

- Convenience Translation -

**Declaration by the Supervisory Board of Fresenius SE & Co. KGaA
and the Management Board of the general partner of Fresenius SE & Co. KGaA,
Fresenius Management SE, on the German Corporate Governance Code
pursuant to Section 161 German Stock Corporation Act (Aktiengesetz)
on the basis of the German Corporate Governance Code's versions
of June 18, 2009 (below under I) and of May 26, 2010 (below under II):**

- I. The Supervisory Board of Fresenius SE & Co. KGaA and the Management Board of the general partner of Fresenius SE & Co. KGaA (hereafter the "Management Board") declare that the recommendations of the "Government Commission on the German Corporate Governance Code" published by the Federal Ministry of Justice (Justizministerium) in the official section of the electronic Federal Gazette (Bundesanzeiger) (hereafter the "Code") in the version of June 18, 2009 were complied with since issuance of the last declaration of conformity. Only the following recommendations have not been adhered to:

- **Clause 3.8, para. 3 of the Code: D&O insurance deductible for the Supervisory Board**

Pursuant to clause 3.8 paragraph 3 of the Code, a D&O insurance for the Supervisory Board should provide for a deductible which reflects the mandatory deductible for Management Board members as introduced by the Act on the Appropriateness of Executive Board Compensation (VorstAG). Such deductible amounts to 10% of the damage, up to a maximum amount of one and a half times the fixed annual remuneration. Until the end of June 2010 the D&O insurance taken out at Fresenius was a group insurance for a multitude of individuals which did not contain a deductible in the recommended amount. For the Management Board of Fresenius SE (hereafter also the Management Board) the insurance now taken out as from July 1, 2010 does contain a deductible in line with the VorstAG requirement. A corresponding deductible for the members of the Supervisory Board was also introduced as from July 1, 2010.

- **Clause 4.2.3, para. 4 of the Code: Compensation cap**

Pursuant to clause 4.2.3 paragraph 4 of the Code, upon termination of a Management Board contract, it should be ensured that the payments to the Management Board member whose service for the company is prematurely terminated shall not, including all ancillary payments, exceed the value of two annual remunerations (compensation cap) and shall remunerate for no more than the remaining term of the Management Board agreement. The compensation cap shall be calculated on the basis of the total compensation for the previous financial year and, as applicable, also the expected total compensation for the current financial year.

The service agreements of the members of the Management Board do not include a provision dealing with the early termination of service for the company without good cause. Such compensation provision would contradict the concept to conclude the service agreements with the Management Board members for the period of their appointment, such concept practiced by Fresenius since long in line with the German Stock Corporation Act (Aktiengesetz). Applying this concept, any early termination of the service agreement requires good cause.

- **Clauses 5.1.2, para. 2, sentence 3 and 5.4.1, sentence 2 of the Code: Age limit for members of Management Board and Supervisory Board**

Pursuant to clause 5.1.2, sentence 2 of the Code, when submitting nominations for the election of Supervisory Board members, an age limit to be specified for the Supervisory Board members shall be taken into account. In the same way, an age limit shall be specified for the Management Board members in accordance with clause 5.1.2, paragraph 2, sentence 3. Fresenius is of the opinion that the determination of an age limit for the members of the Management Board and the Supervisory Board would generally limit the selection of qualified candidates.

- **Clauses 5.1.2, para. 1, sentence 2 and 5.4.1, sentence 2 of the Code: Composition of the Management Board and the Supervisory Board**

The Supervisory Board shall take diversity into account, with regard to the composition of the Management Board as well as when submitting nominations for the election of Supervisory Board members (clauses 5.1.2 and 5.4.1 of the Code). The composition of Fresenius SE's corporate bodies was made in line with the requirements of the company. The company's international engagement has already been taken into account of in both bodies.

- **Clause 5.3.3 of the Code: Nomination Committee**

Pursuant to clause 5.3.3 of the Code, the Supervisory Board shall constitute a nomination committee which shall consist solely of shareholder representatives and which proposes suitable candidates to the Supervisory Board for the nomination it makes to the Annual General Meeting. This recommendation has generally been complied with in the past and it is intended to follow it in the future. However, the nomination committee which has been constituted by the Supervisory Board has, as a precautionary measure, abstained from submitting proposals for nominations for the election of Supervisory Board members of the company in the new legal form which was scheduled for the Annual General Meeting 2010 in combination with the change of the legal form into a KGaA. The nominations to the Annual General Meeting were submitted by the entire Supervisory Board. This was made due to the following background: two out of the three members of the nomination committee, Messrs. Dr. Dieter Schenk and Dr. Karl Schneider, are also members of the Administrative Board of Else Kröner-Fresenius-Stiftung and executors of the will over the estate of Ms Else Kröner. Being the sole shareholder of the general partner, Else Kröner-Fresenius-Stiftung is prevented from participating in the election of the Supervisory Board members. In order to eliminate also other influences on the composition of the Supervisory Board, the Supervisory Board decided, exceptionally, not to invoke a proposal by the nomination committee.

II. With regard to the recommendations of the "Government Commission on the German Corporate Governance Code" published by the Federal Ministry of Justice (Justizministerium) in the official section of the electronic Federal Gazette (Bundesanzeiger) in the version of May 26, 2010, the Supervisory Board of Fresenius SE & Co. KGaA and the Management Board declare that these recommendations are being complied with. In addition to the deviations from the Code's recommendations in clauses 4.2.3, paragraph 4, 5.1.2 and 5.4.1 described above (these also not being applied mutatis mutandis in the version of May 26, 2010) only the following recommendations are not being applied:

- **Clause 5.4.1, paras. 2 and 3 of the Code: Specification of concrete objectives regarding the composition of the Supervisory Board and taking them into account when making recommendations to the competent election bodies**

Pursuant to clause 5.4.1, paragraphs 2 and 3 of the Code, 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 concrete objectives of the Supervisory Board and the status of the implementation shall be published in the Corporate Governance Report. These recommendations are not adhered to. The composition of Fresenius' Supervisory Board needs to be aligned with the requirements of the company and must ensure effective supervision of and consultation by the Management Board. Therefore, when composing the Supervisory Board, knowledge, skills and professional experience required for the proper execution of the duties by each of its members shall take precedence. In contrast, fixed diversity quotas and age limits would generally limit the selection of qualified candidates.

Bad Homburg v.d.H., March 2011

The Supervisory Board of Fresenius SE & Co. KGaA

The Management Board of the general partner of Fresenius SE & Co. KGaA
(Fresenius Management SE)