

**Fresenius Medical Care AG & Co. KGaA****Annual General Meeting on 20 May 2021**

**(virtual General Meeting without the physical presence of shareholders  
or their proxies)**

**Explanations on the Rights of Shareholders according to section 278 (3)  
in connection with sections 122 (2), 126 (1), 127, and 131 (1) German  
Stock Corporation Act in connection with section 1 COVID-19 Act**

The invitation to the Annual General Meeting already contains information regarding the rights of shareholders according to section 278 (3) in connection with sections 122 (2), 126 (1), 127, and 131 (1) German Stock Corporation Act (*Aktiengesetz – AktG*) in connection with section 1 German Act on Measures in Corporate, Cooperative, Association, Foundation and Housing Law to Combat the Effects of the COVID-19 Pandemic (*Gesetz über Maßnahmen im Gesellschafts-, Genossenschafts-, Vereins-, Stiftungs- und Wohnungseigentumsrecht zur Bekämpfung der Auswirkungen der COVID-19-Pandemie – COVID-19 Act*). The following information shall serve as a further explanation in respect of such shareholder rights.

**1. Supplements to the agenda at the request of a minority according to section 278 (3)  
AktG in connection with section 122 (2) AktG**

Shareholders whose total combined shares amount to the twentieth part of the registered share capital or the proportionate amount of the share capital of EUR 500,000 (that is equivalent to 500,000 non-par value shares), can request, according to section 278 (3) AktG in connection with section 122 (2) AktG, that items be placed on the agenda and notice thereof be given. For each new item, reasons or a draft resolution must be attached.

Supplemental requests must be received by the Company at least 30 days prior to the Meeting in writing. The day of receipt and the day of the General Meeting are not included in that calculation. Therefore, the last possible date for receipt is **19 April 2021 (24:00 hours CEST) (= 22:00 hours UTC)**. Supplemental requests received after that date cannot be taken into account.

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Applicants must provide evidence that they hold the minimum quantity of shares for at least ninety days prior to the day of the receipt of the supplemental request and that they hold the shares until the General Partner's decision on the supplemental request (section 278 (3) AktG in connection with section 122 (2), (1) sentence 3 AktG), with section 70 AktG being applicable when calculating the time for which shares have been held. Section 121 (7) AktG shall apply accordingly to the calculation of the time limit.

We ask shareholders to submit any supplemental requests to the following address:

Fresenius Medical Care AG & Co. KGaA  
Die persönlich haftende Gesellschafterin  
Fresenius Medical Care Management AG  
– Vorstand –  
Else-Kröner-Straße 1  
61352 Bad Homburg v.d. Höhe  
Germany

Supplements to the agenda to be published will be published without undue delay after receipt of the supplemental request in the Federal Gazette and will be fed to those media for publication with respect to which can be expected that they broadcast the information in the entire European Union. In addition, they will be published on the Company's website at [www.freseniusmedicalcare.com/en/agm/](http://www.freseniusmedicalcare.com/en/agm/) and will be notified to the shareholders according to section 125 (1) sentence 3 AktG.

The provisions of the German Stock Corporation Act on which these shareholder rights are based, are, in extracts:

*Section 122 AktG – Convocation at the request of a minority (excerpt)*

(1) <sup>1</sup>The General Meeting is to be called if shareholders whose combined shares in total amount to at least the twentieth part of the share capital demand the calling of the General Meeting in writing, stating the purpose and grounds therefore; the demand is to be addressed to the Management Board. <sup>2</sup>The Articles of Association can link the right to demand the calling of a General Meeting to another form and to the holding of a lesser proportion of the share capital. <sup>3</sup>The applicants must provide evidence that they hold the shares for at least 90 days prior to the day of the receipt of the request and that they hold the shares until the Management Board's decision on the request. <sup>4</sup>Section 121 (7) applies accordingly.

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- (2) <sup>1</sup>In the same manner, shareholders whose holdings together reach the twentieth part of the share capital or the proportionate amount of EUR 500,000 can demand that items be placed on the agenda and announced. <sup>2</sup>Each new item must be accompanied by grounds or a proposal for a resolution. <sup>3</sup>The demand in the meaning of sentence 1 must be received by the Company at least 24 days, in the case of listed companies at least 30 days, prior to the General Meeting; the day of receipt is not included in the calculation.

*Section 121 AktG – General information (excerpt)*

- (7) <sup>1</sup>For periods and deadlines counted backwards from the date of the General Meeting, the day of the General Meeting shall not be included in the calculation. <sup>2</sup>Any move from a Sunday, Saturday or public holiday to a preceding or subsequent business day shall not be possible. <sup>3</sup>Sections 187 to 193 of the German Civil Code (Bürgerliches Gesetzbuch) shall not be applied accordingly.

*Section 70 AktG – Calculation of the period of shareholding*

<sup>1</sup>If the exercise of rights arising from the share requires that the shareholder has been the holder of such share for a certain period of time, the right to demand transfer of title from a credit institution, a financial services institution or an enterprise operating under section 53 (1) sentence 1 or section 53b (1) sentence 1 or section 53b (7) of the German Banking Act (Gesetz über das Kreditwesen) shall be deemed equivalent to ownership. <sup>2</sup>The period during which the share has been owned by a predecessor shall be attributed to the shareholder if he/she has acquired the share without consideration, from his/her trustee, as full legal successor, in connection with the winding-up of a co-ownership or as a result of a transfer of assets pursuant to section 13 of the German Insurance Supervisory Act (Versicherungsaufsichtsgesetz) or section 14 of the German Building Loan Associations Act (Gesetz über Bausparkassen).

2. Motions and proposals for election by shareholders according to section 278 (3) AktG in connection with sections 126 (1), 127 AktG

Prior to the General Meeting shareholders may send countermotions to the Company regarding proposals made by the General Partner and/or the Supervisory Board pertaining to a specific item on the agenda. Shareholders may also submit proposals for the election of members of the Supervisory Board (including the election of any such members of the Supervisory Board into the Company's Joint Committee) and/or the auditors. Countermotions and proposals for election to be made accessible that have been received

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by the Company at the address mentioned below at least 14 days prior to the General Meeting, i.e. until **5 May 2021 (24:00 hours CEST) (= 22:00 hours UTC)** at the latest, will be made available, including the name of the shareholder and any reasons given, to the other shareholders on the Company's website at [www.freseniusmedicalcare.com/en/agm/](http://www.freseniusmedicalcare.com/en/agm/). Reasons must be given for counter motions. For proposals for election, however, no reasons need to be given.

Any comments of the management will also be published under the internet address provided above.

Counter motions and proposals for election are to be sent only to

Fresenius Medical Care AG & Co. KGaA  
– Investor Relations –  
Else-Kröner-Straße 1  
61352 Bad Homburg v.d. Höhe  
Germany  
Telefax: +49 (0)6172 609-2301  
E-Mail: [hauptversammlung@fmc-ag.com](mailto:hauptversammlung@fmc-ag.com)

Counter motions and reasons given do not need to be made accessible under the prerequisites of section 126 (2) sentence 1 AktG. Pursuant to section 126 (2) sentence 2 AktG, the reasons for a counter motion also do not need to be made accessible if they amount to more than 5,000 characters in total. Section 126 AktG applies analogously to the proposal of a shareholder for the election of members of the Supervisory Board (including the election of any such members of the Supervisory Board into the Company's Joint Committee) and/or the auditors pursuant to section 127 AktG.

Proposals for the election of members of the Supervisory Board (including the election of any such members of the Supervisory Board into the Company's Joint Committee) and/or the auditors pursuant to section 127 AktG will moreover only be made accessible if they contain the name, the profession exercised and the place of residence of the proposed person or the name and registered office of the proposed legal entity and, in the case of proposals for the election of members of the Supervisory Board, information on memberships of the proposed candidate in other statutory supervisory boards within the meaning of section 125 (1) sentence 5 AktG.

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Pursuant to section 1 (2) sentence 3 COVID-19 Act, motions and proposals for election by shareholders which are to be made accessible pursuant to section 126 AktG or section 127 AktG shall be considered as having been made at the General Meeting, provided that the shareholder making the motion or submitting the election proposal is properly legitimized and has registered for the General Meeting.

The provisions of the AktG on which these shareholder rights are based and which also specify the requirements under which the countermotions and proposals for election need not be made accessible read as follows:

*Section 126 AktG – Motions by shareholders*

- (1) *<sup>1</sup>Motions of shareholders including the name of the shareholder, the grounds and any comments of the management are to be made accessible to those entitled in accordance with section 125 (1) to (3) subject to the conditions stated there, if the shareholder has sent a countermotion to a proposal of the Management Board and Supervisory Board on a specific item on the agenda to the Company with grounds to the address specified for that purpose in the invitation at least 14 days prior to the General Meeting. <sup>2</sup>The day of receipt is not included in the calculation. <sup>3</sup>In the case of listed companies, the access is to be granted through the Internet site of the Company. Section 125 (3) applies accordingly.*
- (2) *<sup>1</sup>A countermotion and its grounds need not be made accessible:*
- 1. to the extent the Management Board by making it accessible would be liable to criminal prosecution,*
  - 2. if the countermotion would lead to a resolution of the General Meeting contrary to law or the Articles of Association,*
  - 3. if the grounds are obviously false in significant points or contain misleading data or insults,*
  - 4. if a countermotion of the shareholder based on the same facts has already been made accessible to a General Meeting of the Company according to section 125,*
  - 5. if the same countermotion of the shareholder with significantly the same grounds has been made accessible in the past five (5) years to at least two (2) General Meetings of the Company according to section 125 and less than the twentieth part of the represented share capital voted for it at the General Meeting,*
  - 6. if the shareholder gives notice that he/she will not participate in the General Meeting and not be represented there, or*

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7. if the shareholder has not, in the past two (2) years in two (2) General Meetings, put a countermotion notified by him/her or has not caused such a countermotion to be put.

<sup>2</sup>The grounds need not be made accessible if they amount in total to more than 5,000 characters.

(3) If several shareholders submit countermotions on the same resolution subject matter, the Management Board can combine the countermotions and their grounds.

*Section 127 AktG – Election proposals by shareholders (excerpt)*

<sup>1</sup>Section 126 applies mutatis mutandis for the proposal of a shareholder on the election of Supervisory Board members or of auditors. <sup>2</sup>The election proposal need not be given grounds for. <sup>3</sup>The Management Board is not obliged to make the election proposal accessible if the proposal does not contain the data according to section 124 (3) sentence 4 and section 125 (1) sentence 5. [...]

*Section 124 AktG – Publication of supplemental requests; proposals for resolutions (excerpt)*

(3) [...] <sup>4</sup>The proposal for the election of members of the supervisory board or auditors shall state their names, profession exercised and place of residence. [...]

*Section 125 AktG – Notifications for the shareholders and to members of the supervisory board (excerpt)*

(1) [...] <sup>5</sup>In the case of listed companies, information on the candidates' membership in other statutory supervisory boards is to be attached to any proposal for the election of supervisory board members; information on their membership in comparable domestic and foreign supervisory committees of business enterprises should be attached.

The provision of the COVID-19 Act on which these shareholder rights are based reads as follows:

*Section 1 COVID-19 Act – Stock corporations; partnerships limited by shares; European Companies (SE); mutual insurance companies (excerpt)*

(2) [...] <sup>3</sup>Motions and proposals for election by shareholders which are to be made accessible pursuant to section 126 or section 127 of the German Stock Corporation Act (AktG) shall be considered as having been made at the meeting, if the

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*shareholder making the motion or submitting the proposal for election is properly legitimized and has registered for the General Meeting.*

- (8) <sup>1</sup>*The above paragraphs shall apply mutatis mutandis to companies which have the legal form of a partnership limited by shares. [...]*

*The provision in Article 13b of the Articles of Association of the Company on which the election of Supervisory Board members to the Joint Committee is based reads as follows:*

*Article 13b of the Articles of Association of the Company – Appointment and Period of Office of Members of the Joint Committee (excerpt)*

- (2) <sup>1</sup>*The members of the supervisory board of the Company on the joint committee will be appointed by resolution of the general meeting. <sup>2</sup>For the appointment and removal of members of the supervisory board of the Company in the joint committee, the provisions on the election and removal of members of the supervisory board in Sections 103 (1) and (5), 124 (3) sentence 1, 127, 137, 285 (1) sentence 2 no. 1 German Stock Corporation Act (AktG) apply accordingly. <sup>3</sup>If a member of the supervisory board of the Company on the joint committee leaves the joint committee prior to the expiry of his period of office and no replacement member is appointed, the supervisory board of the Company shall appoint a replacement member from among its members, the period of office of whom will end at the ending of the next ordinary general meeting of the Company.*

3. Shareholders' right to ask questions by way of electronic communication according to section 1 (2) sentence 1 and 2, (8) sentence 1 of the COVID-19 Act

Pursuant to section 1 (2) sentence 1 and 2, (8) sentence 1 of the COVID-19 Act, shareholders are granted the right to submit questions by way of electronic communication. The right to ask questions is not equivalent to the shareholders' right to information pursuant to section 131 (1) AktG. With the consent of the Supervisory Board the General Partner has stipulated that any questions must be submitted by way of electronic communication at least one day prior to the Meeting. The General Partner will decide how to answer the questions according to its dutiful, free discretion.

Shareholders who have registered for the General Meeting may submit their questions to the Company until **18 May 2021 (24:00 hours CEST) (= 22 hours UTC)** at the latest via the Shareholder Portal by using the input facility provided there for this purpose.



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In the context of answering questions also the name of the shareholder or proxy submitting the question may be disclosed.

The provisions of the COVID-19 Act on which this right to ask questions by way of electronic communication is based read as follows:

*Section 1 COVID-19 Act – Stock Corporations; partnerships limited by shares; European Companies (SE); mutual insurance societies (excerpt)*

(2) <sup>1</sup>*The Management Board may decide that the meeting shall be held as a virtual general meeting without the physical presence of the shareholders or their representatives, provided that:*

*[...]*

*3. shareholders are given the right to ask questions by way of electronic communication,*

*[...].*

<sup>2</sup>*The Management Board, at its dutiful, free discretion, decides how it answers questions; it may also provide that questions must be submitted by electronic communication no later than one day before the meeting. [...]*

(8) <sup>1</sup>*The above paragraphs shall apply mutatis mutandis to companies which have the legal form of a partnership limited by shares. [...]*

In addition, the chairman of the General Meeting is entitled to various measures for the conduct and order of the General Meeting. The provision in Article 17 (2) sentence 1 of the Articles of Association of the Company on which this is based reads as follows:

*Article 17 of the Articles of Association of the Company – Chairmanship at the General Meeting and Voting (excerpt)*

(2) <sup>1</sup>*The chairman shall chair the meeting and determine the order of items to be dealt with as well as the kind and form of the voting. [...]*

#### 4. Opportunity to submit statements for publication prior to the General Meeting

The concept of the virtual General Meeting pursuant to the COVID-19 Act does not provide for shareholders to express their views on the agenda in speeches at the General Meeting. Beyond the requirements of the COVID-19 Act, however, shareholders and their proxies with their consent will be given the opportunity to submit statements in the form of video messages relating to the agenda prior to the General Meeting for publication in the



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Company's Shareholder Portal, where those statements can be viewed by shareholders and their proxies until the end of the General Meeting.

Shareholders and proxies providing their names can submit statements in video form until **16 May 2021 (24:00 hours CEST) (= 22:00 hours UTC)** at the latest via the Shareholder Portal.

Properly submitted statements disclosing the name of the submitting shareholder and, as the case may be, proxy will be published in the Shareholder Portal, provided that the following instructions are adhered to when submitting them.

Statements are to be submitted in German or English only and should not exceed a duration of three minutes. The background should be neutral. Only those statements are permitted in which the shareholder or, as the case may be, the proxy appears in person. After consent of the shareholder and, as the case may be, the proxy, in the Shareholder Portal and submission of the statement, such statement is published in the Shareholder Portal, including their names. The consent can be withdrawn at any time with effect for the future. Details of the technical and legal requirements for submitting the statement in the form of video messages are described on the Company's website at [www.freseniusmedicalcare.com/en/agm/](http://www.freseniusmedicalcare.com/en/agm/) and in the Shareholders Portal. Please note that there is no legal right to the publication of a statement. The Company reserves the right not to publish statements with a duration exceeding three minutes as well as statements not fulfilling the technical requirements or being without any relevant reference to the agenda of the General Meeting as well as statements which are not submitted by the aforementioned date. The same applies to statements with insulting or criminally relevant content or obviously false or misleading content. Furthermore, the Company reserves the right to publish only one statement per shareholder. Any motions, election proposals or questions contained in the submitted statements will not be considered. These are to be submitted exclusively via the channels described separately in the invitation to the General Meeting.

5. Opportunity to object to resolutions of the General Meeting

Shareholders who have exercised their rights to vote are given the opportunity to object to resolutions of the General Meeting. If votes have been cast, corresponding declarations can be submitted via the Shareholder Portal as of the opening of the General Meeting and are possible until the Chairman of the Meeting closes the General Meeting.

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The provision of the AktG on which this opportunity to object to resolutions is based read as follows:

*Section 245 AktG – Authority to bring an action for annulment (excerpt)*

*The following shall have authority to bring an action for annulment:*

1. *any shareholder attending the general meeting, provided he/she has purchased the shares of stock already prior to the agenda having been published and provided he/she raised an objection concerning the resolution and had it recorded in the minutes;*

The provision of the COVID-19 Act on which this opportunity to object to resolutions is based read as follows:

*Section 1 COVID-19 Act – Stock Corporations; partnerships limited by shares; European Companies (SE); mutual insurance societies (excerpt)*

- (2) *<sup>1</sup>The Management Board may decide that the meeting shall be held as a virtual general meeting without the physical presence of the shareholders or their representatives, provided that:*

*[...]*

4. *shareholders who have exercised their voting right in accordance with no. 2 are given the opportunity to object to a resolution of the general meeting by way of derogation from section 245 no. 1 of the Stock Corporation Act and waiving the requirement to appear physically at the general meeting.*

*[...]*

- (8) *<sup>1</sup>The above paragraphs shall apply mutatis mutandis to companies which have the legal form of a partnership limited by shares. [...]*