

To all supporting investors of  
the Foundation

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### **Subject: Expiry of limitation period**

Dear supporter of our foundation,

over the recent months the Stichting Volkswagen Investors Claim ('the Foundation') has been very active in pursuing the interests of investors that have suffered damages from "Dieselgate". We consider it appropriate to provide you with an update of the most recent developments and to inform you about possible ways in pursuing claims against Volkswagen Group and/or its officers.

### **Recent activities of the Foundation**

In the period prior to the Volkswagen Annual General Meeting (AGM) our board has been actively seeking support for its view that the optimal way to reach a solution for all relevant stakeholders would be to achieve an out of court settlement. The board has reached out to Volkswagen's management and representatives of major shareholders of Volkswagen. There has been extensive contact with international media about the Foundation's endeavor. You find several reports on how the Foundation appeared in the news on <https://www.stichtingvolkswageninvestorsclaim.com/de/presse>.

During the Annual General Meeting of the Volkswagen AG, which was attended by Dr. Henning Wegener, Chairman of the Board of the Foundation and in the following weeks it has become apparent that Volkswagen AG will not voluntarily accept its responsibility towards its investors. Volkswagen management pursues a strategy of complete denial of

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any wrongdoing towards its investors. The board of the Foundation believes that this attitude is further harming the business of Volkswagen.

### **Ongoing litigation in Germany**

Since the scandal broke several law firms have initiated litigation on behalf of (groups of) investors in various German courts whereby aggrieved investors claim damages from Volkswagen Group. With the present attitude of Volkswagen's management new law suits are initiated almost on a daily basis.

Damage claims in security law cases -such as this one- are likely to result in a so called KapMuG proceeding. In a model case all legal issues that are seen relevant for similar cases will be addressed. On August 10, 2016, the District Court of Braunschweig publicly disclosed that it has issued an order of reference ("*Vorlagebeschluss*"). All pending claims (or new claims that will be filed) shall be suspended until the Court of Appeal renders a final judgement on the declaratory objectives of the model case proceedings.

To finally initiate the model case proceedings, the Court of Appeal has to designate a lead plaintiff which, together with the name of the defendant and the file number, has to be publicly disclosed.

According to news reports **the model case proceedings are expected to start at the earliest in the end of 2016**. After public disclosure as mentioned above, a 6-month period starts during which aggrieved investors could file an application to register the claim with reference to the KapMuG proceeding at the applicable court of appeal (Oberlandesgericht Braunschweig). With the receipt of this application the statute of limitation is interrupted until the declaratory judgment in the model case is final. This application does not lead to a participation in the model case. Although since the regulation on KapMuG proceedings came into force so far none of the present ongoing cases has come to a conclusion and it is therefore uncertain how effective these legal proceedings are. However, this appears to be the only legal proceedings available in Germany to deal with mass damages in security cases.

### **Warning of imminent statute of limitation**

As you are an investor that has registered your potential claim on the website of the Foundation, we would like to address the important topic of expiration of claims due to possibly applicable periods of statutory limitation. We repeat that registration of your

claim on the website of the Foundation does not interrupt any applicable German statute of limitation. Moreover the Foundation uses this opportunity to warn registered shareholders that Volkswagen AG is likely to argue that claims regarding securities traded on the German stock exchange and possibly other securities too, will be time barred on or after September 18, 2016, being one year after the earliest date on which information concerning “Dieselgate” was disclosed to the public.

It is the question though, whether on September 18, 2015, all facts and circumstances relevant to investors in relation to Volkswagen’s use of defeat devices were properly disclosed. Recent news reports on a defeat device allegedly used by Audi show that it could be possible that not all relevant facts on this topic were duly disclosed, which may lead to a reconsideration of the starting date of the relevant prescription period.

On July 10, 2015 new regulations on the statute of limitation for claims related to breaches of the German Securities Trading Act became effective. The former provision which provided a one-year limitation period, was replaced by a provision containing a three-year limitation period. However, since no transitional provisions were adopted, a controversy in (legal) literature has arisen over the applicable statute of limitation in the present case. Although the scandal broke after the new law came into effect, some of the wrongdoing took place prior thereto. According to information made available to the Foundation, to date there is no German case law that decides which statute of limitation would apply here.

The warning contained in this letter is addressed to those investors that wish to limit risks in relation to Volkswagens’ defense regarding the prescription period of claims based on the relevant German security laws.

If an aggrieved shareholder files a law suit in Germany prior to September 18, 2016, objections from Volkswagen that its claims would be time barred will most likely not prevail. If a law suit will be filed after this date, the statute of limitation is most likely to be part of the legal debate. This will also be the case if investors wait until they can apply to register their claim with reference to the KapMuG proceeding described above.

The topic of the applicable statute of limitation is one of the legal issues to be decided in the German “model case” during the KapMuG proceedings. There is a risk that filing a law suit (either by issuing an individual claim or by applying to register a claim with reference to the KapMuG proceeding after publicly disclosure of the lead plaintiff it’s

representing lawyer and the file number) after September 18, 2016 would result in a rejection of such claim.

Please note that the Foundation does not provide legal advice but as a service to its interest group wants to highlight this issue on the basis of information available to the board of the Foundation. For further questions regarding the applicable statute of limitation period please contact a lawyer with specific knowledge of German law.

### **Recommendation of the Foundation**

If you consider starting legal action against Volkswagen prior to September 18, 2016 in order to avoid the risk of your claim being time barred, the Foundation recommends to contact the well-respected German law firm *Nieding + Barth Rechtsanwaltsaktiengesellschaft* (Nieding + Barth) that offers investors a method to collectively participate in an investor claim against Volkswagen at relatively low costs and with limited cost risks. Nieding + Barth informed us that they will accept new clients until August 24, 2016.

More details on the legal proceedings prepared by Nieding + Barth could be obtained via Marvin Müller-Blom, who can be contacted via e-mail [m\\_mueller-blom@niedingbarth.de](mailto:m_mueller-blom@niedingbarth.de) or phone +49 69 2385380.

With this recommendation the Foundation follows the advice of its partner Deutsche Schutzvereinigung für Wertpapierbesitz e.V. (DSW), Germany's oldest and largest association for private investors. DSW has also advised its members to contact Nieding + Barth if they wish to avoid the risk that claims would be expired after September 18, 2016.

Upon your explicit instruction, as required under the applicable data protection laws, the Foundation will gladly forward the information which you made available to the Foundation to Nieding + Barth. Please note that the Foundation did not verify the provided information and therefore cannot be held liable for any irregularities.

In any case, filing a law suit does not require deregistration from the Foundation and we welcome you to remain a supporter of the Foundation. Despite of the possible necessity for aggrieved investors to initiate legal proceedings, the Foundation wishes to highlight that it will continue to pursue its efforts to commence negotiations with Volkswagen AG

about a reasonable and fair settlement, which would be in the interest of both investors and the corporation.

**Information for registered bondholders**

Please note that the Foundation also intends to undertake further steps for the aggrieved bondholders in due time. The bondholders that have subscribed with the Foundation will shortly be further informed through a separate newsletter.

We will continue to update you about any new developments.

Stichting Volkswagen Investors Claim