

## **CURRENT REPORT No. 37/2011**

### **Date of preparation:**

12 July 2011

### **Subject:**

Investment Agreement between Eurocash S.A. ("**Eurocash**") and Emperia Holding S.A. ("**Emperia**") dated 21 December 2010 ("**Investment Agreement**").

### **Information:**

In regard to information published in current reports by the Parties to the Investment Agreement (see Eurocash Current Report No. 1/2011 dated 3 January 2011, No. 8/2011 dated 6 February 2011 and Current Report No. 33/2011 dated 1 July 2011 as well as Emperia Current Report No. 1/2011 dated 3 January 2011 and Current Report No. 38/2011 dated 1 July 2011), the Management Board of Eurocash announces that in accordance with the best knowledge of the Management Board of Eurocash, by 11 July 2011:

- (i) the President the UOKiK [Office of Competition and Consumer Protection] did not provide consent/permit to the taking control by Eurocash over the Distribution Companies (in accordance with the definition provided in Current Report No. 1/2011 dated 3 January 2011; "**Consent of the President of UOKiK**") sold by Emperia (a subsidiary of Emperia) to Eurocash pursuant to the Investment Agreement, and
- (ii) the entity agreed upon by the Parties to the Investment Agreement calculating the corrections that correct the Base Value (defined in Current Report of Eurocash No. 1/2011 dated 3 January 2011 and Current Report of Emperia No. 1/2011) did not issue a report determining the value of such corrections ("**Report**").

Until 11 July 2011, the transaction agreed upon pursuant to the Investment Agreement consisting of Emperia selling the Shares (in accordance with the definition in Current Report No. 1/2011 dated 3 January 2011) to Eurocash ("**Transaction**") did not take place, and as part of which, such a sale of Shares was to take place in exchange for:

- (i) 13,775,446 Series K Shares, and
- (ii) payment of the remainder of the remuneration for the Shares in cash.

In accordance with the provisions of the Investment Agreement, in the event where the Transaction is not concluded in accordance with the structure described above by 11 July 2011, the structure of such Transaction is modified and as part of such modified structure, Eurocash will be obligated to, under the terms specified in the Investment Agreement, purchase, and Emperia (or a subsidiary of Emperia) will be obligated to sell the Shares in exchange for cash.

Due to the long procedure for obtaining the Consent of the President of the UOKiK, the Management Board of Eurocash proposed the Management Board of Emperia the purchase of Shares to take place according to originally agreed upon transaction structure i.e. in exchange for 21,262,820 Series K Shares and payment of the remainder of the remuneration in cash.

**Legal basis:**

Section 56.1.1 of the Act of 29 July 2005 on Public Offering and Conditions for the Introduction of Financial Instruments to Organized Trading and on Public Companies (consolidated text, Dz. U. of 2009, No. 185, item 1439, as amended, „**Act on Offerings**”).