

*- Convenience Translation -*

**Declaration by the Management Board of the general partner of Fresenius SE & Co. KGaA, Fresenius Management SE, and by the Supervisory Board of Fresenius SE & Co. KGaA on the German Corporate Governance Code pursuant to Section 161 German Stock Corporation Act (Aktiengesetz)**

The Management Board of the general partner of Fresenius SE & Co. KGaA, Fresenius Management SE (hereafter the Management Board) and the Supervisory Board of Fresenius SE & Co. KGaA declare that since the issuance of the previous declaration of conformity in December 2015, the recommendations of the "Government Commission on the German Corporate Governance Code" published by the Federal Ministry of Justice and Consumer Protection (Bundesministerium der Justiz und für Verbraucherschutz) in the official section of the Federal Gazette (Bundesanzeiger) (hereafter the Code) in the version of May 5, 2015 since its publication in the Federal Gazette have been met and will be met in the future. Only the following recommendations of the Code in the version of May 5, 2015 have not and will not be met:

- **Code number 4.2.3 paragraph 2 sentence 6: Caps regarding specific compensation amounts**

Pursuant to Code number 4.2.3 paragraph 2 sentence 6, the compensation amount for Management Board members shall be capped, both overall and for variable compensation components.

This recommendation is not met. The service agreements with members of the Management Board do not provide for caps regarding specific amounts for all compensation components and accordingly not for caps regarding specific amounts for the overall compensation. The performance-oriented short-term compensation (the variable bonus) is capped. As regards stock options and phantom stocks as compensation components with long-term incentives, the service agreements with members of the Management Board do provide for a possibility of limitation but no caps regarding specific amounts. Introducing caps regarding specific amounts in relation to such stock-based compensation components would contradict the basic idea of the members of the

Management Board participating appropriately in the economic risks and opportunities of the company. Instead, Fresenius pursues a flexible concept according to which each individual case is considered. In events of extraordinary developments in relation to the stock-based compensation which are not related to the performance of the Management Board, the Supervisory Board may cap the stock-based compensation.

- **Code number 4.2.3 paragraph 4: Severance payment cap**

Pursuant to Code number 4.2.3 paragraph 4, when concluding Management Board contracts, care shall be taken to ensure that payments made to a Management Board member on premature termination of his/her contract, including fringe benefits, do not exceed the value of two years' compensation (severance payment cap) and compensate no more than the remaining term of the service agreement. The severance payment cap shall be calculated on the basis of the total compensation for the past full fiscal year and if appropriate also the expected total compensation for the current fiscal year.

These recommendations are not met insofar as the service agreements of the members of the Management Board do not contain severance payment arrangements for the case of premature termination of the contract and consequently do not contain limitation of any severance payment amount to this extent. Uniform severance payment arrangements of this kind would contradict the concept practiced by Fresenius in accordance with the German Stock Corporation Act (Aktiengesetz) according to which service agreements of the members of the Management Board are, in principal, concluded for the period of their appointment. They would also not allow for a well-balanced assessment of individual cases.

- **Code number 4.2.5 paragraph 3: Presentation in the compensation report**

Pursuant to Code number 4.2.5 paragraph 3, the presentation of the compensation for each individual member of the Management Board in the compensation report shall present the maximum and minimum achievable compensation for variable compensation components by using model tables. The presentation of the compensation granted pursuant to the description for

model table 1 shall also specify the target value or a comparable value of an "average probability scenario" for the one-year variable compensation and for the deferrable portions from one-year variable compensations (deferrals).

Fresenius, in deviation from Code number 4.2.3 paragraph 2 sentence 6, does not provide for caps regarding specific amounts for all variable compensation components and, therefore, does not provide for caps regarding specific amounts for the overall compensation. There are no target values or comparable values for the one-year variable compensation and for the deferrable portions from one-year variable compensation (deferrals). The one-year variable compensation is determined on the basis of bonus curves applicable to several years. In this respect, the compensation report cannot meet the recommendations of the Code. Irrespective thereof, Fresenius will continue to comprehensively and transparently present its compensation system and the amounts paid to members of the Management Board in its compensation report. The compensation report will include tables relating to the value of the benefits granted as well as the allocation in the year under review which follow the structure and largely also the specifications of the model tables.

- **Code number 5.1.2 paragraph 2 sentence 3: Age Limit for members of the Management Board**

Pursuant to Code number 5.1.2 paragraph 2 sentence 3, an age limit shall be specified for members of the Management Board. As in the past, Fresenius will continue to refrain from specifying an age limit for members of the Management Board. Complying with this recommendation would unduly limit the selection of qualified candidates.

- **Code number 5.3.2 sentence 3: Independence of the Chairman of the Audit Committee**

Pursuant to Code number 5.3.2 sentence 3, the Chairman of the Audit Committee shall be independent. Pursuant to Code number 5.4.2 sentence 2, a Supervisory Board member is not to be considered independent in particular if he/she has personal or business relations with the company, its executive bodies, a controlling shareholder or an enterprise associated with the latter

which may cause a substantial and not merely temporary conflict of interests.

The term of Prof. Dr. h.c. Roland Berger as Chairman of the Audit Committee ended when the Annual General Meeting concluded on May 13, 2016. During his term as Chairman of the Audit Committee, he was also partner at Roland Berger Strategy Consultants Holding GmbH and honorary chairman of the Supervisory Board of Roland Berger Strategy Consultants Holding GmbH. During the tenure of Prof. Dr. h.c. Berger as Chairman of the Audit Committee, Fresenius Group made use of consultancy services provided by Roland Berger Strategy Consultants GmbH, an affiliated enterprise of management consultancy Roland Berger Strategy Consultants Holding GmbH. The Management Board and Supervisory Board believe that these business relations neither constituted a substantial or long-term conflict of interest, nor did they interfere with the tasks of the Chairman of the Audit Committee. However, as a precaution, a deviation from Code number 5.3.2 sentence 3 is being declared, given the legal views with regards to question of independence, for the time until Prof. Dr. h.c. Roland Berger withdrew from the Supervisory Board. Since the election of Mr. Klaus-Peter Müller as Chairman of the Audit Committee at the constitutive meeting of the Supervisory Board on May 13, 2016, this recommendation has been met.

- **Code number 5.4.1 paragraph 2 and paragraph 3: Specification of concrete objectives regarding the composition of the Supervisory Board and their consideration when making recommendations to the competent election bodies**

Pursuant to Code number 5.4.1 paragraph 2 and paragraph 3, the Supervisory Board shall specify concrete objectives regarding its composition and, when making recommendations to the competent election bodies, take these objectives into account. The objectives specified by the Supervisory Board and the status of the implementation shall be published in the Corporate Governance Report.

These recommendations are not met. The composition of the Supervisory Board must align with the interest of the enterprise and ensure effective supervision and consultation of the Management Board. It is thus a matter of principle and prime importance that each member is suitably qualified. When discussing its

recommendations to the competent election bodies, the Supervisory Board will take into account the international activities of the enterprise, potential conflicts of interest, the number of independent Supervisory Board members within the meaning of Code number 5.4.2, and diversity.

In the interest of the enterprise not to generally limit the selection of qualified candidates, the Supervisory Board, however, confines itself to complying with statutory requirements and particularly refrains from specifying an age limit and a regular limit of length of membership.

- **Code number 5.4.6 paragraph 2 sentence 2: A performance-related compensation of the members of the Supervisory Board oriented toward sustainable growth of the enterprise**

Pursuant to Code number 5.4.6 paragraph 2 sentence 2, a performance-related compensation, if promised to the members of the Supervisory Board, shall be oriented toward sustainable growth of the enterprise. The variable compensation of the Supervisory Board members of Fresenius SE & Co. KGaA does not have a multi-year calculation basis and is thus, in this sense, not oriented toward sustainable growth of the enterprise. Instead, the Supervisory Board receives a performance-related compensation component which depends on the dividend pursuant to Section 13 paragraph 1 of the Articles of Association of Fresenius SE & Co. KGaA. This compensation model has been in existence since 1995. It continues to bring forth adequate compensation for the Supervisory Board which is in line with the law and the interests of the shareholders.

Bad Homburg v.d.H., December 2016

Management Board of the general partner of Fresenius SE & Co. KGaA, of Fresenius Management SE and Supervisory Board of Fresenius SE & Co. KGaA