHOU) TRADING CO., LTD with its registered office in Guangzhou (China) – subsidiary (100%) <sup>12</sup>

<sup>1</sup> SFERIS Sp. z o.o., with its registered office in Warsaw, was consolidated as of 5 January 2007.

<sup>2</sup> GRAM.PL Sp. z o.o., with its registered office in Warsaw, was consolidated as of 28 May 2009, and on 18 December 2009 the share was increased to 80%. On 24 May 2010, the share was raised to 100% by way of an interest purchase agreement.

<sup>3</sup> ACTION GAMES LAB S.A., with its registered office in Zamienie, was incorporated and consolidated as of 12 December 2011.

<sup>4</sup> ACTION CENTRUM EDUKACYJNE Sp. z o.o., with its registered office in Warsaw, was measured using the equity method as of 1 October 2012.

<sup>5</sup> SYSTEMS Sp. z o.o., with its registered office in Warsaw, was consolidated as of 1 October 2012.

<sup>6</sup> ACTIVEBRAND Sp. z o.o., with its registered office in Zamienie, was incorporated on 3 September 2012.

<sup>7</sup> ACTION EUROPE GmbH, with its registered office in Braunschweig (Germany), was consolidated as of 8 July 2013. On 1 April 2014, by way of a purchase of non-controlling interests (33.33%), the share of ACTION S.A. was increased to 100%.

<sup>8</sup> RETAILWORLD Sp. z o.o., with its registered office in Stara Iwiczna, was consolidated as of 18 November 2013.

<sup>9</sup> LAPADO Handelsgesellschaft GmbH, with its registered office in Potsdam (Germany), was consolidated as of 1 January 2014.

<sup>10</sup> ACTIONMED Sp. z o.o., with its registered office in Zamienie, was consolidated as of 19 December 2014.

<sup>11</sup> ACTION INNOVATIVE SOLUTIONS Sp. z o.o., with its registered office in Bielsko-Biała, was consolidated as of 27 October 2015.

<sup>12</sup> ACTION (GUANGZHOU) TRADING CO., LTD, with its registered office in Guangzhou (China), was consolidated as of 1 July 2016.

#### **Changes in the Group's composition during the reporting period:**

In the reporting period, ACTION (GUANGZHOU) TRADING CO., LTD was incorporated.

#### **Third-party interests in subsidiaries:**

1. SFERIS Sp. z o.o. - 0.11%, of which: Piotr Bieliński 0.055%, Anna Bielińska 0.055%
2. LAPADO Handelsgesellschaft GmbH – 49% of interests held by Jacek Mońko
3. ACTION GAMES LAB S.A. – 60% of shares carrying rights to 75% of votes at the shareholders' meeting are held by Piotr Bieliński
4. ACTION INNOVATIVE SOLUTIONS Sp. z o.o. – 49% of shares are held by Piotr Olejak

The activity of ACTINA Sp. z o.o. is the wholesale of computer hardware. The core business of SFERIS Sp. z o.o. is the retail sale of computer hardware. The business activities of GRAM.PL Sp. z o.o. (computer games) are focused on online retail sales. This company is also involved in the wholesale trade in computer hardware. The activity of SFK Sp. z o.o. involves wholesale trade and advertising. In addition to advertising, in 2014 ACTION GAMES LAB S.A. started producing computer games. The main business profiles of ACTION CENTRUM EDUKACYJNE Sp. z o.o. and SYSTEMS Sp. z o.o. are training and IT services, and the rental of computer hardware. ACTIVEBRAND Sp. z o.o. is starting its business in the marketing services sector. ACTION EUROPE GmbH conducts distribution activities related to wholesale of IT products, consumer electronics and household items. RETAILWORLD Sp. z o.o. is a wholesaler of IT equipment and accessories for foreign customers. In January 2017, LAPADO Handelsgesellschaft GmbH filed a bankruptcy petition with the court. The activity of ACTIONMED Sp. z o.o. is the wholesale of IT hardware and medical accessories, and the sale of services. ACTION INNOVATIVE SOLUTIONS Sp. z o.o. started the manufacturing and sale of telecommunications equipment. ACTION (GUANGZHOU) TRADING CO., LTD has started commercial activities in the food industry in China.

#### **9. Major transactions with related entities concluded on non-market conditions**

In the period covered by the report, the Company did not conclude any transactions with related entities on non-market conditions.

Transactions with related entities are described in Note 27 to the financial statements.



## **10. Information on credits taken out by the Company, on loan agreements and on guarantees and sureties granted in favour of the Company**

### **10.1 Credit Agreement No 2005/1006392654 concluded on 14 June 2005 with Bank Polska Kasa Opieki S.A. with its registered office in Warsaw (the Bank)**

The Bank granted ACTION S.A. in restructuring a revolving overdraft facility amounting to PLN 100,000 thousand for financing its current operations. The facility limit may be utilised in USD, EUR or PLN. The Issuer may use the overdraft facility until 31 January 2017. The aforementioned date is also the final maturity date of the facility.

As agreed by the parties and in accordance with the accepted wording of Annex No 25, the parties agreed that the maximum availability of the overdraft is PLN 90,321 thousand (it is available for the Company until 31 January 2017) and ACTION S.A. in restructuring undertakes to repay the overdraft of PLN 40,321 thousand by 31 January 2017 and the remaining part of PLN 50,000 thousand by 31 December 2017 – it will be repaid in monthly instalments.

Bank Polska Kasa Opieki S.A. decided to reduce, as of 4 August 2016, the amount of the limit granted to the amount of valid guarantees and letters of credit granted by the Bank, and to refuse issuing new guarantees or opening new letters of credit under the Agreement dated 20 May 2010, as amended. At the same time, the Bank decided to reduce, as of 4 August 2016, the amount of the credit granted to already disbursed amounts which, in the Bank's opinion, does not release it from the obligation to disburse the remaining portion of the granted but not disbursed overdraft facility. Following the above, the amounts of the credit granted by Bank Polska Kasa Opieki S.A. under the Agreement dated 14 June 2005 were as follows:

- PLN 37,519 thousand,
- USD 615 thousand,
- EUR 10,680 thousand.

Until the date of extension of the agreement with the annex dated 31 January 2017, the Credit agreement, as regards the aforementioned amounts, were performed by the Bank in accordance with its wordings.

On 31 January 2017, the Company agreed with Bank Pekao SA (the Bank) the wording of Annex No 25 of the overdraft facility agreement. As agreed by the parties and in accordance with the accepted wording of Annex No 25, the parties agreed that the maximum availability of the overdraft is PLN 90,321 thousand (it is available for the Company until 31 January 2017) and ACTION S.A. in restructuring undertakes to repay the overdraft of PLN 40,321 thousand by 31 January 2017 and the remaining part of PLN 50,000 thousand by 31 December 2017 – it will be repaid in monthly instalments. The Issuer informs, that the previous final maturity date of the aforementioned facility was 31 January 2017.

Pursuant to the resolution of the Board of Creditors dated 17 March 2017 (expressing a consent to the extension of maturity of the overdraft facility granted under Agreement No 2005/1006392654 of 14 June 2005 and refusal to establish joint legal collateral for the repayment of aforesaid Overdraft Facility and Investment Credit No 2014/126/DDF dated 19 May 2014), the Company agreed with Bank PEKAO S.A. (the Bank) the conditions for the extension of the overdraft agreement and collateral for claims under the above credit agreements. According to the wording of Annex No 26 to Overdraft Agreement No 2005/1006392654 dated 14 June 2005 and Annex No 5 to Investment Credit Agreement No 2014/126/DDF dated 19 May 2014, the parties waived the provisions concerning joint collateral for claims under the aforesaid credit agreements.

On 20 April 2017, a meeting of the Board of Creditors of Action S.A. in restructuring was held. During this meeting, the Board of Creditors approved the Company's request to give consent to the conclusion of an annex with Bank PEKAO S.A., under which the bank will grant new financing in the form of a revolving overdraft facility, on condition that the Company will not establish any new collateral in favour of Bank PEKAO S.A. and will not increase additional collateral. Based the above, the Company is authorised to sign Annex No 27 to Overdraft Facility Agreement No 2005/1006392654, under which the Bank will grant a multi-currency revolving overdraft facility (the "Facility") in Polish zloty ("PLN"), US

dollars ("USD") or euro ("EUR"). The Facility will be granted for the period until 29 December 2017 (the "Facility Term"). Until the last date of the Facility Term, the Facility is revolving. The maximum total amount of the Facility on the date of concluding Annex No 27 to the Agreement is EUR 9,135 thousand, according to the NBP exchange rate on the date of the annex. The Facility is to be utilised to finance the current operations of the Borrower.

#### **10.2 Short-term Credit Agreement No 2003/028 concluded on 6 November 2003 with Societe Generale S.A. (the Bank)**

The Bank granted ACTION S.A. in restructuring a short-term revolving overdraft facility amounting to PLN 30,000 thousand for financing its current operations. The final repayment deadline for the facility was set on 29 May 2017.

In accordance with Current Report No 40/2016, Management Board of ACTION S.A. in restructuring stated that the letter concerning a refusal to grant a guarantee was accompanied by an additional letter in which the Bank informed the Issuer that in accordance with par. 2.5 of Short-term Credit Agreement No 2003/028 of 6 November 2003, as amended, concluded between the Bank and the Company (the Credit Agreement), any notification of credit drawing must have the consent of the Bank. The Bank will not give its consent to the notice of drawing and thus there will be no disbursement of drawing indicated in the notice of drawing. At the same time, the Bank notes that the condition described in par. 2.4.2 of the Credit Agreement (under which an effective drawing is possible only where there is no event as a result of which the credit would mature early) was not met due to the existence of circumstances described in par. 8.1.7 of the Credit Agreement and, pursuant to par. 2.4 of the Credit Agreement, it will not be possible to perform any drawing, and thus the submission of further notifications of drawing described in par. 2.5 of the Credit Agreement will not be justified. According to the provisions of par. 8.1.7, the Bank will be entitled to refuse access to any drawings after receiving a notification of drawing by the Client, if an event occurs that could have a significant influence on the Client's business, the balance of its assets, its economic or financial position. At the same time, the Bank did not clarify, which events would, in its opinion, indicate the circumstances specified in par. 8.1.7. The letter indicates, that the Bank refuses to implement the credit agreement in accordance with its wording. The letter received from the Bank did not indicate that it constituted a notice of termination of the aforesaid agreement.

#### **10.3 Overdraft Facility and Letter of Credit Agreement No 51/2009 concluded on 29 May 2009 with HSBC Bank Polska S.A. (the Bank)**

HSBC Bank Polska S.A. with its registered office in Warsaw granted ACTION S.A. in restructuring a limit of PLN 100,000 thousand for financing its current operations. The limit includes the following sub-limits: overdraft facility of PLN 40,000 thousand, letters of credit and bank guarantees of PLN 60,000 thousand. The overdraft facility repayment date was set for 23 June 2017. The letters of credit must be repaid by 16 March 2018 and the bank guarantees:

- a. - for guarantees of less than 13 months (previously, less than one year) by 22 June 2018;
- b. - for guarantees of less than 3 years by 22 June 2020.

In its letter dated 25 July 2016, HSBC Bank Polska S.A. with its registered office in Warsaw notified the Issuer that due to the content of Current Report No 30/2016 of 18 July 2016 and No 31/2016 of 20 July 2016, it requests for clarification of the Company present liquidity situation, and that it has taken the decision to refuse further provision of the credit granted to the Issuer under the Overdraft facility, guarantee and letters of Credit Agreement No 51/2009 of 29 May 2009 (resulting from the Bank's assumption that the occurring event may have Material Negative Effect and constitutes an Act of Infringement, pursuant to §18 section 1 items i) and p) of the regulations on the provision of credit services by HSBC Bank Polska S.A.). In the letter, the Bank confirmed that the aforementioned decision does not mean a termination of the credit agreement. The decision of HSBC Bank Polska S.A. does not include the grounds for taking it, required by mandatory provisions of Article 75(1) of the Banking Law. The Bank's letter does not indicate whether the basis for the decision was the Issuer's

failure to comply with the credit agreement (in particular, the nature of the Material Negative Effect) or the loss of the Issuer's creditworthiness. The Bank's decision does not establish any deadline for its entry into force. The Management Board of ACTION S.A. in restructuring (the Company, Issuer) states that at the beginning of August 2016 it received information from HSBC Bank Polska S.A. with its registered office in Warsaw about sending notifications to some counterparties of the Company on the transfer of the Issuer's claims in relation to these counterparties and a demand for payment to bank accounts indicated by the Bank, which are not the Issuer's bank accounts.

#### **10.4 Investment Credit Agreement No 2014/126/DDF concluded on 19 May 2014 with Bank Polska Kasa Opieki S.A. with its registered office in Warsaw (the Bank)**

The bank granted a non-revolving investment credit of PLN 50,000 thousand for the financing of maximum of 80% of net expenses incurred due to the execution of an investment task consisting of the construction of a high-storage warehouse with complete infrastructure (warehouse III located at ul. Dawidowska in Zamienie). The credit facility utilisation date was 31 March 2015, while the date for the final repayment of the credit facility is 31 December 2018.

### **11. Information on loans, guarantees and sureties granted**

#### **11.1. Loan agreements**

ACTION S.A. in restructuring granted a loan of EUR 2,000 thousand maturing on 30 June 2016 to LAPADO Handelsgesellschaft GmbH. This loan, together with the interest due, was covered by an impairment write-down, as it has not been repaid by the date of publication of the financial statements.

ACTION S.A. in restructuring granted two loans of EUR 1,000 thousand each maturing on 31 December 2017 to ACTION Europe GmbH.

ACTION S.A. in restructuring granted two loans to ACTION Innovative Solutions Sp. z o.o.: a loan of PLN 442 thousand maturing on 31 August 2016 and a loan of PLN 78 thousand maturing on 31 December 2016. Both loans were settled in 2017.

ACTION S.A. in restructuring granted two loans of PLN 500 thousand each maturing on 30 June 2017 to GRAM.PL Sp. z o.o.

ACTION S.A. in restructuring granted a loan of PLN 450 thousand maturing on 30 June 2017 to ACTION GAMES LAB S.A.

ACTION S.A. in restructuring granted a loan of PLN 5,000 thousand maturing on 30 June 2017 to SFERIS Sp. z o.o.

ACTION S.A. in restructuring granted a loan of PLN 200 thousand maturing on 30 September 2017 to ACTION Centrum Edukacyjne Sp. z o.o.

ACTION S.A. in restructuring granted three loans to Stowarzyszenie Kultury Fizycznej "PROMOCJA KOLARSTWA" [Association of Physical Culture "PROMOTION OF CYCLING"]: a loan of PLN 500 thousand maturing on 30 December 2016; a loan of PLN 600 thousand maturing on 31 December 2016 and a loan of PLN 500 thousand maturing on 31 December 2016. These loans, together with the interest due, were covered by an impairment write-down, as they have not been repaid by the date of publication of the financial statements.

#### **11.2 Guarantees and sureties granted**

##### **Guarantees and sureties granted**

As at 31 December 2016, guarantees and sureties granted amounted to PLN 63,390 thousand, of which:

**to other entities**

Bank guarantees of the total amount (USD 368 thousand) PLN 1,538 thousand;  
 Bank guarantees of the total amount (EUR 538 thousand) PLN 2,384 thousand;  
 Bank guarantees of the total amount PLN 3,000 thousand;  
 Letters of credit in respect of supplies of goods of (USD 501 thousand) PLN 2,095 thousand.

**to related entities**

Corporate guarantees of (EUR 12,200 thousand) PLN 53,973 thousand;  
 Surety agreements of PLN 400 thousand.

**12. Description of the use of proceeds from the issue of shares**

In 2016 the Company did not issue any shares.

**13. Information on the acquisition of treasury shares**

In 2016, the Company did not acquire treasury shares.

**14. Explanation of differences between the forecasts and figures disclosed in the annual report**

The Company does not prepare result forecasts on the entity level.

**15. Assessment of financial resource management**

<b>Liquidity ratios</b>	<b>31/12/2016</b>	<b>31/12/2015</b>
Current ratio (current assets / current liabilities)	1.01	1.34
Quick ratio (liquid current assets / current liabilities)	0.77	0.85
Cash ratio (cash / current liabilities)	0.23	0.03

The Issuer continues to present high levels of liquidity ratios. The ratios reported at the end of 2016 are so high due to, to a large extend, the events resulting from the ongoing restructuring process. A significant reduction in the scale of operations resulted in the release of significant amounts of cash that was previously frozen in the Company's inventories and receivables.

<b>Level and structure of working capital in PLN '000</b>	<b>Increase</b>	<b>31/12/2016</b>	<b>31/12/2015</b>
1. Current assets	-42.23%	608,372	1,053,162
2. Cash and securities	456.50%	139,480	25,064
3. Adjusted current assets (1-2)	-54.39%	468,892	1,028,098
4. Current liabilities	-23.19%	604,519	787,072
5. Short-term credits	138.07%	215,370	90,464
6. Adjusted current liabilities (4-5)	-44.14%	389,149	696,608
7. Working capital (1-4)	-98.55%	3,853	266,090
8. Demand for current assets (3-6)	-75.94%	79,743	331,490
9. Net cash (7-8)	16.04%	-75,890	-65,400

10. Share of own funds in the financing of current assets (7:1) in %	-24%	1%	25%
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At the end of 2016, the majority of balance sheet items decreased significantly; however this applied in the largest extent to current assets and current liabilities. As was the case for liquidity ratios, the main reason for such significant changes were the events related to the introduction and implementation of the restructuring proceedings described earlier in the report. The above changes were largely affected by the reduction of operations in the low-margin and high-risk areas of the market, but also by disruptions in the implementation of deliveries experienced by the Issuer, in particular at the early stage of the restructuring process. As a result of the above, the demand for current assets has decreased and is currently easily covered with the Company's equity. It, however, should be remembered that the Company has not started the settlement of pre-remedial liabilities.

Debt ratios	31/12/2016	31/12/2015
Total debt ratio	76%	71%
Equity to assets ratio	24%	29%
Interest-bearing debt/equity	1.18	0.60

At the end of 2016, all debt ratios deteriorated. The most important factor in the scale of changes observed was the net loss recorded that, to a large extent, decreased the balance of the Company's equity. Due to a very conservative approach to recognising provisions that decrease the financial result for 2016, the Company does not expect any further losses not indicated in the projections that constitute an appendix to the Restructuring Plan.

#### 16. Assessment of ability to fulfil investment plans

The Company has no plans for any significant investment expenditure in the coming year.

#### 17. Evaluation of the factors and non-typical events influencing the result of operations

In 2016, the most significant factor affecting the results of the Company was the opening of the restructuring proceedings at the Company and direct reasons related to the opening of the proceedings, i.e. tax decisions under which the Company was under threat of imminent enforcement or at least securing claims for payment of additional tax (for third parties who failed to pay the VAT – which should be emphasized clearly because the Company itself does not have any arrears in its own tax settlements except for the current ones that result from the Restructuring Law provisions and the ban on settling pre-remedial liabilities).

In addition, in 2016 the Company experienced a sudden block on financing under agreements with HSBC and Societe Generale. The credit agreement also was not extended by PKO BP. Another negative factor was the revocation of credit limits by credit insurers for all entities of the ACTION Capital Group, which, in consequence, caused significant limitations in maintaining the scale of operations, including in particular in the area of purchasing and enforcing bonuses and other amounts due from suppliers. The above resulted in a significant decrease in the level of sales and to losses (mostly of a non-monetary nature) described in detail in the Company's financial statements for 2016.

#### 18. Description of the external and internal factors significant for the Company's development

Factors significant for the Company's development are described in Section 1 of this Report.

## **19. Changes in the basic principles of managing the Company**

In 2016, the Company commenced a number of actions described in detail in the Restructuring Plan and aimed at:

- a. Simplifying the Company's organisational structure.
- b. Simplifying the structure of the Capital Group of ACTION S.A. in restructuring.

The above changes are aimed at completing the objectives contained in the Restructuring Plan, including in particular:

- c. Improvement of communication and processes.
- d. Generating significant savings in the area of costs.
- e. Focusing on selected markets and high-margin transactions.

## **20. Agreements entered into between the Company and its managing persons**

Piotr Bieliński, President of the Management Board, has held his position pursuant to a resolution passed by the Supervisory Board. Possible compensation which may be due to the President of the Management Board in the case of dismissal is an equivalent to five-month's remuneration.

Edward Wojtyśiak, Vice-President, performs his function on the basis of a "Management Contract" regulating mutual relations connected with the performance of his responsibilities as Member of the Company's Management Board. This contract does not contain any provisions which might lead to changes in the shareholding structure in the future. This contract does not provide for any compensation in the case of dismissal from the Company's Management Board.

Sławomir Harazin, Vice-President of the Management Board, has held his position pursuant to a resolution passed by the Supervisory Board. The resolution did not stipulate any compensation in the case of his dismissal from the Company's Management Board.

## **21. Value of remuneration, awards or benefits for persons managing or supervising the Company**

Remuneration of persons managing or supervising the Company is described in detail in Note 35 to the Financial Statements.

One Member of the Management Board of ACTION S.A. in restructuring holds shares in related entities:

Piotr Bieliński holds the following shares:

- in SFERIS Sp. z o.o. – 15 shares (out of 27,993 shares) with the nominal value of PLN 16 thousand and accounting for 0.05% of the capital.
- in ACTION GAMES LAB S.A. – 60% of shares giving the right to exercise 75% of votes at the company's General Meeting.

## **22. Nominal value and total number of all the Company's shares**

The Company has issued a total of 16,957,000 shares, including 11,910,000 series A shares, 4,500,000 series B shares and 547,000 series C shares with the nominal value of PLN 0.10 each and the total nominal value of PLN 1,695,700. The issue of 347,000 series C shares took place in December 2015. The increase of the share capital was registered on 10 February 2016.

## **23. Information on the agreements which may influence the current shareholder structure**

At present, there are no agreements which may influence the current shareholding structure.

#### **24. System of control over employee share incentive programs**

The Company does not operate any employee share scheme.

#### **25. Information concerning the entity authorised to audit financial statements**

Detailed information concerning the entity authorised to audit financial statements is presented in Note 37 to the Financial Statements.

#### **26. Expected development of the Company and its financial standing**

In 2017, the key factor determining the operating result of the Company will remain the course of the restructuring proceedings and their consequences. Therefore, the Company plans to implement tasks described in detail in the Restructuring Plan. According to the Management Board, the implementation of assumptions adopted in the Restructuring Plan will enable the fulfilment of financial projections constituting an appendix to the Plan.

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**Piotr Bieliński**  
President of the Management  
Board

**Sławomir Harazin**  
Vice-President of the  
Management Board

**Edward Wojtysiak**  
Vice-President of the Management  
Board

**Warsaw, 24 April 2017**