



**Declaration by the Management Board of the General Partner of Fresenius SE & Co. KGaA, Fresenius Management SE, and 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 last Declaration of Conformity in December 2016, 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 as well as in the version of February 7, 2017 since its publication in the Federal Gazette, have been met and that the Code in its version of February 7, 2017 will also be met in the future. Only the following recommendations of the Code in the versions of May 5, 2015 and February 7, 2017, respectively, have not and will not be met as explained in the following:

- **Code number 4.2.3 paragraph 2 sentence 6: Compensation caps by specific amount**

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

This recommendation is only partly met with regards to the compensations of the Management Board members granted for the fiscal years through 2017. Until fiscal year 2017 stock options and phantom stocks as compensation components with long-term incentives and therefore the overall compensation, have not provided for a cap by specific amount as the setting of these types of caps for equity-based compensation components contradicts the basic idea of the members of the Management Board participating appropriately in the economic risks and opportunities of the company. As part of updating the long-term equity-based compensation in 2018, a cap will be introduced for this component. With regards to the compensation granted to the members of the Management

Board through Fresenius Management SE, the service agreements as of 2018 will include caps regarding specific amounts for each individual variable compensation component and thus for the overall compensation. The compensations granted by Fresenius Management SE as of fiscal year 2018 will thus fully meet the Code recommendation.

- **Code number 4.2.3 paragraph 4: Severance Cap**

Pursuant to Code number 4.2.3 paragraph 4, when contracts are entered into with Management Board members, it shall be ensured that payments, including fringe benefits, made to a Management Board member due to early termination of their contract do not exceed twice the annual compensation (Severance Cap) and compensate no more than the remaining term of the service agreement. If the service agreement of a Management Board member is terminated for good cause for which the Management Board member is responsible, no payments are made to that Management Board member. The severance payment cap shall be calculated on the basis of the total compensation paid for the previous fiscal year and, if appropriate, shall take into account the expected total compensation for the current fiscal year.

This recommendation is not met until the end of the fiscal year 2017 as 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 members are, in principle, concluded for the period of their appointment. The service agreements concluded between Fresenius Management SE and the Management Board members will be amended and will include a severance payment cap effective from fiscal year 2018. The Code recommendation will thus be met starting fiscal year 2018.

- **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 include information on 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).

This recommendation is not met regarding the compensation that was granted to the members of the Management Board for the fiscal years through 2017 as until that point in time, no caps regarding specific amounts had been set for the variable compensation components and thus the overall compensation.

As already explained with regards to Code number 4.2.3 paragraph 2 sentence 6, a cap regarding specific amounts shall be implemented for the compensation granted by Fresenius Management SE to the members of the Management Board starting fiscal year 2018 for each individual variable compensation component and thus for the overall compensation. For the presentation of the target values of the one-year variable compensation and any deferrable portions from the one-year variable compensation (deferrals), the actual paid out (benefits received) amounts and/or deferrable compensation amount is used as an estimator and thus as a value of an "average probability scenario" in accordance with the explanations on the model table 1 of the Code number 4.2.5 paragraph 3. The Code recommendation for the compensation granted by Fresenius Management SE to the Management Board members will therefore be met starting fiscal year 2018.

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

Pursuant to Code number 5.1.2 paragraph 2 sentence 3, an age limit shall be specified for the 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 5.4.1 paragraph 2 and paragraph 4: Specification of concrete objectives regarding the composition of the Supervisory Board, preparation of a profile of skills and expertise and consideration when making election proposals**

Pursuant to Code number 5.4.1 paragraph 2 and paragraph 4, the Supervisory Board shall specify concrete objectives for its composition and prepare a profile of skills and expertise for the entire Board. The targets shall be considered when making election proposals to the Annual General Meeting and at the same time aim to fulfill the profile of skills and expertise for the entire Board. The status of the implementation shall be published in the Corporate Governance Report.

This recommendation has so far not been 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. Correspondingly, until December 2017, the Supervisory Board has confined itself to complying with statutory requirements.

In December 2017, the Supervisory Board has specified concrete objectives for its composition and has prepared a profile of skills and expertise for the entire Board. In the interest of the company and to avoid undue limitation in the selection of qualified candidates, it shall be refrained from specifying an age limit and regular limit for a member's tenure. The Supervisory Board shall also consist of members with long-term experience and thus individuals that might be of older age. A balanced Supervisory Board, consisting of members of various ages and with varying tenures, is crucial. With this exception, the recommendations pursuant to Code number 5.4.1 paragraph 2 and paragraph 4 will be met effective December 20, 2017.

- **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 component, if promised to the Supervisory Board members, shall be oriented toward sustainable growth of the enterprise.

For fiscal year 2017, the members of the Supervisory Board shall receive for the last time a variable compensation that does not have a multi-year calculation basis and in that sense is not oriented toward sustainable growth of the enterprise in the sense of the Code. Rather, it is dependent on the dividend.

The Annual General Meeting of Fresenius SE & Co. KGaA on May 12, 2017, adopted a Supervisory Board compensation system which meets the recommendation of the Code. This compensation system shall become effective in the fiscal year 2018. This Code recommendation will thus be met starting fiscal year 2018.

Bad Homburg v.d.H., December 2017

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