

# **Celesio AG**

Stuttgart

**Supplement to the Agenda of the Annual General  
Meeting of Celesio AG on 11 August 2015**

Courtesy Translation. This translation is legally irrelevant and a working translation only. Legally binding and relevant, particularly in case of any discrepancies, is solely the German text.

## Celesio AG

### Supplement to the Agenda

After the convening of the ordinary Annual General Meeting for Tuesday, 11 August 2015, at 10.00 a.m., at the Porsche Arena, Mercedesstraße 69, 70372 Stuttgart, (published in the Federal Gazette on 3 July 2015) the shareholders Magnetar Capital Master Fund Limited, Grand Cayman, Magnetar Global Event Driven Master Fund Limited, Grand Cayman, Hipparchus Master Fund Limited, Grand Cayman, and Spectrum Opportunities Master Fund Limited, Grand Cayman have requested to supplement the agenda of the Annual General Meeting with four additional items.

The management board is of the opinion that two of these items are legally admissible requests for a supplement to the agenda. Therefore, while retaining the previous agenda items 1 to 11, these two items are placed on the agenda as items 12 and 13 and published pursuant to § 122 (2) of the German Stock Corporation Act (*AktG*) in conjunction with § 124 (1) *AktG* as follows:

Supplement request on behalf of Magnetar Capital Master Fund Limited, Grand Cayman, Magnetar Global Event Driven Master Fund Limited, Grand Cayman, Hipparchus Master Fund Limited, Grand Cayman, and Spectrum Opportunities Master Fund Limited, Grand Cayman:

#### **"12. Appointment of special auditors**

I propose that the following resolution is adopted:

- a) "A special audit under the terms of section 142(1) Stock Corporation Act should take place in order to investigate the events in connection with the decision by Celesio AG's management board to apply for revocation of the admission of the shares to trading on the regulated market, in particular regarding the following issues:
- What information was the decision to revoke the admission of the shares to trading on the regulated market based on?
  - Has the management board carefully examined the advantages and disadvantages of revoking the admission of the shares to trading on the regulated market?
  - What interests did the members of the management board take into account when deciding to downlist and what was considered when weighing up the various interests?
  - What considerations was the supervisory board's (*Aufsichtsrat*) approval of the management board's decision based on and what role did the supervisory board representatives from McKesson Corporation, in particular supervisory board chairman John Hammergren, play?

- When approving the decision to downlist, have the representatives of the McKesson Corporation who are members of the supervisory board of Celesio AG, in particular chairman John Hammergren, prioritised the interests of the McKesson Corporation over those of Celesio AG, particularly in order to enable the McKesson Corporation to acquire further shares on Celesio AG at a price that has been depreciated by the announcement to delist?
  - What disadvantages have arisen for Celesio AG as a result of the downlisting?
  - What damage has been incurred by Celesio AG's shareholders as a result of the decision to downlist?
- b) Warth & Klein Grant Thornton AG Wirtschaftsprüfungsgesellschaft Düsseldorf will be appointed as special auditors.

The special auditors will be able to make use of support from qualified expert personnel, particularly in the form of legal and technical/commercial support and advice."

### 13. Assertion of claims for damages against the management board

I propose that the following resolution is adopted:

"The supervisory board shall be obliged to assert claims for damages by Celesio AG against the members of the management board on account of a breach of their management duties in connection with the decision to apply for revocation of the admission of the shares to trading on the regulated market."

**Reasons for the motion to be tabled by Magnetar Capital Master Fund Limited, Grand Cayman, Magnetar Global Event Driven Master Fund Limited, Grand Cayman, Hipparchus Master Fund Limited, Grand Cayman, and Spectrum Opportunities Master Fund Limited, Grand Cayman, regarding all items:**

"Celesio AG was taken over by McKesson Corporation in 2014. Since then, McKesson has held approx. 76 per cent of the voting rights in Celesio AG.

The shares of Celesio AG are currently admitted to trading on the regulated market segment with additional post-admission obligations (Prime Standard) at Frankfurt Stock Exchange and to trading on the regulated market at the stock exchanges in Berlin, Düsseldorf, Stuttgart and Munich. Apart from this, the Celesio shares are included in trading on the open market at the stock exchanges in Hamburg and Hanover.

McKesson is now attempting to push the external shareholders out of Celesio AG in a way that is as financially efficient as possible for it and to fully integrate Celesio AG into the group. This is the reason why it is pursuing the delisting of Celesio AG.

The management board of Celesio AG decided on 11 March 2015, with the consent of the supervisory board which several representatives of the McKesson Corporation, particularly its CEO John Hammergren as chairman, are members of, to apply for admission of the shares at each of the exchanges where the shares in Celesio AG are traded on the regulated market to be revoked at short notice. Besides this, the management board of Celesio AG decided to apply for the shares in Celesio AG to be included in the open market in the Primary Market segment (Düsseldorf) and the m:access market segment (Munich). However, there is no doubt that complete delisting is ultimately intended. This is also confirmed by the statements made by John Hammergren in the telephone conference regarding the financial results of the McKesson Corporation on 12 May 2015.

In response to the action filed to the administrative court against the revocation of the admission of the shares to trading on the regulated market, Düsseldorf Stock Exchange has currently suspended execution of the revocation.

#### Disadvantages

Revoking the admission of the shares in Celesio AG to trading on the regulated market entails serious disadvantages that cannot be compensated by (temporarily) listing the shares on the open market.

The open market is not a regulated market under the terms of section 2(5) German Securities Trading Act (*Wertpapierhandelsgesetz – WpHG*). Many duties under capital markets law designed to protect investors do not apply in this area. Most notably, there is no duty to publish inside information (section 15(1) Securities Trading Act), to communicate so-called directors' dealings (section 15a Securities Trading Act), to keep insider registers (section 15b Securities Trading Act) and to communicate and publish voting rights notifications.

It is a common feature of all the above rules that they serve the interests of all potential bidders by increasing transparency. Investors are put in a position where they can come to informed transaction decisions due to better comparability of the shares on the regulated market. This itself contributes to formation of realistic prices for the securities. In this way, investor confidence as a whole is reinforced. As these rules would cease to apply as a result of downlisting to the open market, the risk of a bad investments or unfavourable decisions to buy or sell is increased.

To be listed in an index such as the MDax or other indexes, as is currently still the case for Celesio AG, and in this way to profit from a higher degree of recognition, the shares must be listed on the regulated market. Apart from this, the securities listed on the regulated market fundamentally enjoy an enhanced reputation. All these characteristics benefiting the shareholders cease to apply as a result of downlisting to the open market, and the complete delisting that is ultimately intended.

### Falls in price

Revoking the admission of the shares in Celesio AG on the regulated market will lead to a fall in prices. This, alongside the reduced attractiveness of the shares for potential investors described above, is above all due to a significant proportion of institutional investors only being allowed to invest in shares listed on the regulated market and to them now being forced to sell the Celesio shares. Due to Celesio AG's shareholder structure it is also to be expected that the disinvestment momentum initiated by this will lead to particularly serious falls in price. This effect of down- and delisting can meanwhile also be corroborated by various studies.

Celesio AG's shareholder structure is characterised by a high freefloat of approx. 24 per cent and therefore very high market capitalisation of around EUR 5.4 billion. Thus numerous investors are affected by the downlisting being pursued at McKesson's initiative. It stands to reason that the disinvestment momentum described above is all the stronger the higher the share of freefloat – and with it the number of investors forced to sell – is. As more (minority) shareholders are pressured to sell their shares by the activities initiated by McKesson, the ratio of demand and supply for the securities in Celesio AG will increasingly shift in favour of an oversupply. This is certainly what is intended by McKesson, as it can then opt to buy the shares for a favourable price itself and in this way come closer to the share ownership threshold required for a squeeze-out.

Therefore, the downlisting entails grave disadvantages for the minority shareholders of Celesio AG, whose involvement solely consists of upholding investors' interest and not influencing other management measures.

### Management board der Celesio AG

When managing Celesio AG, the management board is above all required to protect the interests of the shareholders. This also applies to the decision to apply for revocation of the admission of the Celesio shares on the regulated market. However, the decision to apply for the revocation completely instead disregards the interests of minority shareholders and is merely designed to serve McKesson's business operations in such a way that Celesio AG's business can be integrated in to its operations as quickly and cheaply as possible, although this is not in Celesio AG's financial interest. In particular, allowing the revocation of the admission only to become effective at a point in time in the future (the "respite solution" (*Fristenlösung*)) is not sufficient protection for the minority shareholders.

It is incomprehensible that Celesio AG was allowed to raise money from shareholders on the stock exchange at the prices asked on the exchange, and to then withdraw from the exchange so that it does not have to pay back the prices asked on the exchange. Especially when the shares have been exchange-listed for a long time, as in the present case – Celesio AG's shares have been listed for more than 100 years – it cannot be sufficient to revoke the admission of the shares to trading on the regulated market without a settlement offer in order to guarantee sufficient protection of investors.

Moreover, there are no compelling grounds for delisting or downlisting. Owing to Celesio AG's market capitalisation described above, it cannot be assumed that no proper trading in Celesio shares could be expected to take place any more. Apart from this, Celesio AG is still in a position to follow the post-admission obligations on the regulated market both financially and due to its structure. Thus gaining access to capital by maintaining the admission of the shares to trading on the regulated market is far more in Celesio AG's interest.

Applying for the admission of the Celesio shares to trading on the regulated market to be revoked therefore constitutes a breach of the management board's duties, which the supervisory board has consented to."

One item of the supplement request relates to the discharge (*Entlastung*) of management board and the supervisory board which is already published under items 4. to 7. of the agenda and, therefore, will be treated and published as a counter proposal (Gegenantrag) pursuant to § 126 Stock Corporation Act.

**Statement of the management board  
on the demand for a supplement by Magnetar Capital Master Fund Limited,  
Grand Cayman, Magnetar Global Event Driven Master Fund Limited, Grand  
Cayman, Hipparchus Master Fund Limited, Grand Cayman, and Spectrum  
Opportunities Master Fund Limited, Grand Cayman**

**The management board proposes that the annual general meeting rejects the motions regarding agenda items 12, appointment of special auditors, and 13, assertion of claims for damages against the management board.**

The management board made the decision to request the revocation of the admission of the Company's shares to trading on the regulated market upon a careful balancing of the relevant aspects and with the involvement of a renowned law firm in the best interest of the Company. There are no indications of any infringed duties on the part of the management board and such infringements are neither substantiated by the movers. The significant costs of a special audit as well as the associated reputational impairment are, for this reasons, neither appropriate nor justified.

Stuttgart, 15 July 2015

**Celesio AG**

**The Management Board**