

**Fresenius Medical Care AG & Co. KGaA****Extraordinary General Meeting on 14 July 2023****Explanations on the Rights of Shareholders according to section 278 (3) of the German Stock Corporation Act (*Aktiengesetz – AktG*) in conjunction with section 122 (2), section 126 (1), section 127 and section 131 (1) AktG**

The invitation to the Extraordinary General Meeting already contains information regarding the rights of shareholders according to section 278 (3) AktG in conjunction with section 122 (2), section 126 (1), section 127 and section 131 (1) AktG. 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 conjunction with section 122 (2) AktG**

Shareholders whose total combined shares amount to the twentieth part of the share capital or the proportionate amount of the share capital of EUR 500,000.00 (that is equivalent to 500,000 non-par value shares), can request, according to section 278 (3) AktG in conjunction 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 Extraordinary General Meeting in writing; the day of receipt and the day of the Extraordinary General Meeting are not included in that calculation. Therefore, the last possible date for receipt is **13 June 2023 (24:00 hours CEST) (= 22:00 hours UTC)**. Supplemental requests received after that date cannot be taken into account.

Applicants must provide evidence that they have held the minimum quantity of shares for at least ninety (90) days prior to the day of the receipt of the supplemental request by the Company and that they hold the shares until the General Partner's decision on the supplemental request (section 278 (3) AktG in conjunction with section 122 (2), (1) sentence 3 AktG). When calculating the shareholding period, section 70 AktG must be observed. Section 121 (7) AktG shall apply accordingly to the calculation of the period.

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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

Unless made public at the same time as the convening notice of the Extraordinary General Meeting, supplements to the agenda that are required to be published are published without undue delay upon receipt of the request in the German Federal Gazette (*Bundesanzeiger*) 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, such requests are made accessible to shareholders on the Company's website at [www.freseniusmedicalcare.com/en/agm/](http://www.freseniusmedicalcare.com/en/agm/) without undue delay and communicated pursuant to section 125 (1) sentence 3 AktG.

The provisions of the AktG on which these shareholder rights are based are:

*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.
- (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

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*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, a securities 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 election proposals by shareholders according to section 278 (3) AktG in conjunction with section 126, section 127 AktG**

Prior to the Extraordinary General Meeting shareholders may submit countermotions to the Company regarding proposals made by the General Partner and/or the Supervisory Board of the Company pertaining to a specific item on the agenda. Shareholders may also submit election proposals. Countermotions and proposals for election to be made accessible that have been received by the Company at the contact options mentioned below at least 14 days prior to the Extraordinary General Meeting, not counting the day of receipt and the day of the Extraordinary General Meeting, i.e. until **29 June 2023 (24:00 hours CEST) (= 22:00 hours UTC)** at the latest, will be made available on the Company's website to

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the other shareholders, including the name of the submitting shareholder and any reasons given, at [www.freseniusmedicalcare.com/en/agm/](http://www.freseniusmedicalcare.com/en/agm/).

Any comments of the management of the Company on counter motions or proposals for election will also be published under the internet address provided above.

Counter motions and proposals for election must be sent to one of the following contact options:

Fresenius Medical Care AG & Co. KGaA  
– Investor Relations –  
Else-Kröner-Straße 1  
61352 Bad Homburg v.d. Höhe  
Germany  
or e-mail: [hauptversammlung@fmc-ag.com](mailto:hauptversammlung@fmc-ag.com)

Counter motions and any 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, any 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 election proposals of a shareholder pursuant to section 127 AktG.

In addition, the General Partner is not obligated to publish an election proposal pursuant to section 278 (3) AktG in conjunction with section 127 AktG if such election proposal fails to contain the information required by section 124 (3) sentence 4 and section 125 (1) sentence 5 AktG.

Counter motions and election proposals, even if they have been submitted to the Company in advance, are only considered at the Extraordinary General Meeting if they are made or submitted during the Extraordinary General Meeting. The right of each shareholder to submit counter motions or election proposals for various agenda items during the Extraordinary General Meeting even without prior submission of counter motions or election proposals in due form and time remains unaffected.

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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 (excerpt)*

(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. <sup>4</sup>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
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.

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(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*

*<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. <sup>4</sup>The Management Board has to supplement the election proposal by a shareholder of candidates for the Supervisory Board of listed companies to which the Employee Co-Determination Act (Mitbestimmungsgesetz), the Act on Co-determination in the Coal, Iron and Steel Industry (Montan-Mitbestimmungsgesetz) or the Supplementary Co-determination Act (Mitbestimmungsergänzungsgesetz) applies, by the following substantive content:*

- 1. notice of the requirements stipulated by section 96 (2),*
- 2. whether an objection has been raised against the fulfilment of the ratio by the Supervisory Board as a whole pursuant to section 96 (2) sentence 3 and*
- 3. the number of seats on the Supervisory Board that must be filled, at a minimum, by women and men, respectively, in order to fulfil the requirement as to the minimum ratio pursuant to section 96 (2) sentence 1.*

*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 nomination of candidates for the Supervisory Board; information on their membership in*

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*comparable supervisory committees of business enterprises within Germany and abroad shall be attached.*

[...]

**3. Right to information pursuant to section 278 (3) AktG in conjunction with section 131 (1) AktG**

Upon request, each shareholder pursuant to section 278 (3) AktG in conjunction with section 131 (1) AktG shall at the Extraordinary General Meeting be provided with information by the General Partner on the affairs of the Company including the legal and business relationships with affiliated companies and on the situation of the group and the companies included in the consolidated financial statements. This applies only to the extent the information is necessary for a proper evaluation of the item on the agenda and there is no right to refuse information.

Pursuant to section 131 (2) sentence 2 AktG in conjunction with Article 17 (2) sentence 2 of the Articles of Association of the Company, the chairman of the meeting is entitled to reasonably limit the shareholders' speaking time and the time to ask questions from the beginning of the Extraordinary General Meeting on, if such limitation is allowed by law.

The provisions of the AktG and the Articles of Association of the Company on which these shareholder rights are based, which also determine the conditions under which the provision of information may be refused and the conditions under which shareholders' speaking and questioning time may be limited, read as follows:

*Section 131 AktG – Shareholders' right to information (excerpt)*

(1) <sup>1</sup>Each shareholder shall upon request be provided with information at the General Meeting by the Management Board regarding the affairs of the Company insofar as such information is necessary for a proper evaluation of the item on the agenda.

<sup>2</sup>The obligation to provide information also extends to the Company's legal and business relationships with any affiliated company. <sup>3</sup>If a Company makes use of the eased requirements pursuant to section 266 (1) sentence 3, section 276 or section 288 of the German Commercial Code (Handelsgesetzbuch), each shareholder may request that the annual financial statements be presented to him at the General Meeting on such financial statements in the form that would have been used without the eased requirements. <sup>4</sup>The obligation of the Management

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*Board of a parent company (section 290 (1) and (2) of the German Commercial Code) to provide information at the General Meeting at which the consolidated financial statements and management report are submitted also extends to the situation of the group and the companies included in the consolidated financial statements.*

*[...]*

*(2) <sup>1</sup>The information provided shall comply with the principles of conscientious and faithful accountability. <sup>2</sup>The Articles of Association or the rules of procedure pursuant to section 129 may authorize the chair of the meeting to reasonably limit a shareholder's time to speak and ask questions and may provide further details in this connection.*

*(3) <sup>1</sup>The Management Board may refuse to provide information,*

- 1. insofar as the provision of the information is likely, according to sound business judgment, to cause not inconsiderable disadvantage to the Company or an affiliated company;*
- 2. insofar as it relates to tax valuations or the amount of individual taxes;*
- 3. on the difference between the value at which items have been recognized in the annual balance sheet and a higher value of such items, unless the General Meeting approves the annual financial statements;*
- 4. on the accounting and valuation methods, insofar as the disclosure of these methods in the notes to the financial statements is sufficient to provide a true and fair view of the net assets, financial position and results of operations of the Company within the meaning of section 264 (2) of the German Commercial Code; this shall not apply if the General Meeting adopts the annual financial statements;*
- 5. insofar as the Management Board would render itself liable to prosecution by providing the information;*
- 6. insofar as, in the case of a credit institution, a financial services institution or a securities institution, information need not be provided on the accounting and valuation methods applied and offsetting carried out in the annual financial statements, management report, consolidated financial statements or group management report;*
- 7. insofar as the information is continuously accessible on the Company's website for at least seven days prior to the beginning and during the General Meeting.*

*<sup>2</sup>For other reasons, the information may not be refused.*



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- (4) *<sup>1</sup>If a shareholder has been provided with information outside the General Meeting on account of his or her capacity as a shareholder, such information shall be provided to any other shareholder upon request at the General Meeting, even if it is not necessary for the proper assessment of the item of the agenda. [...] <sup>3</sup>The Management Board may not refuse to provide information in accordance with subsection 3 sentence 1 nos. 1 to 4. <sup>4</sup>Sentences 1 to 3 shall not apply if a subsidiary (section 290 (1), (2) of the German Commercial Code), a joint venture (section 310 (1) of the German Commercial Code) or an associated company (section 311 (1) of the German Commercial Code) provides the information to a parent company (section 290 (1), (2) of the German Commercial Code) for the purpose of including the company in the consolidated financial statements of the parent company and the information is required for this purpose.*
- (5) *<sup>1</sup>If a shareholder is refused information, he or she may request that his or her question and the reason for which the information was refused be recorded in the minutes of the meeting. [...]*

*Article 17 of the Articles of Association of the Company – Chairing of the General Meeting and voting (excerpt)*

*[...]*

- (2) *[...] <sup>2</sup>The chairman is entitled to reasonably limit the speaking time of the shareholders and the time to ask questions from the beginning of the General Meeting on, if such limitation is allowed by law.*

*[...]*