

### **Voluntary report of the Board of Management to the Annual General Meeting regarding Item 2, 3 and 4 of the Agenda**

The Board of Management hereby remits this voluntary report regarding the reasons for the following resolution proposals regarding Item 2, 3 and 4 of the Agenda. The report, as an integral part of this Invitation, is accessible at the Internet address <http://www.rhoen-klinikum-ag.com/agm> and shall be available for inspection during the Annual General Meeting:

With regard to Item 2, 3 and 4 of the Agenda of the Annual General Meeting on 12 June 2014, the Board of Management and the Supervisory Board propose

- reducing the registered share capital through redemption of shares yet to be purchased in the simplified procedure (Item 3 of the Agenda),
- – alternatively – subject to certain conditions, appropriating from the net distributable profit for 2013 an amount of EUR 1,669,552,640.00 for distribution of an additional dividend of EUR 12.08 per non-par share with dividend entitlement (Item 2 of the Agenda), and
- authorising the Board of Management to repurchase treasury shares in 2015 for the purpose of redemption (Item 4 of the Agenda).

#### **1. Background**

In preparation for a structural reorientation of the Company, the Company has sold 40 hospitals and their related medical care centres (MVZs) as well as other affiliated companies,

i.e. roughly two thirds of the hospitals and MVZs operated by it, to Fresenius/HELIOS. The portfolio sold covers about two thirds of the average total revenues hitherto generated by the Group.

The Board of Management and the Supervisory Board propose appropriating part of the liquidity available in the Company resulting from the execution of the transaction in 2014 to reduce the registered share capital by redeeming shares yet to be purchased and in this way disbursing the same to the shareholders (see 2. below).

Only in the event that the proposed repurchase of treasury shares should not be performed or should not be performed within the period stipulated for that purpose in 2014, the Board of Management and the Supervisory Board propose with regard to Item 2.2 of the Agenda distributing an additional dividend to the shareholders out of the transaction proceeds (in this regard, see 3. below).

Parts of the transaction proceeds will be recognised in the income statement only in financial year 2014 and will thus not be available as part of the 2014 Share Buy-Back proposed under Item 3 of the Agenda. For this reason, the Board of Management and the Supervisory Board propose authorising the Board of Management already now to perform a share buy-back in 2015 followed by redemption of the shares thus repurchased (see 4. below).

## **2. Capital reduction by redemption in the simplified procedure and purchase of treasury shares (“2014 Share Buy-Back”) (Item 3 of the Agenda)**

### *Purposes of the capital reduction*

The capital reduction shall take place in each case entirely for the purpose of adjusting the registered share capital to the smaller size of the Company following the transaction with Fresenius/HELIOS, thus enabling shareholders to exit the Company in a manner that limits the impact on the share price as well as partial repayment of the registered share capital to the shareholders. The Board of Management and the Supervisory Board prefer the purchase of treasury shares and reduction of the registered share capital to distribution of a dividend out of the transaction proceeds because in addition to the disbursement to the shareholders this enables achievement of the other purposes set out in the foregoing that are in the Company’s interest. It would not be possible to achieve these purposes by distributing the Additional Dividend because this would leave the registered share capital unchanged and not allow for the possibility of an exit having a limited impact on the share price.

Redemption in simplified procedure against net distributable profit or other retained earnings

Pursuant to section 237 (3) no. 2 of the AktG, redemption is to take place against net distributable profit or other retained earnings. The amount equal to the pro rata amount in

the registered share capital attributable to the redeemed shares is to be allocated to the capital reserve.

#### *Redemption obligation*

The shares repurchased based on a resolution pursuant to Item 3 of the Agenda must be redeemed and thus cancelled. The decision on the redemption is not within the discretion of the Board of Management. The repurchased shares will not be available for a use other than their redemption.

#### *2014 Public Purchase Offer*

If the Annual General Meeting has adopted the resolution pursuant to Item 3 of the Agenda, the capital reduction resolution will be filed with the commercial register without undue delay following conclusion of the Annual General Meeting.

After the capital reduction resolution has been recorded, the purchase of treasury shares will take place observing the principle of equal treatment (section 53a of the AktG) by means other than on a stock exchange by way of a public purchase offer addressed to all shareholders ("**2014 Public Purchase Offer**"). Given the large volume of the planned repurchase, the repurchase by means of the 2014 Public Purchase Offer, in the assessment of the Board of Management, promises to be executed more rapidly and to be more likely to succeed than a purchase over the stock market.

#### *Period for executing the purchase and redeeming treasury shares*

The shares to be redeemed shall be purchased and redeemed by the Company within the period up to expiry of 12 December 2014 pursuant to section 71 (1) no. 6 of the AktG ("**Execution Period**"). In the event of legal action being lodged against the resolution adopted pursuant to Item 3 of the Agenda, the Execution Period shall be prolonged automatically until expiry of 12 January 2015.

#### *Reduction amount*

The Company's registered share capital of EUR 345,580,000.00, divided into 138,232,000 non-par bearer shares, is to be reduced by a total amount of up to EUR 177,354,802.50 to up to EUR 168,225,197.50 by redemption of fully paid-up, yet to be purchased shares by way of simplified redemption pursuant to section 237 (3) no. 2, (4) and (5) of the AktG. The Board of Management will therefore, pursuant to section 71 (1) no. 6 of the AktG, be authorised, subject to the consent of the Supervisory Board, to purchase within the Execution Period – as prolonged where applicable – shares of the Company with a pro rata amount in the registered share capital attributable to the same totalling up to EUR 177,354,802.50 for the purpose of redemption subject to the capital reduction resolution. The exact reduction amount will be equal to the pro rata amount in the registered share capital attributable to those shares purchased by the Company under a 2014 Public Purchase Offer.

### *Pay-out volume and maximum repurchase volume*

The pay-out volume available in total for the purchase of treasury shares (including ancillary purchasing costs) amounts to EUR 1,669,972,834.19 ("**Pay-Out Volume**"). The 2014 Public Purchase Offer includes the Maximum Repurchase Volume. The "**Maximum Repurchase Volume**" is the maximum number of full shares that can be purchased with the Pay-Out Volume (less ancillary purchasing costs) at the defined offer price per share.

### *Offer price per share*

The offer price per share offered by the Company (excluding ancillary purchase costs) may not be lower nor may be more than 7% higher than the weighted average market price on the Frankfurt Stock Exchange as determined based on the arithmetic mean of the closing auction prices of the RHÖN-KLINIKUM share in XETRA trading (or on any comparable trading system substituting XETRA) for the three trading days immediately preceding the date on which the 2014 Public Purchase Offer is published for the first time, i.e. prior to 29 April 2014 ("**Offer Price**").

In the event that considerable price deviations from the Offer Price should arise after the first-time publication of the 2014 Public Purchase Offer, the Offer Price may be adjusted. In this case the relevant amount shall be determined by the respective price for the three trading days immediately preceding the publication of an adjustment of the Offer Price; the 7% threshold for the exceeding of the market price shall be applied to this amount. An adjustment of the Offer Price in the course of the Acceptance Period (Item 3.2(e) of the Agenda) is excluded.

### *Acceptance period, latest acceptance date*

In the 2014 Public Purchase Offer, a period for acceptance of the 2014 Public Purchase Offer ("**Acceptance Period**") is to be stipulated. The date of publication of the 2014 Public Purchase Offer and the period of the Acceptance Period shall be determined by the Board of Management subject to the consent of the Supervisory Board. In this regard the Acceptance Period must be defined such that it ends no later than upon expiry of 30 November 2014 and, in the event of the Execution Period being prolonged, no later than upon expiry of 31 December 2014 (in each case "**Latest Acceptance Date**").

### *Tender rights, consideration by shareholding ratios*

Each shareholder will be entitled to tender rights under the 2014 Public Purchase Offer and thus the right to participate in the repurchase by the Company on the basis of their pro rata shareholding in the repurchase. The acceptance notices of the shareholders will be considered based on shareholding ratios through notification of the tender rights attributable to the shareholding as well as any tender rights additionally acquired by other shareholders.

### *Trading in tender rights*

During the Acceptance Period defined for the 2014 Public Purchase Offer, the Board of Management intends to establish stock exchange trading in tender rights. The trade in tender rights is to enable shareholders to realise the value of their tender rights by way of sale to other shareholders without being forced to tender the shares to the Company. Conversely, shareholders who would like to tender more shares than their shareholding ratio would allow are given the opportunity to purchase additional tender rights for this purpose. Shareholders who would not be able to tender full shares because of the defined tender ratio can realise the value of the tender rights to which they are entitled by selling the same in tender rights trading or, conversely, may purchase additional tender rights in order to tender an integer of shares.

The shareholders have no claim to establish trading in tender rights. The possibility of shareholders to sell the tender rights to which they are entitled to other shareholders outside a trade in tender rights established by the Company shall not be affected thereby.

### *Offer document*

The further details of the repurchase shall be defined in the offer document for the 2014 Public Purchase Offer and published together with the same.

### **3. Distribution of an Additional Dividend subject to condition precedent (Item 2 of the Agenda)**

#### *Condition precedent*

With regard to Item 2.2. of the Agenda, the Board of Management and the Supervisory Board propose appropriating from that portion of net distributable profit carried forward to new account pursuant to Item 2.1(b) an amount of EUR 1,669,552,640.00 for distribution of an additional dividend of EUR 12.08 per non-par share with dividend entitlement ("**Additional Dividend**").

However, the resolution pursuant to Item 2.2 is only to take effect, and consequently the claim to payment of the Additional Dividend only arise, if one of the two following conditions precedent has been met:

- (a) The Annual General Meeting has not adopted the resolution pursuant to Item 3 of the Agenda on the reduction of the registered share capital through redemption of shares after purchase ("**Dividend Condition A**").

or

- (b) The Annual General Meeting has adopted the resolution pursuant to Item 3 of the Agenda on the reduction of the registered share capital through redemption of shares after purchase and no treasury shares have been tendered to the Company based on a 2014 Public Purchase Offer by expiry of the relevant Latest Acceptance Date (Item 3.2(e) of the Agenda) (“**Dividend Condition B**”).

(Dividend Condition A and Dividend Condition B each individually a “**Dividend Condition**” and collectively the “**Dividend Conditions**”).

The Dividend Conditions are to ensure that the resolution on the distribution of an Additional Dividend shall only take effect and consequently the claim to payment of the Additional Dividend only arise if it has been finally established that the Company is not subject to any obligation to purchase tendered shares based on a 2014 Public Purchase Offer.

In this way it is ensured that an Additional Dividend is distributed only if it has been established that the net distributable profit required for this is not already tied for the purpose of covering the costs of repurchase of treasury shares. Conversely, the Dividend Conditions ensure, in the event that the capital reduction proposed pursuant to Item 3 of the Agenda through redemption against net distributable profit (section 237 (3) no. 2 of the AktG) is adopted and executed, that the net distributable profit required for this is not tied to any other purpose by reason of an already valid distribution resolution.

#### *Creation of the payment claim*

If Dividend Condition A is met, the claim to payment of the Additional Dividend shall arise on the conclusion of the Annual General Meeting. If Dividend Condition B is met, the claim to payment of the Additional Dividend shall arise on commencement of the fifth calendar day from expiry of the relevant Latest Acceptance Date (Item 3.2(e) of the Agenda).

#### *Final failure of creation of claim*

The claim to payment of the Additional Dividend pursuant to Item 2.2 of the Agenda shall be deemed to have finally failed to arise if both Dividend Conditions lapse. This is the case if the Annual General Meeting has adopted the resolution pursuant to Item 3 of the Agenda and no treasury shares have been tendered to the Company before expiry of the relevant Latest Acceptance Date (see Item 3.2(e) of the Agenda) under a 2014 Public Purchase Offer.

#### *Sale of shares before Dividend Condition B is met*

If the resolution pursuant to Item 2.2 of the Agenda has been adopted and shareholders sell shares via the stock market before Dividend Condition B has been met, the right to payment of the Addition Dividend subject to condition precedent shall be transferred to the purchaser together with title to the sold shares. Shareholders having previously sold their shares via

the stock market shall consequently have no claim to payment of the Additional Dividend in the event of Dividend Condition B being met.

In the event of a sale of shares by means other than via the stock market, the individual agreements entered into between the selling shareholder and the purchaser shall apply.

#### **4. Authorisation of the Board of Management to purchase and redeem shares (“2015 Share Buy-Back”) (Item 4 of the Agenda)**

Parts of the proceeds from the transaction with Fresenius/HELIOS will be recognised in the income statement only in financial year 2014 and will thus not be available as part of the 2014 Share Buy-Back proposed under Item 3 of the Agenda. The Board of Management and the Supervisory Board therefore propose creating the basis already at this year’s Annual General Meeting for the Board of Management, subject to the consent of the Supervisory Board, to be able to appropriate the liquidity payable only in 2015 as a result of the further execution of the transaction for redemption of shares yet to be purchased. In this way these funds also can be distributed to the shareholders as far as possible.

The Board of Management is therefore to be authorised in the period from 12 January 2015 to 31 December 2015, subject to the consent of the Supervisory Board, to purchase treasury shares of the Company up to a total amount equal to 10% of the registered share capital amounting to EUR 345,580,000.00 existing when this resolution is adopted or of the registered share capital existing when the authorisation is exercised, whichever is lower.

At the election of the Board of Management, repurchases may be effected on the stock market or by way of a public purchase offer addressed to all shareholders (“**2015 Public Purchase Offer**”).

If repurchases of the shares are effected via the stock market, the purchase price per share (excluding ancillary purchase costs) may not be more than 7% higher or lower than the weighted average market price on the Frankfurt Stock Exchange as determined based on the arithmetic mean of the closing auction prices of the RHÖN-KLINIKUM share in XETRA trading (or on any comparable trading system substituting XETRA) for the three trading days immediately preceding the purchase of the share.

If repurchases of the shares are effected based on the 2015 Public Purchase Offer, the offer price per share offered by the Company (excluding ancillary purchase costs) may not be lower nor may be more than 7% higher than the weighted average market price on the Frankfurt Stock Exchange as determined based on the arithmetic mean of the closing auction prices of the RHÖN-KLINIKUM share in XETRA trading (or on any comparable trading system substituting XETRA) for the three trading days immediately preceding the date on which the 2015 Public Purchase Offer is published.

If a 2015 Public Purchase Offer is executed, the acceptance notices shall be considered based on shareholding ratios through notification of the tender rights attributable to the

shareholding as well as any tender rights additionally acquired by other shareholders. During the Acceptance Period defined for a 2015 Public Purchase Offer, the Board of Management intends to establish stock exchange trading in tender rights (in this regard reference is made to the explanations provided with regard to trading in tender rights under 2.).

The Board of Management is to be authorised, subject to the consent of the Supervisory Board, to redeem the treasury shares of the Company purchased on the basis of this authorisation without the execution of the redemption requiring a further resolution by the Annual General Meeting, and to reduce the registered share capital in the simplified procedure by the pro rata amount of the registered share capital attributable to the redeemed shares and to amend the number of shares stated in the Articles of Association according to the extent to which the capital reduction by redemption is executed. The shares repurchased may also be redeemed by the Board of Management, subject to the consent of the Supervisory Board, in the simplified procedure without a capital reduction by adjusting the pro rata notional nominal amount of the remaining non-par shares in the Company's registered share capital. In the latter case, the Board of Management is hereby authorised to adjust the stated number of non-par shares in the Articles of Association. Use of the repurchased treasury shares based on this authorisation for purposes other than the redemption is excluded.

There is currently the intention to exercise the authorisation for the 2015 Share Buy-Back as far as possible.

The Board of Management will report to the next Annual General Meeting on an exercise of the authorisation.