



**BAYER AKTIENGESELLSCHAFT**

(incorporated in the Federal Republic of Germany)  
as Issuer

**EUR 1,000,000,000**  
**Subordinated Resettable Fixed Rate Notes due November 2079**  
**with a First Call Date February 2025**

and

**EUR 750,000,000**  
**Subordinated Resettable Fixed Rate Notes due November 2079**  
**with a First Call Date August 2027**

Bayer Aktiengesellschaft (the "**Issuer**" or "**Bayer AG**" and together with its consolidated subsidiaries, the "**Bayer Group**", "**Group**" or "**Bayer**") will issue (i) EUR 1,000,000,000 in aggregate principal amount of subordinated notes subject to interest rate reset at 5 year intervals commencing on the first reset date on 12 May 2025 (the "**NC5.5 Notes**") and (ii) EUR 750,000,000 in aggregate principal amount of subordinated notes subject to interest rate reset at 5 year intervals commencing on the first reset date on 12 November 2027 (the "**NC8 Notes**" and, together with the NC5.5 Notes, the "**Notes**" and each a "**Series**") each on 12 November 2019 (the "**Issue Date**") at an issue price of 99.373 % of their principal amount in respect of the NC5.5 Notes (the "**NC5.5 Issue Price**") and 100 % of their principal amount in respect of the NC8 Notes (the "**NC8 Issue Price**" and together, with the NC5.5 Issue Price, each an "**Issue Price**") (the "**Offering**"). The Notes are issued in denominations of EUR 100,000 each (the "**Specified Denomination**").

The NC5.5 Notes shall bear interest on their principal amount (i) from and including the Issue Date to but excluding 12 May 2025 (the "**NC5.5 First Reset Date**") at a rate of 2.375 % *per annum* (the "**NC5.5 Fixed Interest Rate**"); (ii) from and including the NC5.5 First Reset Date to but excluding 12 May 2030 at the relevant 5-year swap rate for the relevant reset period plus a margin of 264.7 basis points *per annum* (the "**NC5.5 Initial Margin**"); (iii) from and including 12 May 2030 to but excluding 12 May 2045 at the relevant 5-year swap rate for the relevant reset period plus a first step-up margin (being equal to the NC5.5 Initial Margin plus 25 basis points *per annum*); and (iv) from and including 12 May 2045 to but excluding 12 November 2079 (the "**Maturity Date**") at the relevant 5-year swap rate for the relevant reset period plus a second step-up margin (being equal to the NC5.5 Initial Margin plus 100 basis points *per annum*).

The NC8 Notes shall bear interest on their principal amount (i) from and including the Issue Date to but excluding 12 November 2027 (the "**NC8 First Reset Date**") at a rate of 3.125 % *per annum* (the "**NC8 Fixed Interest Rate**"); (ii) from and including the NC8 First Reset Date to but excluding 12 November 2032 at the relevant 5-year swap rate for the relevant reset period plus a margin of 310.8 basis points *per annum* (the "**NC8 Initial Margin**"); (iii) from and including 12 November 2032 to but excluding

12 November 2047 at the relevant 5-year swap rate for the relevant reset period plus a first step-up margin (being equal to the NC8 Initial Margin plus 25 basis points *per annum*); and (iv) from and including 12 November 2047 to but excluding 12 November 2079 (the "**Maturity Date**") at the relevant 5-year swap rate for the relevant reset period plus a second step-up margin (being equal to the NC8 Initial Margin plus 100 basis points *per annum*).

During each interest period, interest will be paid annually in arrear, with respect to the NC5.5 Notes on 12 May of each year, and, in respect of the NC8 Notes on 12 November of each year (each an "**Interest Payment Date**"), commencing with respect to the NC5.5 Notes on 12 May 2020 (short first coupon), and, with respect to the NC8 Notes on 12 November 2020. The Issuer will be entitled to defer payments of interest on any Interest Payment Date ("**Arrears of Interest**") and may pay such Arrears of Interest voluntarily at any time, but only has to pay such Arrears of Interest under certain circumstances as laid out in the terms and conditions of the Notes (the "**Terms and Conditions**").

Each Series of Notes may be separately redeemed in whole but not in part at the option of the Issuer at an amount per Note equal to the Specified Denomination plus (i) interest accrued on the Note to but excluding the date of redemption but yet unpaid and (ii) any outstanding Arrears of Interest due and payable, (A) in case of the NC5.5 Notes, with effect (i) as of any date during the period from and including 12 February 2025 (the "**NC5.5 First Call Date**") to and including the NC5.5 First Reset Date and (ii) on any Interest Payment Date thereafter; and (B) in case of the NC8 Notes, with effect (i) as of any date during the period from and including 12 August 2027 (the "**NC8 First Call Date**" and together with the NC5.5 First Call Date, each a "**First Call Date**") to and including the NC8 First Reset Date and (ii) on any Interest Payment Date thereafter.

The Issuer may also redeem each Series of Notes separately in whole but not in part at any time before the First Call Date following a Rating Event, a Tax Deductibility Event or a Gross-up Event at the Early Redemption Amount (each as defined in the applicable Terms and Conditions). Additionally, the Issuer may redeem the Notes, in whole but not in part, if the Issuer has purchased or redeemed at least 80% of the originally issued aggregate principal amount of the Notes.

The Notes will initially be represented by a temporary global note (a "**Temporary Global Note**"), without interest coupons, which will be exchangeable in whole or in part for a permanent global note (a "**Permanent Global Note**") without interest coupons, not earlier than 40 days after the Issue Date (the "**Exchange Date**"), upon certification as to non-U.S. beneficial ownership. The Notes will be issued in bearer form. The Global Notes will be deposited with a common depository for Clearstream Banking S.A and Euroclear Bank SA/NV (together, the "**Clearing System**").

This prospectus (the "**Prospectus**") constitutes a prospectus within the meaning of Article 6.3 of Regulation (EU) No 2017/1129 of the European Parliament and of the Council of 14 June 2017 (as amended, the "**Prospectus Regulation**"). This Prospectus will be published in electronic form on the website of the Luxembourg Stock Exchange ([www.bourse.lu](http://www.bourse.lu)).

This Prospectus has been approved by the *Commission de Surveillance du Secteur Financier, Luxembourg* (the "**CSSF**"), which is the Luxembourg competent authority under the Prospectus Regulation. The CSSF only approves this Prospectus as meeting the standards of completeness, comprehensibility and consistency imposed by the Prospectus Regulation. Such approval should neither be considered as an endorsement of the Issuer that is subject of this Prospectus nor of the quality of the securities that are the subject of this Prospectus. Further, by approving this Prospectus, the CSSF gives no undertaking as to the economic and financial soundness of the transaction or the quality or solvency of the Issuer Article 6(4) of Luxembourg Law of 16 July 2019 on Prospectuses for securities (the "**Prospectus Law**").

This Prospectus will be valid for a period of 12 months after its approval for admission to trading of the Notes on a regulated market until 7 November 2020. In case of a significant new factor, material mistake or material inaccuracy relating to the information included in this Prospectus which may affect the assessment of the Notes and which arises or is noted between the time when this Prospectus is approved and the time when trading of the Notes begins on the regulated market of the Luxembourg Stock Exchange, the Issuer will prepare and publish a supplement to this Prospectus without undue delay in accordance with Article 23 of the Prospectus Regulation.

Investors should make their own assessment as to the suitability of investing in such Notes.

Application has been made to the Luxembourg Stock Exchange for the Notes to be listed on the Official List of the Luxembourg Stock Exchange and to be admitted to trading on the Luxembourg Stock Exchange's Regulated Market. The Luxembourg Stock Exchange's Regulated Market is a regulated market for the purposes of Directive 2014/65/EU (as amended, "**MiFID II**").

*Joint Bookrunners and Co-ordinating Banks*

**BNP PARIBAS**

**BofA Securities**

**MUFG**

*Joint Bookrunners*

**Crédit Agricole CIB**

**ING**

**Santander Corporate &  
Investment Banking**

**SMBC Nikko**

**UniCredit Bank**

## RESPONSIBILITY STATEMENT

Bayer AG with its registered office in Leverkusen is solely responsible for the information given in this Prospectus and for the information relating to the Notes.

The Issuer hereby declares that, having taken all reasonable care to ensure that such is the case, the information contained in this Prospectus for which it is responsible is, to the best of its knowledge, in accordance with the facts and contains no omission likely to affect its import.

## NOTICES

This Prospectus should be read and construed with any supplement thereto and with any other documents incorporated by reference.

The Issuer has confirmed to BNP Paribas, Merrill Lynch International, MUFG Securities (Europe) N.V., Banco Santander, S.A., Crédit Agricole Corporate and Investment Bank, ING Bank N.V., SMBC Nikko Capital Markets Europe GmbH and UniCredit Bank AG (together, the "**Joint Bookrunners**") that this Prospectus is true and accurate in all material respects and is not misleading; that any opinions and intentions expressed herein are honestly held and based on reasonable assumptions; that there are no other facts with respect to the Issuer, the omission of which would make this Prospectus as a whole or any statement herein or opinions or intentions expressed herein misleading in any material respect; and that all reasonable enquiries have been made to verify the foregoing.

The Issuer has undertaken with the Joint Bookrunners to prepare a supplement to this Prospectus or a new prospectus in the event that any significant new factor, material mistake or inaccuracy relating to the information included in this Prospectus, which is capable of affecting the assessment of the Notes, arises or is noted after the date of this Prospectus.

No person has been authorized by the Issuer to give any information or to make any representation not contained in or not consistent with this Prospectus or any other document entered into in relation to the Notes or any information supplied by any Issuer or such other information as is in the public domain and, if given or made, such information or representation should not be relied upon as having been authorized by the Issuer, the Joint Bookrunners or any individual Joint Bookrunner.

No representation or warranty is made or implied by the Joint Bookrunners or any of their respective affiliates, and neither the Joint Bookrunners nor any of their respective affiliates make any representation or warranty or accept any responsibility, as to the accuracy or completeness of the information contained in this Prospectus.

Neither the delivery of this Prospectus nor the offering, sale or delivery of any Note shall, in any circumstances, create any implication that the information contained in this Prospectus is true subsequent to the date upon which this Prospectus has been published or most recently supplemented or that there has been no adverse change in the financial position of the Issuer since the date hereof or, as the case may be, the date upon which this Prospectus has been most recently supplemented or the balance sheet date of the most recent financial statements which are deemed to be incorporated into this Prospectus by reference is correct at any time subsequent to the date on which it is supplied or, if different, the date indicated in the document containing the same.

Solely for the purposes of each manufacturer's product approval process, the target market assessment in respect of the Notes has led to the conclusion that: (i) the target market for the Notes is eligible counterparties and professional clients only, each as defined in MiFID II; and (ii) all channels for distribution of the Notes to eligible counterparties and professional clients are appropriate. Any person subsequently offering, selling or recommending the Notes (a "**distributor**") should take into consideration the manufacturers' target market assessment; however, a distributor subject to MiFID II is responsible for undertaking its own target market assessment in respect of the Notes (by either adopting or refining the manufacturers' target market assessment) and determining appropriate distribution channels.

The Notes are not intended to be offered, sold or otherwise made available to and should not be offered, sold or otherwise made available to any retail investor in the European Economic Area ("**EEA**"). For these purposes, a retail investor means a person who is one (or more) of: (i) a retail client as defined in point (11) of Article 4(1) of MiFID II; or (ii) a customer within the meaning of Directive (EU) 2016/97 (as amended, the "**Insurance Distribution Directive**"), where that customer would not qualify as a professional client

as defined in point (10) of Article 4(1) of MiFID II. Consequently, no key information document required by Regulation (EU) No 1286/2014 (as amended, the "**PRIIPs Regulation**") for offering or selling the Notes or otherwise making them available to retail investors in the EEA has been prepared and therefore offering or selling the Notes or otherwise making them available to any retail investor in the EEA may be unlawful under the PRIIPs Regulation.

Following the respective First Reset Date, amounts payable under the Notes are calculated by reference to the annual swap rate for swap transactions denominated in Euro with a term of 5 years, which appears on the Reuters Screen Page ICESWAP2 and which is provided by ICE Benchmark Administration Limited ("**IBA**"). As at the date of this Prospectus, IBA appears on the register of administrators and benchmarks established and maintained by the European Securities and Markets Authority ("**ESMA**") pursuant to article 36 of the Benchmark Regulation (Regulation (EU) 2016/1011) (the "**Benchmark Regulation**").

This document may only be communicated or caused to be communicated in circumstances in which section 21(1) of the Financial Services and Markets Act 2000 ("**FSMA**") does not apply.

The Notes have not been and will not be registered under the United States Securities Act of 1933, as amended (the "**Securities Act**"), and will include Notes in bearer form that are subject to U.S. tax law requirements. Subject to certain exceptions, Notes may not be offered, sold or delivered within the United States or to, or for the benefit of, U.S. persons, see "*Selling Restrictions*".

The distribution of this Prospectus and the offering, sale and delivery of Notes in certain jurisdictions may be restricted by law. Persons into whose possession this Prospectus come are required to inform themselves about and observe any such restrictions. For a description of the restrictions applicable in the United States of America, the United Kingdom and the European Economic Area see "*Selling Restrictions*".

Prospective purchasers of the Notes should ensure that they understand the nature of the Notes and the extent of their exposure to risks and that they consider the suitability of the Notes as an investment in light of their own circumstances and financial condition. Investing in the Notes involves certain risks. Please review the section entitled "*Risk Factors*" beginning on page 1 of this Prospectus.

**This Prospectus may not be used for the purpose of an offer or solicitation (i) by anyone in any jurisdiction in which such offer or solicitation is not authorized or (ii) to any person to whom it is unlawful to make such an offer or solicitation.**

This Prospectus does not constitute an offer or an invitation to subscribe for or purchase Notes and should not be considered as a recommendation by the Issuer or any Joint Bookrunners that any recipient of this Prospectus should subscribe for or purchase Notes. Each recipient of this Prospectus shall be taken to have made its own investigation and appraisal of the condition (financial or otherwise) of the Issuer.

This Prospectus contains assessments of market data and information derived therefrom which could not be obtained from any independent sources. Such information is based on the Issuer's own internal assessments and may therefore deviate from the assessments of competitors of Bayer AG or future statistics by independent sources. As regards the market positions of Bayer AG, Bayer AG's own estimations are mainly based on company data which either is derived from information by competitors or from data provided by independent research companies.

For the avoidance of doubt the content of any website referred to in this Prospectus does not form part of this Prospectus and has not been scrutinized or approved by the CSSF.

The language of this Prospectus is English. Any part of this Prospectus in the German language constitutes a translation except for the Terms and Conditions where the English part constitutes a translation. The German text of the Terms and Conditions is controlling and binding. In respect of the documents incorporated by reference, the German language version is controlling and binding in relation to the documents listed in the table of documents incorporated by reference in the section "*Documents Incorporated by Reference*".

Where acting as agent on behalf of a disclosed or undisclosed client when purchasing, or making or accepting an offer to purchase, any Notes (or any beneficial interests therein) from the Issuer and/or the Joint Bookrunners the foregoing representations, warranties, agreements and undertakings will be given by and be binding upon both the agent and its underlying client.

**IN CONNECTION WITH THE ISSUE OF THE NOTES, BNP PARIBAS (THE "STABILISING MANAGER") (OR ANY PERSON ACTING ON BEHALF OF THE STABILISING MANAGER) MAY OVER-ALLOT NOTES OR EFFECT TRANSACTIONS WITH A VIEW TO SUPPORTING THE MARKET PRICE OF THE NOTES AT A LEVEL HIGHER THAN THAT WHICH MIGHT OTHERWISE PREVAIL. HOWEVER, STABILISATION MAY NOT NECESSARILY OCCUR. ANY STABILISATION ACTION MAY BEGIN ON OR AFTER THE DATE ON WHICH ADEQUATE PUBLIC DISCLOSURE OF THE TERMS OF THE OFFER OF THE NOTES IS MADE AND, IF BEGUN, MAY BE ENDED AT ANY TIME, BUT IT MUST END NO LATER THAN THE EARLIER OF 30 DAYS AFTER THE ISSUE DATE OF THE NOTES AND 60 DAYS AFTER THE DATE OF THE ALLOTMENT OF THE NOTES. ANY STABILISATION ACTION OR OVER-ALLOTMENT MUST BE CONDUCTED BY THE STABILISING MANAGER (OR ANY PERSON ACTING ON BEHALF OF THE STABILISING MANAGER) IN ACCORDANCE WITH ALL APPLICABLE LAWS AND RULES.**

### **ALTERNATIVE PERFORMANCE MEASURES**

Certain terms used in this Prospectus and financial measures presented in the documents incorporated by reference are not recognised financial measures under International Financial Reporting Standards as adopted by the European Union ("IFRS") ("**Alternative Performance Measures**") and may therefore not be considered as an alternative to the financial measures defined in the accounting standards in accordance with generally accepted accounting principles. The Issuer has provided these Alternative Performance Measures because it believes they provide investors with additional information to assess the economic situation of the Issuer's business activities. The definition of the Alternative Performance Measures may vary from the definition of identically named alternative performance measures used by other companies. The Alternative Performance Measures used by the Issuer should not be considered as an alternative to measures of operating performance or financial standing derived in accordance with IFRS. These Alternative Performance Measures have limitations as analytical tools and should not be considered in isolation or as substitutes for the analysis of the consolidated results or liabilities as reported under IFRS.

### **FORWARD-LOOKING STATEMENTS**

This Prospectus contains certain forward-looking statements. A forward-looking statement is a statement that does not relate to historical facts and events but is based on analyses or forecasts of future results and estimates of amounts not yet determinable or foreseeable. These forward-looking statements are identified by the use of terms and phrases such as "*anticipate*", "*believe*", "*could*", "*estimate*", "*expect*", "*intend*", "*may*", "*plan*", "*predict*", "*project*", "*will*" and similar terms and phrases, including references and assumptions. This applies, in particular, to statements in this Prospectus containing information on future earning capacity, plans and expectations regarding the Bayer Group's business and management, its growth and profitability, and general economic and regulatory conditions and other factors that affect it.

Forward-looking statements in this Prospectus are based on current estimates and assumptions that the Issuer makes to the best of its present knowledge. These forward-looking statements are subject to risks, uncertainties and other factors which could cause actual results, including the Bayer Group's financial condition and results of operations, to differ materially from and be worse than results that have expressly or implicitly been assumed or described in these forward-looking statements. The Bayer Group's business is also subject to a number of risks and uncertainties that could cause a forward-looking statement, estimate or prediction in this Prospectus to become inaccurate. Accordingly, investors are strongly advised to read the following sections of this Prospectus: "*Risk Factors*" and "*Bayer AG*". These sections include more detailed descriptions of factors that might have an impact on the Bayer Group's business and the markets in which it operates.

In light of these risks, uncertainties and assumptions, future events described in this Prospectus may not occur. In addition, neither the Issuer nor the Joint Bookrunners assume any obligation, except as required by law, to update any forward-looking statement or to conform these forward-looking statements to actual events or developments.

**CONSENT TO THE USE OF THE PROSPECTUS**

The Issuer does not consent to the use of this Prospectus for the subsequent resale or final placement of the Notes.

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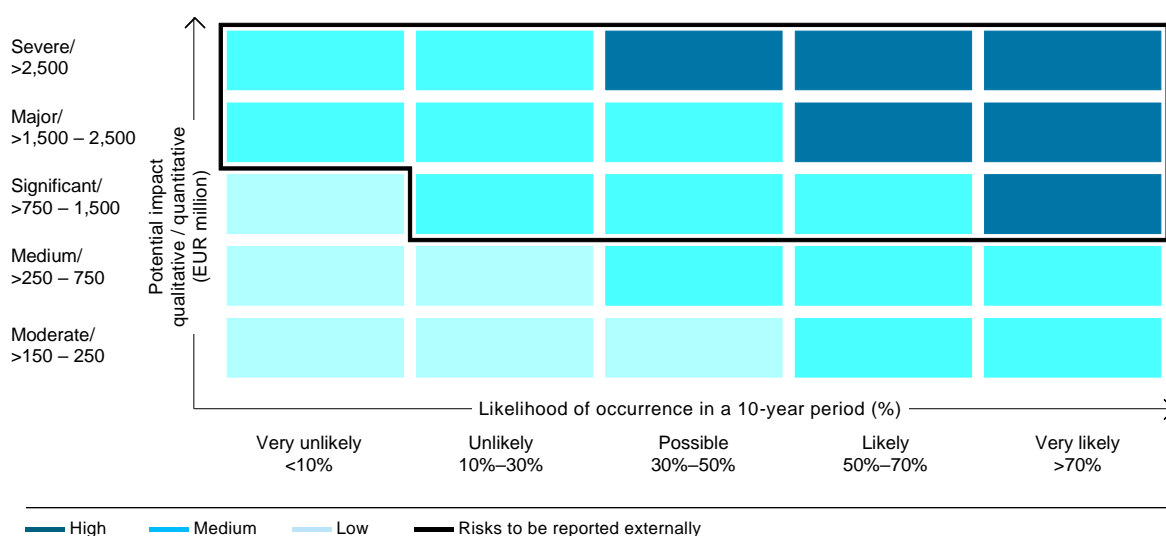
## RISK FACTORS

The following is a disclosure of risk factors that are material to the Notes issued in order to assess the market risk associated with these Notes and risk factors that may affect the Issuer's ability to fulfil its obligations under the Notes. Prospective investors should consider these risk factors before deciding to purchase Notes issued under this Prospectus. Prospective investors should consider all information provided in this Prospectus and consult with their own professional advisers if they consider it necessary. In addition, investors should be aware that the risks described may combine and thus intensify one another.

### Risk Factors in respect of Bayer

Risks are classified as high, medium or low to assess their materiality regarding the overall risk portfolio of Bayer, whereas the classification is based on a combination of impact and likelihood. The extent of the impact is rated according to quantitative (i.e. on our future cash flow generation) and/or qualitative factors (e. g. impact on our reputation). The likelihood of occurrence is assessed based on a maximum period of 10 years.

### Risk Assessment Matrix



For purpose of this Prospectus, risks that are below the external reporting threshold are assessed as "low", regardless of their likelihood.

The risks outlined in the following section may generally have a quantitative impact; additional qualitative impacts particularly focussing on our reputation are described for the respective risks.

### I. Strategic Risks

#### Social and macroeconomic trends (high)

Changes in political, social and macroeconomic factors such as economic growth, life expectancy, population size and consumer behavior as well as societal trends, political crises and instability may result in risks for Bayer.

Modern agricultural methods, such as the application of certain classes of crop protection products and the use of genetic engineering, are regularly the subject of intense public debate and can negatively impact our reputation. The increased risk of an increasingly negative public debate that is not primarily based on science may lead to legislative and regulatory decisions that significantly limit the use of our products or even result in voluntary or mandated product withdrawals.

In the Crop Science segment, seasonal and macroeconomic factors in particular can unfavorably impact our business. Our markets are cyclical and are shaped by economic developments and factors including fluctuating weather conditions and pest pressure.

### Market developments (medium)

In the Crop Science segment, we could face increased competition in the seed and crop protection industry. Consolidation processes as well as aggressive marketing and pricing strategies – not only for generic products – could negatively impact our profitability. In addition, increasing digitalization in the agriculture sector, such as the growing use of robotics, could lead to the rise of new players.

The risk of existing business models undergoing rapid change as a result of digitalization and new digital products is also present in the Consumer Health segment. Digitalization is a key factor in gaining a competitive advantage. If we fail to adequately integrate this development into our existing business models, we could lose customers and market share.

### Regulatory changes (medium)

Our business activity is subject to extensive regulations that may change. For example, further restrictions could be imposed on the sale and use of various crop protection products, or the pricing of pharmaceutical products could be more strictly regulated. Residues of agrochemical products in the environment could also be subject to more stringent regulation. In addition, regulatory changes could also affect agricultural imports from other parts of the world and therefore our business in those regions. Moreover, regulatory changes may generally give rise to uncertainty regarding our future patent protection. They can also lead to higher product development costs and longer duration or even necessitate adjustments to our product portfolio, which may in turn negatively impact our reputation.

### Business strategy (medium)

As a globally operating, innovation-oriented and diversified company, we are exposed to various strategic risks in all our segments. Where it appears strategically advantageous, we look to supplement our organic growth through measures such as acquisitions and / or inlicensing.

Such strategic measures may give rise to challenges at our Pharmaceuticals segment in connection with the inlicensing and / or the acquisition of new products required to achieve the inorganic growth targeted, in part due to the increasing difficulty in identifying suitable candidates on economically acceptable conditions.

In connection with the increasing digitalization of farming, our Crop Science segment faces the challenge of developing – and successfully marketing – optimal products and tools.

## **II. Operational Risks**

### Research and development (high)

We cannot ensure that we will identify a sufficient number of research candidates and that all of the products we are currently developing or will develop in the future will obtain their planned approval / registration or achieve commercial success. This may result from the failure to meet technical, capacity- and time-related requirements or the inability to meet trial objectives in product development, among other factors. The performance of our research partners could also have a limiting impact in this respect. Delays or cost overruns might occur during product registration or launch.

Technological advances in pharmaceutical product development are likewise influenced by digitalization, which can also present a risk for us if we are not in a position to shape this development.

In the Crop Science segment, we anticipate challenges faced in developing and introducing product solutions in agriculture, including longer and more costly development cycles or stricter regulatory requirements.

If weeds or pests show signs of resistance against Crop Science's products and Crop Science is unable to develop and market new formulae or treatments which perform well in the face of resistances, our sales volume could decline.

### Information technology (high)

Our business and production processes and our internal and external communications are dependent on global IT systems. The confidentiality of internal and external data is of fundamental importance to us in this connection. The risk of a breach of data confidentiality, integrity or authenticity, for example due to (cyber) attacks, has increased as a result of the general security situation. This could lead to the manipulation and / or the uncontrolled outflow of data and knowledge, and to reputational damage. Our business and / or production processes could also be temporarily disrupted by (cyber) attacks.

### Supply of products (procurement, production, logistics) (medium)

Operations at our sites may be disrupted by fire, power outage or disruptions at our suppliers, for example, certain materials, particularly in our Pharmaceuticals segment, are offered by only a small number of suppliers. Commodity price risks result for the Bayer Group from the volatility of raw material prices, which can lead for example to an increase in the price we pay for seeds and energy. Furthermore, some of our production sites are located in regions that can be affected by natural disasters, such as flooding or earthquakes. These risks can lead to production disruptions or stoppages, result in personal injury and damage to our reputation, lead to declines in sales and / or margins, and necessitate the reconstruction of damaged infrastructure.

### Marketing, sales and distribution (medium)

New product launches present particular challenges for our marketing and distribution organizations since assumptions about aspects such as the market and market circumstances may not materialize as anticipated. As a result, product launch concepts – including those related to clinical trials – and the planning or implementation of the distribution strategy could turn out to be inefficient or inadequate in terms of scheduling. In some countries, the marketing rights for certain pharmaceutical products are held by third parties. Inadequate performance by these marketing partners could adversely affect the development of our sales and costs.

### Human resources (medium)

Skilled and dedicated employees are essential for the company's success. Difficulties in recruiting, hiring, retaining and further developing specialized employees could have significant adverse consequences for the company's future development. Furthermore, organizational changes that are not implemented adequately or transparently can lead to declining motivation.

### Finance and tax (medium)

The Bayer Group is exposed to financial risks in the form of liquidity, credit and market price risks, as well as risks resulting from pension obligations as well as tax risks. The following paragraphs provide details of these and other financial risks.

#### *Foreign currency risk (medium)*

Foreign currency risks for the Bayer Group result from changes in exchange rates and the related changes in the value of financial instruments (including receivables and payables) and of anticipated payment receipts and disbursements not in the functional currency. These risks may result in decreased financial receivables and increased financial payables and furthermore in diminished anticipated earnings.

#### *Financial risks associated with pension obligations (medium)*

The Bayer Group has obligations to current and former employees related to pensions and other post-employment benefits. Changes in relevant measurement parameters such as interest rates, mortality and salary increase rates may raise the present value of our pension obligations. This may lead to increased costs for pension plans or diminish equity due to actuarial losses being recognized as other comprehensive income in the statement of comprehensive income. A large proportion of our pension and other post-employment benefit obligations is covered by plan assets including fixed-income securities, shares, real estate and other investments. Declining or even negative returns on these investments may adversely affect the future fair value of plan assets. Both of these effects may negatively impact the development of equity and / or earnings and / or may necessitate additional payments by our company.

#### *Tax risk (medium)*

Bayer AG and its subsidiaries operate worldwide and are thus subject to many different national tax laws and regulations. Bayer Group companies are regularly audited by the tax authorities in various countries. Amendments to tax laws and regulations, legal judgments and their interpretation by the tax authorities, and the findings of tax audits in these countries may result in higher tax expense and payments, thus also influencing the level of tax receivables, tax liabilities and deferred tax assets and liabilities. Significant acquisitions, divestments and restructuring programs undertaken by Bayer could also have an impact. Bayer frequently implements reorganisational measures which may create tax risks and may be challenged by tax authorities. The Bayer Group establishes provisions for taxes, based on estimates, for liabilities to the tax authorities of the respective countries that are uncertain as to their amount and the probability of their occurrence. It cannot be ruled out that these provisions are insufficient to cover all the risks.

#### *Credit risk (medium)*

Credit risks arise from the possibility that the value of receivables or other financial assets of the Bayer Group may be impaired because counterparties cannot meet their payment or other performance obligations. These risks may result in loss of financial assets including positive market values of derivative instruments.

#### *Interest rate risk (low)*

Interest rate risks result for the Bayer Group through changes in capital market interest rates, which in turn could lead to changes in the fair value of fixed-rate financial instruments and changes in interest payments in the case of floating-rate instruments.

### **III. Safety, quality and compliance risks**

#### Product safety and stewardship (high)

Despite extensive studies prior to approval or registration, products could be partially or completely withdrawn from the market due to the occurrence of unexpected side-effects of pharmaceutical products or other factors. Such a withdrawal may be voluntary or result from legal or regulatory measures. In the agriculture business particularly, there is an additional risk that our customers could use our products incorrectly. Furthermore, the presence of traces of unwanted genetically modified organisms in agricultural products and / or foodstuffs can have wide-ranging repercussions.

#### External partner compliance (medium)

From the perspective of the Bayer Group as a whole, there is a risk that our partners, such as suppliers, do not give due attention to our corporate values and ethical, compliance and sustainability requirements.

#### Health, safety and environment (medium)

Misconduct or noncompliance with legal requirements or Bayer Group standards may result in personal injury, property, reputational or environmental damage, loss of production, business interruptions and / or liability for compensation payments.

#### Intellectual property (medium)

The Bayer Group has a portfolio that largely consists of patent-protected products. Due to the long period of time between the patent application and the market launch of a product, Bayer generally only has a few years in which to earn an adequate return on its investment in research and development. This makes effective and reliable patent protection all the more important. Generic manufacturers, in particular, attempt to contest patents prior to their expiration. We are currently involved in legal proceedings to enforce patent protection for our products. Legal action by third parties for alleged infringement of patent or proprietary rights by Bayer may impede or even halt the development or manufacturing of certain products or require us to pay monetary damages or royalties to third parties.

#### Quality and regulatory requirements (medium)

In almost every country where we operate, our business activity is subject to extensive regulations, standards, requirements and inspections, for example regarding clinical studies or production processes in

the area of health or at Crop Science in the monitoring of genetically modified organisms, particularly at country level. Potential infringements of regulatory requirements may result in the imposition of civil or criminal penalties, including substantial monetary fines, a restriction on our freedom to operate, and/or other adverse financial consequences. They could also harm Bayer's reputation.

#### Security (medium)

We see in the risk of potential criminal activities targeting our employees, property or business activities. These include intellectual property theft, vandalism and sabotage. There is also the risk of crises such as an extended power outage that could cause disruptions to our information technology infrastructure and our production.

### **IV. Legal Risks**

#### Legal proceedings (not classified in accordance with Bayer's Risk Assessment Matrix)

We are exposed to risks from legal disputes or proceedings to which we are currently a party, or which could arise in the future, particularly in the areas of product liability, competition and antitrust law, anticorruption law, patent law, tax law, data protection and environmental protection. Investigations of possible legal or regulatory violations may result in the imposition of civil or criminal penalties – including substantial monetary fines – and / or other adverse financial consequences, harm our reputation and hamper our commercial success.

Due to the complexity of the various legal disputes, the very often lengthy proceedings involving several instances and the fact that the outcome of these disputes cannot be reliably assessed, the risks associated with legal proceedings have not been classified in accordance with Bayer's risk assessment matrix (see "*Risk Factors – Risk Factors in respect of Bayer – Risk Assessment Matrix*").

For a detailed description of ongoing legal proceedings considered by us to be material please see "*Description of Bayer AG and the Bayer Group – Governmental, Legal, Tax and Arbitration Proceedings*".

#### **Risk Factors in respect of the Notes**

### **V. Risks resulting from the subordination of the Notes**

#### ***The Notes are subordinated to senior obligations of the Issuer***

The obligations of the Issuer under the Notes will be unsecured subordinated obligations of the Issuer which in an insolvency or liquidation of the Issuer rank *pari passu* among themselves and with certain other obligations of the Issuer, subordinated to all present and future unsubordinated and subordinated obligations (other than subordinated obligations expressed to rank *pari passu* to the Notes) of the Issuer and senior only to the Issuer's share capital and similar present or future instruments. According to the Terms and Conditions, in an insolvency or liquidation of the Issuer, no payments under the Notes will be made to the Holders unless the Issuer has discharged or secured in full (i.e. not only with a quota) all claims that rank senior to the Notes. In a liquidation, insolvency or a restructuring proceeding in respect of the Issuer, the holders of the Notes (the "**Holders**" and each a "**Holder**") may recover considerably less than the Holders of unsubordinated or subordinated obligations of the Issuer or may recover nothing at all. Holders will have limited ability to influence the outcome of any insolvency proceeding and their position in a restructuring will equally be weaker than the position of the holder of unsubordinated or even secured debt. In particular, in insolvency proceedings over the assets of the Issuer, holders of subordinated debt, such as the Notes, will not have any right to vote in the assembly of creditors (*Gläubigerversammlung*) pursuant to the German Insolvency Code. In case of an insolvency of the Issuer, any payments under the Notes, if any, will occur only after the insolvency proceedings have been finalised.

Investors should take into consideration that liabilities ranking senior to the Notes may also arise out of events that are not reflected on the Issuer's balance sheet, including, without limitation, the issuance of guarantees or other payment undertakings. Claims of beneficiaries under such guarantees or other payment undertakings will, in liquidation or insolvency proceedings of the Issuer, become unsubordinated or subordinated liabilities and will therefore be paid in full before payments are made to Holders.

In case of insolvency plan proceedings (*Insolvenzplanverfahren*) the Holders generally would have no voting right on the adoption of an insolvency plan presented by the Issuer, the relevant insolvency administrator or custodian (sections 237 and 246 of the German Insolvency Code). In addition, their claims would be waived after the adoption of the insolvency plan, unless the insolvency plan makes an exception to this general rule (section 225 paragraph 1 German Insolvency Code).

## **VI. Risks resulting from the Notes being long-term securities**

### ***Holders are subject to risks relating to the early redemption of the Notes.***

The Notes will be redeemed on 12 November 2079, unless they have been previously redeemed or repurchased and cancelled. The Issuer is under no obligation to redeem the Notes at any time before this date. The Holders have no right to call for their redemption. At the Issuer's option, the Notes may be redeemed at 100% of the principal amount plus accrued and unpaid interest and any Arrears of Interest pursuant to the Terms and Conditions, (i) on the First Call Date or any Interest Payment Date thereafter, (ii) if as a consequence of a change in law it has to pay any additional amounts with respect to taxation or (iii) if 80% or more in principal amount of Notes initially issued has been redeemed or repurchased.

In addition, the Issuer may at its option redeem the Notes at 101% of the principal amount plus accrued and unpaid interest and any Arrears of Interest pursuant to the Terms and Conditions, if (i) interest payable in respect of the Notes is no longer fully income tax deductible, in particular due to a change in law (including future tax legislation or initiatives, if any, which may affect the Notes) or the official interpretation thereof, or (ii) Moody's and / or S&P and / or Fitch determine to no longer grant the same or higher category of "equity credit" to the Notes as a result of an amendment, clarification or change to the equity credit criteria of such rating agency.

In the case of redemption, Holders might suffer a lower than expected yield and might not be able to reinvest the funds on the same terms. Moreover, the redemption amount in the event of a redemption may be lower than the prevailing market price of the Notes.

The Holders should be aware that the Terms and Conditions do not contain any express event of default provisions. There will also not be any cross default under the Notes.

The redemption at the option of the Issuer may affect the market value of the Notes. During any period when the Issuer may, or may be perceived to be able to, elect to call and redeem the Notes, the market value of the Notes generally will not rise substantially above the price at which they can be redeemed. Certain market expectations may exist among investors in the Notes with regard to the Issuer making use of its option to call the Notes for redemption prior to their scheduled maturity. Should the Issuer's actions diverge from such expectations, the market value of the Notes may be adversely affected. There is also no guarantee that an active public market in the Notes develops.

Prospective investors should be aware that they may be required to bear the financial risk of an investment in the Notes for a long period and may not recover their investment before the end of this period.

## **VII. Risks resulting from the Notes being resettable fixed rate Notes**

### ***Reset of Interest Rate linked to the 5-year swap rate***

From and including the respective First Reset Date to but excluding the date on which the Issuer redeems the Notes in whole, the Notes bear interest at a rate which will be determined on each reset date at the 5-year swap rate for the relevant reset period plus a margin.

Investors should be aware that the performance of the 5-year swap rate and the interest income on the Notes cannot be anticipated and neither the current nor the historical level of the 5-year swap rate is an indication of the future development of the 5-year swap rate. Due to varying interest income, investors are not able to determine a definite yield of the Notes at the time they purchase them, so that their return on investment cannot be compared with that of investments having longer fixed interest periods. In addition, after interest payment dates, investors are exposed to the reinvestment risk if market interest rates decline. That is, investors may reinvest the interest income paid to them only at the relevant lower interest rates then prevailing.

Furthermore, during each reset period, it cannot be ruled out that the price of the Notes may fall as a result of changes in the current interest rate on the capital market (market interest rate), as the market interest rate fluctuates. During each of these periods, the investor is exposed to the risk as described under "Fixed Interest Rate Notes".

#### ***Reform of interest rate "benchmarks"***

Following the respective First Reset Date, interest amounts payable under the Notes are calculated by reference to the annual swap rate for swap transactions denominated in Euro with a term of 5 years, which appears on the Reuters Screen Page ICESWAP2.

This swap-rate, the Euro Interbank Offered Rate ("**EURIBOR**") underlying the floating leg of this swap rate and other interest rates or other types of rates and indices which are deemed "benchmarks" (each a "**Benchmark**" and together, the "**Benchmarks**") have become the subject of regulatory scrutiny and recent national and international regulatory guidance and proposals for reform. Some of these reforms are already effective whilst others are still to be implemented. These reforms may cause such Benchmarks to perform differently than in the past, or to disappear entirely, or have other consequences which cannot be predicted. Any such consequence could have a material adverse effect on the Notes.

International proposals for reform of Benchmarks include the European Council's regulation (EU) 2016/1011 of 8 June 2016 on indices used as benchmarks in financial instruments and financial contracts or to measure the performance of investment funds and amending Directives 2008/48/EC and 2014/17/EU and Regulation (EU) No 596/2014 (the "**Benchmark Regulation**") which is fully applicable since 1 January 2018.

The Benchmark Regulation could have a material impact on the Notes, including in any of the following circumstances:

- a rate or index which is a Benchmark may only be used if its administrator obtains authorisation or is registered and in case of an administrator which is based in a non-EU jurisdiction, if the administrator's legal benchmark system is considered equivalent (Article 30 Benchmark Regulation), the administrator is recognised (Article 32 Benchmark Regulation) or the relevant Benchmark is endorsed (Article 33 Benchmark Regulation) (subject to applicable transitional provisions). If this is not the case, Notes linked to such Benchmarks could be impacted; and
- the methodology or other terms of the Benchmark could be changed in order to comply with the terms of the Benchmark Regulation, and such changes could have the effect of reducing or increasing the rate or level or affecting the volatility of the published rate or level, and could have an impact on the Notes, including determination of the rate by the Issuer, the Calculation Agent or an independent adviser, as the case may be.

In addition to the aforementioned Benchmark Regulation, there are numerous other proposals, initiatives and investigations which may impact Benchmarks.

Following the implementation of any such potential reforms, the manner of administration of Benchmarks may change, with the result that they may perform differently than in the past, or Benchmarks could be eliminated entirely, or there could be other consequences which cannot be predicted.

Any changes to a Benchmark as a result of the Benchmark Regulation or other initiatives, could have a material adverse effect on the costs of administering or otherwise participating in the setting of a Benchmark and complying with any such regulations or requirements. Investors should be aware that any changes to a relevant Benchmark may have a material adverse effect on the value of the Notes.

Under the Terms and Conditions of the Notes, certain benchmark replacement provisions will apply in case a Benchmark (or any component part thereof) used as a reference for the calculation of interest amounts payable under the Notes were to be discontinued or otherwise unavailable:

If a Benchmark (or any component part thereof) used to calculate interest amounts payable under the Notes for any interest period has ceased to be calculated or administered, the Issuer shall endeavour to appoint an independent adviser, which must be an independent financial institution of international repute or other independent financial adviser experienced in the international capital markets. Such independent adviser will be tasked with determining whether an officially recognized successor rate to the discontinued

Benchmark exists. If that is not the case, the independent adviser will attempt to find an alternative rate which, possibly after application of adjustments or spreads, can replace the discontinued Benchmark. If the independent adviser determines a successor rate or alternative rate (the "**New Benchmark Rate**"), such rate will replace the previous Benchmark for purposes of determining the relevant rate of interest. Such determination will be binding for the Issuer, the Calculation Agent, the Paying Agents and the Holders. Any amendments pursuant to these fallback provisions will apply with effect from the respective effective date specified in the Terms and Conditions of the Notes.

If the Issuer fails to appoint an independent adviser or if the adviser fails to determine a New Benchmark Rate following a discontinuation of a relevant Benchmark, the reference rate applicable to the immediately following reset period shall be the original benchmark rate determined on the last preceding interest determination date, provided, however, that, in case of the first reset period, the reference rate shall be the original benchmark rate on the screen page on the last day preceding the interest determination date on which such original benchmark rate was displayed.

The replacement of a Benchmark could have adverse effects on the economic return of the Holder compared to the applicable original benchmark rate.

#### ***Fixed Interest Rate Notes.***

To but excluding the respective First Reset Date, the Notes bear interest at a fixed rate. A holder of a fixed interest rate note is exposed to the risk that the price of such note may fall because of changes in the market interest rate. While the nominal interest rate of a fixed interest rate note is fixed during the life of such note or during a certain period of time, the current interest rate on the capital market (market interest rate) typically changes on a daily basis. If the market interest rate changes, the price of such bond changes in the opposite direction. If the market interest rate increases, the price of such note typically falls, until the yield of such note is approximately equal to the market interest rate. If the market interest rate falls, the price of a fixed interest rate note typically increases, until the yield of such bond is approximately equal to the market interest rate. Holders should be aware that movements of the market interest rate can adversely affect the market price of the Notes and can lead to losses for Holders if they sell their Notes.

### **VIII. Risks relating to the Issuer's right to defer interest payments**

#### ***Interest payments under the Notes may be deferred at the option of the Issuer.***

Holders should be aware that interest may not be due and payable (*fällig*) on the scheduled Interest Payment Date, and that the payment of the resulting Arrears of Interest is subject to certain further conditions. Failure to pay interest as a result of an interest deferral will not constitute a default of the Issuer or a breach of any other obligations under the Notes or for any other purposes. While the deferral of interest payments continues, the Issuer is not prohibited from making payments on any instrument ranking senior to the Notes. Holders will not receive any additional interest or compensation for the deferral of payment. In particular, the resulting Arrears of Interest will not bear interest.

Any deferral of interest payments or the perception that the Issuer will need to exercise its optional deferral right will likely have an adverse effect on the market price of the Notes. In addition, as a result of the interest deferral provision of the Notes, the market price of the Notes may be more volatile than the market prices of other debt securities on which interest accrues that are not subject to such deferrals and may be more sensitive generally to adverse changes in the Issuer's financial condition.

### **IX. Risks resulting from the solvency of the Issuer**

#### ***Ratings of the Issuer or the Notes may be subject to change at all times.***

A rating of the Issuer may not adequately reflect all risks of the investment in Notes issued by the Issuer. Equally, ratings may be suspended, downgraded or withdrawn. Such suspension, downgrading or withdrawal may have an adverse effect on the market value and trading price of the Notes. One or more independent credit rating agencies may assign credit ratings to the Notes. The ratings may not reflect the potential impact of all risks related to structure, market, additional factors discussed above, and other factors that may affect the value of the Notes. Rating agencies may also change their methodologies for rating securities with features similar to the Notes in the future.



If the rating agencies were to change their practices for rating such securities in the future and the ratings of the Notes were to be subsequently lowered, this may have a negative impact on the trading price of the Notes.

A credit rating is not a recommendation to buy, sell or hold securities and may be revised or withdrawn by the rating agency at any time.

***Investors in the Notes assume the risk that the credit spread of the Issuer changes.***

A credit spread is the margin payable by the Issuer to the holder of a Note as a premium for the assumed credit risk of the Issuer. Credit spreads are offered and sold as premiums on current risk-free interest rates or as discounts on the price.

Factors influencing the credit spread include, among other things, the creditworthiness and rating of the Issuer, probability of default, recovery rate, remaining term to maturity of obligations under any collateralization or guarantee and declarations as to any preferred payment or subordination. The liquidity situation, the general level of interest rates, overall economic developments, and the currency, in which the relevant obligation is denominated may also have a positive or negative effect.

Investors are exposed to the risk that the credit spread of the Issuer widens, resulting in a decrease in the price of the Notes.

#### **X. Risks relating to investors of the Notes and application of certain laws**

***Risks in certain circumstances payments on or with respect to the Notes may be subject to U.S. withholding tax under FATCA.***

Pursuant to certain provisions of the U.S. Internal Revenue Code of 1986, as amended, commonly known as FATCA, a "**Foreign Financial Institution**" (as defined by FATCA) may be required to withhold on certain payments it makes ("**foreign passthru payments**") to persons that fail to meet certain certification, reporting or related requirements. The Issuer may be a Foreign Financial Institution for these purposes. A number of jurisdictions (including Germany) have entered into, or have agreed in substance to IGAs which modify the way in which FATCA applies to their jurisdictions. Under the provisions of IGAs as currently in effect, a foreign financial institution in an IGA jurisdiction would generally not be required to withhold under FATCA or an IGA with respect to payments that it makes. Certain aspects of the application of the FATCA provisions and IGAs to instruments such as the Notes, including whether withholding would ever be required pursuant to FATCA or an IGA with respect to payments on instruments such as the Notes, are uncertain and may be subject to change. Even if withholding would be required pursuant to FATCA or an IGA with respect to payments on instruments such as the Notes, such withholding would not apply prior to the second anniversary of the date on which final regulations defining the term "foreign passthru payments" are published in the U.S. Federal Register. Additionally, Notes issued on or prior to the date that is six months after the date on which final regulations defining "foreign passthru payments" are filed with the U.S. Federal Register generally would be "grandfathered" for purposes of FATCA withholding unless materially modified after such date. Holders should consult their own tax advisers regarding how these rules may apply to their investment in the Notes. In the event any withholding would be required pursuant to FATCA or an IGA with respect to payments on the Notes, no person will be required to pay additional amounts as a result of the withholding.

***Risks in connection with the application of the German Act on Issues of Debt Securities (Gesetz über Schuldverschreibungen aus Gesamtemissionen).***

A Holder is subject to the risk of being outvoted and of losing rights towards the Issuer against its will in the event that Holders agree pursuant to the Terms and Conditions to amendments of the Terms and Conditions by majority vote according to the German Act on Issues of Debt Securities (*Gesetz über Schuldverschreibungen aus Gesamtemissionen*). The rules pertaining to resolutions of Holders are set out in the SchVG and are largely mandatory. Pursuant to the SchVG the relevant majority for Holders' resolutions is generally based on votes cast, rather than on the Aggregate Principal Amount of the Notes outstanding, therefore, any such resolution may effectively be passed with the consent of less than a majority of the aggregate principal amount of the Notes outstanding. As such majority resolution is binding on all Holders, certain rights of a Holder against the Issuer under the Terms and Conditions of the Notes may be amended or reduced or even cancelled.

Since the Terms and Conditions of the Notes provide that the Holders are entitled to appoint a Holders' Representative by a majority resolution of such Holders, it is possible that a Holder may be deprived of its individual right to pursue and enforce its rights under the Terms and Conditions of the Notes against the Issuer, such right passing to the Holders' Representative who is then exclusively responsible to claim and enforce the rights of all the Holders.

In the event of an appointment of the Holders' Representative for all Holders a particular holder may lose, in whole or in part, the possibility to enforce and claim its rights against the Issuer regardless of other Holders.

## TERMS AND CONDITIONS

### § 1

#### WÄHRUNG, STÜCKELUNG, FORM, BEGRIFFSBESTIMMUNGEN

- (1) *Währung; Stückelung.* Diese Emission von Schuldverschreibungen (die "**Schuldverschreibungen**") der Bayer Aktiengesellschaft (die "**Emittentin**") wird in Euro (die "**festgelegte Währung**") im Gesamtnennbetrag von **[für NC5.5 Schuldverschreibungen einfügen: Euro 1.000.000.000 (in Worten: Euro eine Milliarde)] [für NC8 Schuldverschreibungen einfügen: Euro 750.000.000 (in Worten: Euro siebenhundertfünfzig Millionen)]** in Stückelungen von Euro 100.000 (die "**festgelegte Stückelung**") begeben.
- (2) *Form.* Die Schuldverschreibungen lauten auf den Inhaber.
- (3) *Vorläufige Globalurkunde — Austausch.*
- (a) Die Schuldverschreibungen sind anfänglich durch eine vorläufige Globalurkunde (die "**vorläufige Globalurkunde**") ohne Zinsscheine verbrieft. Die vorläufige Globalurkunde wird gegen Schuldverschreibungen in den festgelegten Stückelungen, die durch eine Dauerglobalurkunde (die "**Dauerglobalurkunde**") ohne Zinsscheine verbrieft sind, ausgetauscht. Die vorläufige Globalurkunde und die Dauerglobalurkunde tragen jeweils die Unterschriften von zwei ordnungsgemäß bevollmächtigten Vertretern der Emittentin und sind jeweils von der Hauptzahlstelle oder in deren Namen mit einer Kontrollunterschrift versehen. Einzelurkunden und Zinsscheine werden nicht ausgegeben.
- (b) Die vorläufige Globalurkunde wird frühestens an einem Tag (der "**Austauschtag**") gegen die Dauerglobalurkunde austauschbar, der 40 Tage nach dem Tag der Ausgabe der vorläufigen Globalurkunde liegt. Ein solcher Austausch

### § 1

#### CURRENCY, DENOMINATION, FORM, CERTAIN DEFINITIONS

- (1) *Currency; Denomination.* This issue of notes (the "**Notes**") of Bayer Aktiengesellschaft (the "**Issuer**") is being issued in Euro (the "**Specified Currency**") in the aggregate principal amount of **[for NC5.5 Notes insert: Euro 1,000,000,000 (in words: Euro one billion)] [for NC8 Notes insert: Euro 750,000,000 (in words: Euro seven hundred and fifty million)]** in denominations of Euro 100,000 (the "**Specified Denomination**").
- (2) *Form.* The Notes are being issued in bearer form.
- (3) *Temporary Global Note — Exchange.*
- (a) The Notes are initially represented by a temporary global note (the "**Temporary Global Note**") without coupons. The Temporary Global Note will be exchangeable for Notes in Specified Denominations represented by a permanent global note (the "**Permanent Global Note**") without coupons. The Temporary Global Note and the Permanent Global Note shall each be signed by two authorized signatories of the Issuer and shall each be authenticated by or on behalf of the Principal Paying Agent. Definitive Notes and interest coupons will not be issued.
- (b) The Temporary Global Note shall be exchangeable for the Permanent Global Note from a date (the "**Exchange Date**") 40 days after the date of issue of the Temporary Global Note. Such exchange shall only be made upon delivery of

soll nur nach Vorlage von Bescheinigungen gemäß U.S. Steuerrecht erfolgen, wonach der oder die wirtschaftlichen Eigentümer der durch die vorläufige Globalurkunde verbrieften Schuldverschreibungen keine U.S.-Personen sind (ausgenommen bestimmte Finanzinstitute oder bestimmte Personen, die Schuldverschreibungen über solche Finanzinstitute halten). Zinszahlungen auf durch eine vorläufige Globalurkunde verbriefte Schuldverschreibungen erfolgen erst nach Vorlage solcher Bescheinigungen. Eine gesonderte Bescheinigung ist hinsichtlich einer jeden solchen Zinszahlung erforderlich. Jede Bescheinigung, die am oder nach dem 40. Tag nach dem Tag der Ausgabe der vorläufigen Globalurkunde eingeht, wird als ein Ersuchen behandelt, diese vorläufige Globalurkunde gemäß diesem § 1(3)(b) auszutauschen. Wertpapiere, die im Austausch für die vorläufige Globalurkunde geliefert werden, sind nur außerhalb der Vereinigten Staaten zu liefern (wie in § 6(3) definiert).

- (4) *Clearing System.* Die die Schuldverschreibungen verbriefende Globalurkunde wird von einem oder im Namen eines Clearing Systems verwahrt, bis sämtliche Verbindlichkeiten der Emittentin aus den Schuldverschreibungen erfüllt sind. "**Clearing System**" bedeutet jeweils folgendes: Clearstream Banking S.A., Luxemburg ("**CBL**") und Euroclear Bank SA/NV Brüssel, als Betreiberin des Euroclear Systems ("**Euroclear**") sowie jeder Funktionsnachfolger. "**International Central Securities Depository**" oder "**ICSD**" bezeichnet jeweils CBL und Euroclear (zusammen die "**ICSDs**").

Die Schuldverschreibungen werden in Form einer Classical Global Note ausgegeben und von einer gemeinsamen

certifications to the effect that the beneficial owner or owners of the Notes represented by the Temporary Global Note is not a U.S. person (other than certain financial institutions or certain persons holding Notes through such financial institutions) as required by U.S. tax law. Payment of interest on Notes represented by a Temporary Global Note will be made only after delivery of such certifications. A separate certification shall be required in respect of each such payment of interest. Any such certification received on or after the 40th day after the date of issue of the Temporary Global Note will be treated as a request to exchange such Temporary Global Note pursuant to this § 1(3)(b). Any securities delivered in exchange for the Temporary Global Note shall be delivered only outside of the United States (as defined in § 6(3)).

- (4) *Clearing System.* Each global note representing the Notes will be kept in custody by or on behalf of the Clearing System until all obligations of the Issuer under the Notes have been satisfied. "**Clearing System**" means each of the following: Clearstream Banking S.A., Luxembourg ("**CBL**") and Euroclear Bank SA/NV Brussels as operator of the Euroclear System ("**Euroclear**") and any successor in such capacity. "**International Central Securities Depository**" or "**ICSD**" means each of CBL and Euroclear (together, the "**ICSDs**").

The Notes are issued in classical global note form and are kept in custody by a common depository on behalf of both ICSDs.

Verwahrstelle im Namen beider ICSDs verwahrt.

- (5) *Gläubiger von Schuldverschreibungen.* "Gläubiger" bezeichnet jeden Inhaber eines Miteigentumsanteils oder anderen treugeberischen oder eigenen Rechts an den Schuldverschreibungen.

- (5) *Holder of Notes.* "Holder" means any holder of a proportionate co-ownership or other beneficial interest or right in the Notes.

**§ 2  
STATUS**

**§ 2  
STATUS**

- (1) *Status.* Die Schuldverschreibungen begründen nicht besicherte Verbindlichkeiten der Emittentin, die im Fall der Abwicklung, Auflösung oder Liquidation der Emittentin:

- (1) *Status.* The Issuer's obligations under the Notes constitute unsecured obligations of the Issuer and, in the event of the winding-up, dissolution or liquidation of the Issuer rank:

- (i) nur Nachrangigen Verbindlichkeiten im Rang vorgehen,
- (ii) untereinander und mit Gleichrangigen Verbindlichkeiten im Rang gleich stehen, und
- (iii) allen anderen bestehenden und zukünftigen nicht nachrangigen und nachrangigen Verbindlichkeiten im Rang nachgehen, die nicht Gleichrangige Verbindlichkeiten oder Nachrangige Verbindlichkeiten sind.

- (i) senior only to Junior Obligations,
- (ii) *pari passu* among themselves and with Parity Obligations, and
- (iii) junior to all other present and future unsubordinated or subordinated obligations of the Issuer that are not Parity Obligations or Junior Obligations.

"Nachrangige Verbindlichkeiten" bezeichnet

"Junior Obligations" means

- (i) die Stammaktien der Emittentin,
- (ii) gegenwärtige oder zukünftige Aktien einer anderen Gattung von Aktien der Emittentin, die gleichrangig mit den Stammaktien der Emittentin sind,
- (iii) andere von der Emittentin begebene gegenwärtige oder zukünftige Wertpapiere oder andere Instrumente, bei denen die daraus folgenden Verbindlichkeiten der Emittentin mit den Stammaktien der Emittentin gleichrangig sind oder für die ausdrücklich ein Gleichrang festgelegt ist, und

- (i) the ordinary shares of the Issuer,
- (ii) any present or future shares of any other class of shares of the Issuer ranking *pari passu* with the ordinary shares of the Issuer,
- (iii) any other present or future securities or other instruments of the Issuer under which the Issuer's obligations rank or are expressed to rank *pari passu* with the ordinary shares of the Issuer, and

- (iv) jedes gegenwärtige oder zukünftige Wertpapier oder jedes andere Instrument, das von einer Tochtergesellschaft begeben und von der Emittentin garantiert ist oder für das die Emittentin die Haftung übernommen hat, und bei dem die Verbindlichkeiten der Emittentin aus der maßgeblichen Garantie oder Haftungsübernahme mit den unter (i) und (ii) genannten Instrumenten gleichrangig sind oder für die ausdrücklich ein Gleichrang festgelegt ist.

**"Gleichrangige Verbindlichkeiten"** bezeichnet bestehende und zukünftige Verbindlichkeiten der Emittentin

- (i) aus Wertpapieren oder anderen von der Emittentin begebenen Instrumenten, die gleichrangig mit den Verbindlichkeiten der Emittentin unter den Schuldverschreibungen sind oder für die ausdrücklich ein Gleichrang festgelegt ist, oder
- (ii) aus einer Garantie oder anderen Haftungsübernahmen der Emittentin für ein gegenwärtiges oder zukünftiges Wertpapier oder jedes andere Instrument, das von einer Tochtergesellschaft begeben und von der Emittentin garantiert ist oder für das die Emittentin die Haftung übernommen hat, und bei dem die Verbindlichkeiten der Emittentin aus der maßgeblichen Garantie oder Haftungsübernahme mit ihren Verbindlichkeiten aus den Schuldverschreibungen gleichrangig sind oder ausdrücklich ein Gleichrang festgelegt ist,

soweit nicht zwingende gesetzliche Bestimmungen solche anderen nachrangigen Verbindlichkeiten im Rang besser stellen.

Gleichrangige Verbindlichkeiten sind, unter anderem, die nicht besicherten nachrangigen Schuldverschreibungen fällig in 2075, erstmals kündbar in 2020, ISIN DE000A11QR65, die nicht

- (iv) any present or future security or other instrument which is issued by a Subsidiary and guaranteed by the Issuer or for which the Issuer has otherwise assumed liability where the Issuer's obligations under such guarantee or other assumption of liability rank or are expressed to rank *pari passu* with the instruments described under (i) and (ii).

**"Parity Obligations"** means any present or future obligations of the Issuer

- (i) under any securities or other instruments of the Issuer which rank or are expressed to rank *pari passu* with the Issuer's obligations under the Notes, or
- (ii) under any guarantee or other assumption of liability by the Issuer for any present or future security or other instrument which is issued by a Subsidiary and guaranteed by the Issuer or for which the Issuer has otherwise assumed liability where the Issuer's obligations under such guarantee or other assumption of liability rank or are expressed to rank *pari passu* with its obligations under the Notes,

except for any subordinated obligations of the Issuer required to be preferred by mandatory provisions of law.

For the avoidance of doubt, Parity Obligations include its unsecured subordinated notes due 2075 with a first call date in 2020, ISIN DE000A11QR65, the unsecured

besicherten nachrangigen Schuldverschreibungen fällig in 2074, erstmals kündbar in 2024, ISIN DE000A11QR73 und die nicht besicherten nachrangigen Schuldverschreibungen fällig in 2075, erstmals kündbar in 2022, ISIN DE000A14J611.

"**Tochtergesellschaft**" bezeichnet jede Gesellschaft, Personengesellschaft und jedes sonstige Unternehmen oder jede andere Person an der bzw. dem die Emittentin direkt oder indirekt insgesamt mehr als 50 % des Kapitals oder der Stimmrechte hält.

- (2) *Aufrechnungsverbot.* Die Gläubiger sind nicht berechtigt, Forderungen aus den Schuldverschreibungen gegen mögliche Forderungen der Emittentin aufzurechnen. Die Emittentin ist nicht berechtigt, Forderungen gegenüber Gläubigern gegen Verpflichtungen aus den Schuldverschreibungen aufzurechnen.

### § 3 ZINSEN

- (1) *Zinslauf.* **[für NC5.5 Schuldverschreibungen einfügen:** In dem Zeitraum ab dem 12. November 2019 (der "**Zinslaufbeginn**") (einschließlich) bis zum 12. Mai 2025 (der "**Erste Reset-Termin**") (ausschließlich) wird jede Schuldverschreibung bezogen auf die festgelegte Stückelung mit 2,375 % per annum verzinst.

In dem Zeitraum ab dem Ersten Reset-Termin (einschließlich) bis zum Fälligkeitstag (ausschließlich) belaufen sich die Zinsen jeder Schuldverschreibung auf den jeweiligen Reset-Zinssatz.

Zinsen sind nachträglich am 12. Mai eines jeden Jahres zur Zahlung vorgesehen, erstmals am 12. Mai 2020 (*short first coupon*) und, sofern nicht zuvor zurückgezahlt oder zurückgekauft, letztmals am Fälligkeitstag (wie in § 5(1) definiert) (jeweils ein "**Zinszahlungstag**"), und werden gemäß § 4 fällig.

subordinated notes due 2074 with a first call date in 2024, ISIN DE000A11QR73 and the unsecured subordinated notes due 2075 with a first call date in 2022, ISIN DE000A14J611.

"**Subsidiary**" means any corporation, partnership or other enterprise in which the Issuer directly or indirectly holds in the aggregate more than 50 per cent. of the capital or the voting rights.

- (2) *Prohibition of Set-Off.* No Holder may set-off any claims arising under the Notes against any claims that the Issuer may have against it. The Issuer may not set-off any claims it may have against the Holders against any of its obligations under the Notes.

### § 3 INTEREST

- (1) *Interest Accrual.* **[for NC5.5 Notes insert:** From and including 12 November 2019 (the "**Interest Commencement Date**") to but excluding 12 May 2025 (the "**First Reset Date**"), each Note bears interest on its Specified Denomination at a rate of 2.375 per cent. *per annum*.

From and including the First Reset Date to but excluding the Maturity Date, each Note bears interest on its Specified Denomination at the relevant Reset Rate of Interest.

Interest is scheduled to be paid annually in arrear on 12 May of each year, commencing on 12 May 2020 (short first coupon) and, unless previously redeemed or repurchased, for the last time on the Maturity Date (as defined in § 5(1)) (each an "**Interest Payment Date**") and will fall due in accordance with § 4.

Der "**Reset-Zinssatz**" entspricht

- (i) ab dem Ersten Reset-Termin (einschließlich) bis zum 12. Mai 2030 (ausschließlich) (der "**Erste Step-up Termin**") dem Ersten Reset-Zinssatz;
- (ii) ab dem Ersten Step-up Termin (einschließlich) bis zum 12. Mai 2045 (der "**Zweite Step-up Termin**") (ausschließlich) dem Zweiten Reset-Zinssatz; und
- (iii) ab dem Zweiten Step-up Termin (einschließlich) bis zum Fälligkeitstag (ausschließlich) dem Dritten Reset-Zinssatz.

Der "**Erste Reset-Zinssatz**" ist der Referenzsatz für den betreffenden Reset-Zeitraum zuzüglich 264,7 Basispunkte per annum, wie von der Berechnungsstelle festgelegt.

Der "**Zweite Reset-Zinssatz**" ist der Referenzsatz für den betreffenden Reset-Zeitraum zuzüglich 289,7 Basispunkte per annum, wie von der Berechnungsstelle festgelegt.

Der "**Dritte Reset-Zinssatz**" ist der Referenzsatz für den betreffenden Reset-Zeitraum zuzüglich 364,7 Basispunkte per annum, wie von der Berechnungsstelle festgelegt.]

[für NC8 Schuldverschreibungen einfügen: In dem Zeitraum ab dem 12. November 2019 (der "**Zinslaufbeginn**") (einschließlich) bis zum 12. November 2027 (der "**Erste Reset-Termin**") (ausschließlich) wird jede Schuldverschreibung bezogen auf die festgelegte Stückelung mit 3,125 % per annum verzinst.

In dem Zeitraum ab dem Ersten Reset-Termin (einschließlich) bis zum Fälligkeitstag (ausschließlich) belaufen sich die Zinsen jeder Schuldverschreibung auf den jeweiligen Reset-Zinssatz.

Zinsen sind nachträglich am 12. November eines jeden Jahres zur Zahlung vorgesehen, erstmals am 12. November 2020 und, sofern nicht zuvor zurückgezahlt oder

The "**Reset Rate of Interest**" will be

- (i) from and including the First Reset Date to but excluding 12 May 2030 (the "**First Step-up Date**") the First Reset Interest Rate;
- (ii) from and including the First Step-up Date to but excluding 12 May 2045 (the "**Second Step-up Date**") the Second Reset Interest Rate; and
- (iii) from and including the Second Step-up Date to but excluding the Maturity Date the Third Reset Interest Rate.

The "**First Reset Interest Rate**" will be the Reference Rate for the relevant Reset Period plus 264.7 basis points *per annum*, as determined by the Calculation Agent.

The "**Second Reset Interest Rate**" will be the Reference Rate for the relevant Reset Period plus 289.7 basis points *per annum*, as determined by the Calculation Agent.

The "**Third Reset Interest Rate**" will be the Reference Rate for the relevant Reset Period plus 364.7 basis points *per annum*, as determined by the Calculation Agent.]

[for NC8 Notes insert: From and including 12 November 2019 (the "**Interest Commencement Date**") to but excluding 12 November 2027 (the "**First Reset Date**"), each Note bears interest on its Specified Denomination at a rate of 3.125 per cent. *per annum*.

From and including the First Reset Date to but excluding the Maturity Date, each Note bears interest on its Specified Denomination at the relevant Reset Rate of Interest.

Interest is scheduled to be paid annually in arrear on 12 November of each year, commencing on 12 November 2020 and, unless previously redeemed or repurchased, for the last time on the



zurückgekauft, letztmals am Fälligkeitstag (wie in § 5(1) definiert) (jeweils ein "**Zinszahlungstag**"), und werden gemäß § 4 fällig.

Der "**Reset-Zinssatz**" entspricht

ab dem Ersten Reset-Termin (einschließlich) bis zum 12. November 2032 (ausschließlich) (der "**Erste Step-up Termin**") dem Ersten Reset-Zinssatz;

ab dem Ersten Step-up Termin (einschließlich) bis zum 12. November 2047 (der "**Zweite Step-up Termin**") (ausschließlich) dem Zweiten Reset-Zinssatz; und

ab dem Zweiten Step-up Termin (einschließlich) bis zum Fälligkeitstag (ausschließlich) dem Dritten Reset-Zinssatz.

Der "**Erste Reset-Zinssatz**" ist der Referenzsatz für den betreffenden Reset-Zeitraum zuzüglich 310,8 Basispunkte per annum, wie von der Berechnungsstelle festgelegt.

Der "**Zweite Reset-Zinssatz**" ist der Referenzsatz für den betreffenden Reset-Zeitraum zuzüglich 335,8 Basispunkte per annum, wie von der Berechnungsstelle festgelegt.

Der "**Dritte Reset-Zinssatz**" ist der Referenzsatz für den betreffenden Reset-Zeitraum zuzüglich 410,8 Basispunkte per annum, wie von der Berechnungsstelle festgelegt.]

(2) *Feststellung des Referenzsatzes.*

Die Berechnungsstelle bestimmt vorbehaltlich § 3(5) an jedem Zinsfestsetzungstag den jeweiligen Referenzsatz nach Maßgabe dieses § 3(2).

Der "**Referenzsatz**" ist,

- (a) solange kein Benchmark-Ereignis eingetreten ist,
- (i) der Ursprüngliche Benchmarksatz; oder
- (ii) falls eine für die Festlegung des Ursprünglichen Benchmarksatzes benötigte Information am jeweiligen

Maturity Date (as defined in § 5(1)) (each an "**Interest Payment Date**") and will fall due in accordance with § 4.

The "**Reset Rate of Interest**" will be

from and including the First Reset Date to but excluding 12 November 2032 (the "**First Step-up Date**") the First Reset Interest Rate;

from and including the First Step-up Date to but excluding 12 November 2047 (the "**Second Step-up Date**") the Second Reset Interest Rate; and

from and including the Second Step-up Date to but excluding the Maturity Date the Third Reset Interest Rate.

The "**First Reset Interest Rate**" will be the Reference Rate for the relevant Reset Period plus 310.8 basis points *per annum*, as determined by the Calculation Agent.

The "**Second Reset Interest Rate**" will be the Reference Rate for the relevant Reset Period plus 335.8 basis points *per annum*, as determined by the Calculation Agent.

The "**Third Reset Interest Rate**" will be the Reference Rate for the relevant Reset Period plus 410.8 basis points *per annum*, as determined by the Calculation Agent.]

(2) *Determination of the Reference Rate.*

The Calculation Agent will, subject to § 3(5), determine the relevant Reference Rate in accordance with this § 3(2) on each Interest Determination Date.

The "**Reference Rate**" will be,

- (a) as long as no Benchmark Event has occurred,
- (i) the Original Benchmark Rate; or
- (ii) in the event that any of the information required for the purposes of the determination of the Original Benchmark Rate

Zinsfestlegungstag nicht auf der Bildschirmseite erscheint, der Referenzbankensatz an diesem Zinsfestlegungstag.

Kann der Referenzbankensatz nicht gemäß der Definition dieses Begriffs bestimmt werden, aber ist kein Benchmark-Ereignis eingetreten, entspricht der jeweilige "Referenzsatz" dem durch die Berechnungsstelle festgelegten Ursprünglichen Benchmarksatz, welcher zuletzt auf der Bildschirmseite verfügbar war; und

- (b) wenn ein Benchmark-Ereignis eingetreten ist, wird der "Referenzsatz" für jeden Reset-Zeitraum, der an oder nach dem Stichtag (wie in § 3(5)(vii) definiert) beginnt, gemäß § 3(5) bestimmt.

**"Ursprünglicher Benchmarksatz"** für einen Resetzeitraum bezeichnet den 5-Jahres-Swapsatz (der "5-Jahres-Swapsatz") wie er am Zinsfestsetzungstag um 11:00 Uhr (Frankfurter Zeit) auf dem Reuters Bildschirm "ICESWAP2" unter der Überschrift "EURIBOR BASIS" und dem Untertitel "11:00 AM Frankfurt time" (auf dem solche Überschriften und Untertitel von Zeit zu Zeit erscheinen) (die **"Reset-Bildschirmseite"**) angezeigt wird.

**"Referenzbankensatz"** bedeutet, dass der Referenzsatz für den nächsten Resettag ein Prozentsatz ist, der auf der Grundlage der jeweiligen von den Referenzbanken um ca. 11:00 Uhr (Frankfurter Zeit) an dem Zinsfestsetzungstag mitgeteilten Mid-Market jährliche Swapsatz-Quotierungen ermittelt wird. Für diesen Zweck bezeichnet "Mid-Market jährlicher Swapsatz" das rechnerische Mittel der Geld- und Briefkurse für den jährlichen Festzinszahlungsstrom (berechnet auf einer 30/360 Tagesberechnungsbasis) einer fixed-for-floating Euro Zinsswap-Transaktion, die eine Laufzeit von fünf Jahren beginnend am Resettag hat, auf einen Betrag lautet, der dem einer repräsentativen einzelnen Transaktion in dem relevanten Markt zur relevanten Zeit mit einem anerkannten Händler mit guter Bonität im Swap Markt entspricht, und deren variabler

does not appear on the Screen Page on the relevant Interest Determination Date, the Reference Bank Rate on that Interest Determination Date.

If the Reference Bank Rate cannot be determined pursuant to the definition of this term, but no Benchmark Event has occurred, the relevant "Reference Rate" shall be equal to the last Original Benchmark Rate available on the Screen Page as determined by the Calculation Agent; and

- (b) if a Benchmark Event has occurred, the "Reference Rate" for each Reset Period commencing on or after the Effective Date (as defined in § 3(5)(vii)) will be determined in accordance with § 3(5).

**"Original Benchmark Rate"** for any Reset Period means the 5 year swap rate (the "5 year Swap Rate") which appears on the Reuters screen "ICESWAP2" under the heading "EURIBOR BASIS" and the caption "11:00 AM Frankfurt time" (as such headings and captions may appear from time to time) as of 11:00 a.m. (Frankfurt time) (the **"Reset Screen Page"**) on the Interest Determination Date.

**"Reference Bank Rate"** means that the Reference Rate for a Reset Date will be a percentage determined on the basis of the mid-Market Annual Swap Rate quotations provided by the Reference Banks at approximately 11:00 a.m., Frankfurt time, on the Interest Determination Date preceding that Reset Date. For this purpose, the "Mid-Market Annual Swap Rate" means the arithmetic mean of the bid and offered rates for the annual fixed leg, calculated on a 30/360 day count basis, of a fixed-for-floating euro interest rate swap transaction with a term equal to five years commencing on that Reset Date and in an amount that is representative of a single transaction in the relevant market at the relevant time with an acknowledged dealer of good credit in the swap market, where the floating leg, calculated on an Actual/360 day count

Zahlungsstrom auf dem 6-Monats EURIBOR Satz beruht (berechnet auf einer Actual/360 Tageberechnungsbasis).

Die Emittentin wird die Hauptniederlassung jeder Referenzbank bitten, der Berechnungsstelle ihre jährliche Mid-Market Swapsatz-Quotierungen mitzuteilen.

Wenn mindestens drei Quotierungen genannt werden, ist der Referenzsatz das rechnerische Mittel der Quotierungen unter Ausschluss der höchsten Quotierung (oder, für den Fall von gleich hohen Quotierungen, einer der höchsten Quotierungen) und der niedrigsten Quotierung (oder, für den Fall von gleich hohen Quotierungen, einer der niedrigsten Quotierungen).

Dabei gilt Folgendes:

**"Geschäftstag"** bezeichnet einen Tag (außer einem Samstag oder Sonntag), an dem das Clearingsystem sowie alle betroffenen Bereiche des Trans-European Automated Real-time Gross Settlement Express Transfer System (TARGET2) betriebsbereit sind, um die betreffenden Zahlungen weiterzuleiten.

**"Referenzbanken"** bezeichnet fünf führende Swap-Händler im Interbankenhandel, die von der Emittentin ausgewählt werden

**"Resettag"** bezeichnet den Ersten Resettag und danach jeden fünften Jahrestag des jeweils unmittelbar vorangehenden Resettages.

**"Resetzeitraum"** bezeichnet jeden Zeitraum ab dem Ersten Resettag (einschließlich) bis zum nächstfolgenden Resettag (ausschließlich) und nachfolgend ab jedem Resettag (einschließlich) bis zu dem jeweils nächstfolgenden Resettag (ausschließlich).

**"TARGET-Geschäftstag"** bezeichnet einen Tag, an dem das Trans-European Automated Real-time Gross settlement Express Transfer system 2 (TARGET) betriebsbereit ist.

basis, is equivalent to the six months-EURIBOR.

The Issuer will request the principal office of each of the Reference Banks to provide to the Calculation Agent a quotation of its Mid-Market Annual Swap Rate.

If at least three quotations are provided, the Reference Rate for that Reset Date will be the arithmetic mean of the quotations, eliminating the highest quotation (or, in the event of equality, one of the highest) and the lowest quotation (or, in the event of equality, one of the lowest).

Where:

**"Business Day"** means a day (other than a Saturday or a Sunday) on which the Clearing System as well as all relevant parts of the Trans-European Automated Real-time Gross settlement Express Transfer system (TARGET2) are operational to forward the relevant payments.

**"Reference Banks"** means five leading swap dealers in the interbank market selected by the Issuer.

**"Reset Date"** means the First Reset Date and thereafter each fifth anniversary of the immediately preceding Reset Date.

**"Reset Period"** means each period from and including the First Reset Date to but excluding the next following Reset Date and thereafter from and including each Reset Date to but excluding the next following Reset Date.

**"TARGET Business Day"** means a day on which the Trans-European Automated Real-time Gross settlement Express Transfer system 2 (TARGET) is operating.

**"Zinsfestsetzungstag"** bezeichnet den zweiten TARGET-Geschäftstag vor dem jeweiligen Resettag.

- (3) Unverzüglich nach Bestimmung des betreffenden Referenzsatzes wird die Berechnungsstelle den Reset-Zinssatz für den betreffenden Resetzeitraum berechnen.
- (4) Die Berechnungsstelle wird veranlassen, dass der Reset-Zinssatz der Emittentin, der Hauptzahlstelle, und jeder Börse, an der die Schuldverschreibungen zu diesem Zeitpunkt notiert sind und deren Regeln eine Mitteilung an die Börse verlangen, sowie den Gläubigern gemäß § 13 unverzüglich, aber keinesfalls später als am achten auf dessen Feststellung folgenden Geschäftstag mitgeteilt wird.
- (5) *Benchmark-Ereignis.*

Wenn ein Benchmark-Ereignis in Bezug auf den Ursprünglichen Benchmarksatz (oder eine Teilkomponente davon) eintritt, gilt für die Bestimmung des jeweiligen Referenzsatzes und des Reset-Zinssatzes gemäß § 3(1) Folgendes:

- (i) Wenn ein Benchmark-Ereignis in Bezug auf den Ursprünglichen Benchmarksatz eingetreten ist, wird sich die Emittentin bemühen, sobald wie möglich einen Unabhängigen Berater zu benennen, der einen Neuen Benchmarksatz, die Anpassungsspanne (gemäß § 3(5)(iv)) und etwaige Benchmark-Änderungen (gemäß § 3(5)(v)) festlegt.
- (ii) Wenn vor dem jeweiligen Zinsfestsetzungstag
  - (A) die Emittentin keinen Unabhängigen Berater ernannt; oder
  - (B) der ernannte Unabhängige Berater keinen Neuen Benchmarksatz gemäß diesem § 3(5) festlegt,

**"Interest Determination Date"** means the second TARGET Business Day prior to the relevant Reset Date.

- (3) Promptly after the determination of the relevant Reference Rate, the Calculation Agent shall determine the Reset Rate of Interest for the relevant Reset Period.
- (4) The Calculation Agent will cause the Reset Rate of Interest to be notified to the Issuer, the Principal Paying Agent and, if required by the rules of any stock exchange on which the Notes are listed from time to time, to such stock exchange, and to the Holders in accordance with § 13 without undue delay, but, in any case, not later than on the eighth Business Day after its determination.
- (5) *Benchmark Event.*

If a Benchmark Event occurs in relation to the Original Benchmark Rate (or any component part thereof), the relevant Reference Rate and the Reset Rate of Interest Rate in accordance with § 3(1) will be determined as follows:

- (i) If a Benchmark Event has occurred in relation to the Original Benchmark Rate, then the Issuer shall endeavour to appoint an Independent Adviser as soon as possible, who will determine a New Benchmark Rate, the Adjustment Spread (in accordance with § 3(5)(iv)) and any Benchmark Amendments (in accordance with § 3(5)(v)).
- (ii) If prior to any relevant Interest Determination Date,
  - (A) the Issuer fails to appoint an Independent Adviser; or
  - (B) the Independent Adviser appointed by it fails to determine a New Benchmark Rate in accordance with this § 3(5),

dann entspricht der "**Referenzsatz**" für den unmittelbar nachfolgenden Resetzeitraum dem an dem letzten zurückliegenden Zinsfestsetzungstag festgestellten Ursprünglichen Benchmarksatz.

Falls dieser § 3(5)(ii) bereits im Hinblick auf den Ersten Resettag angewendet werden muss, entspricht der "**Referenzsatz**" für den ersten Resetzeitraum dem Ursprünglichen Benchmarksatz auf der Reset-Bildschirmseite an dem letzten Tag vor dem Zinsfestsetzungstag, an dem dieser Ursprüngliche Benchmarksatz angezeigt wurde.

Falls der Ausweichsatz gemäß diesem § 3(5)(ii) zur Anwendung kommt, wird § 3(5) erneut angewendet, um den Referenzsatz für den nächsten nachfolgenden Resetzeitraum zu bestimmen.

(iii) *Nachfolge-Benchmarksatz oder Alternativ-Benchmarksatz.*  
Falls der Unabhängige Berater nach billigem Ermessen feststellt,

(A) dass es einen Nachfolge-Benchmarksatz gibt, dann ist dieser Nachfolge-Benchmarksatz anstelle des Ursprünglichen Benchmarksatzes maßgeblich; oder

(B) dass es keinen Nachfolge-Benchmarksatz aber einen Alternativ-Benchmarksatz gibt, dann ist dieser Alternativ-Benchmarksatz an Stelle des Ursprünglichen Benchmarksatzes maßgeblich,

dann entspricht der "**Referenzsatz**" für den

the "**Reference Rate**" applicable to the immediately following Reset Period shall be the Original Benchmark Rate determined on the last preceding Interest Determination Date.

If this § 3(5)(ii) is to be applied in respect of the First Reset Date, the "**Reference Rate**" applicable to the first Reset Period shall be the Original Benchmark Rate on the Reset Screen Page on the last day preceding the Interest Determination Date on which such Original Benchmark Rate was displayed.

If the fallback rate determined in accordance with this § 3(5)(ii) is to be applied, § 3(5) will be operated again to determine the Reference Rate applicable to the next subsequent Reset Period.

(iii) *Successor Benchmark Rate or Alternative Benchmark Rate.* If the Independent Adviser determines in its reasonable discretion that:

(A) there is a Successor Benchmark Rate, then such Successor Benchmark Rate shall subsequently be used in place of the Original Benchmark Rate; or

(B) there is no Successor Benchmark Rate but that there is an Alternative Benchmark Rate, then such Alternative Benchmark Rate shall subsequently be used in place of the Original Benchmark Rate,

the "**Reference Rate**" for the immediately following Reset

unmittelbar nachfolgenden  
Resetzeitraum und alle  
folgenden Resetzeiträume dem  
betreffenden Neuen  
Benchmarksatz an dem  
betreffenden  
Zinsfestsetzungstag zuzüglich  
der Anpassungsspanne gemäß  
§ 3(5)(iv).

(iv) *Anpassungsspanne.* Die  
Anpassungsspanne (oder die  
Formel oder die Methode zur  
Bestimmung der  
Anpassungsspanne) wird auf  
den Neuen Benchmarksatz  
angewendet, um den  
betreffenden Referenzsatz zu  
bestimmen.

(v) *Benchmark-Änderungen.*  
Wenn ein Neuer  
Benchmarksatz und die  
entsprechende  
Anpassungsspanne gemäß  
diesem § 3(5) festgelegt  
werden, und wenn der  
Unabhängige Berater feststellt,  
dass Änderungen hinsichtlich  
dieser Anleihebedingungen  
notwendig sind, um die  
ordnungsgemäße Anwendung  
des Neuen Benchmarksatzes  
und der entsprechenden  
Anpassungsspanne zu  
gewährleisten (diese  
Änderungen, die "Benchmark-  
Änderungen"), dann wird der  
Unabhängige Berater die  
Benchmark-Änderungen  
feststellen und die Emittentin  
wird diese durch eine  
Mitteilung gemäß § 3(5)(vi)  
bekanntmachen.

Diese Benchmark-Änderungen  
können insbesondere folgende  
Regelungen in den  
Anleihebedingungen erfassen:

(A) den Referenzsatz  
einschließlich der  
"Reset-Bildschirmseite"  
und/oder die Methode  
zur Bestimmung des  
Ausweichsatzes (sog.  
fallback) für den  
Referenzsatz  
einschließlich des

Period and all following Reset  
Periods will be the relevant  
New Benchmark Rate on the  
relevant Interest Determination  
Date plus the Adjustment  
Spread as provided in  
§ 3(5)(iv).

(iv) *Adjustment Spread.* The  
Adjustment Spread (or the  
formula or methodology for  
determining the Adjustment  
Spread) shall be applied to the  
New Benchmark Rate to  
determine the relevant  
Reference Rate.

(v) *Benchmark Amendments.* If any  
relevant New Benchmark Rate  
and the applicable Adjustment  
Spread are determined in  
accordance with this § 3(5), and  
if the Independent Adviser  
determines that amendments to  
these Terms and Conditions are  
necessary to ensure the proper  
operation of such New  
Benchmark Rate and the  
applicable Adjustment Spread  
(such amendments, the  
"Benchmark Amendments"),  
then the Independent Adviser  
will determine the Benchmark  
Amendments and the Issuer will  
give notice thereof in  
accordance with § 3(5)(vi).

The Benchmark Amendments  
may comprise in particular the  
following conditions of these  
Terms and Conditions:

(A) the Reference Rate  
including the "Reset  
Screen Page" and/or the  
method for determining  
the fallback rate in  
relation to the  
Reference Rate,  
including the Reference  
Bank Rate; and/or

Referenzbankensatzes;  
und/oder

(B) die Definitionen der Begriffe "Geschäftstag", "Zinszahlungstag", "Resettag", "Zinsfestsetzungstag", "Zinstagequotient" und/oder "Zinszeitraum" (einschließlich der Festlegung ob der Referenzsatz vorausschauend vor oder zu Beginn der betreffenden Zinsperiode oder zurückblickend vor oder zum Ablauf der betreffenden Zinsperiode bestimmt wird); und/oder

(C) die Geschäftstagekonvention gemäß § 6(5).

(vi) *Mitteilungen, etc.* Die Emittentin hat einen Neuen Benchmarksatz, die Anpassungsspanne und etwaige Benchmark-Änderungen gemäß diesem § 3(5) der Hauptzahlstelle und der Berechnungsstelle sowie gemäß § 13 den Gläubigern mitzuteilen, und zwar sobald eine solche Mitteilung (nach Ansicht der Emittentin) nach deren Feststellung praktikabel ist. Eine solche Mitteilung ist unwiderruflich und hat den Stichtag zu benennen.

Der Neue Benchmarksatz, die Anpassungsspanne und etwaige Benchmark-Änderungen, die jeweils in der Mitteilung benannt werden, sind für die Emittentin, die Berechnungsstelle, die Hauptzahlstelle, eventuelle weitere Zahlstellen und die Gläubiger bindend. Die Anleihebedingungen gelten ab dem Stichtag als durch den Neuen Benchmarksatz, die Anpassungsspanne und die

(B) the definitions of the terms "Business Day", "Interest Payment Date", "Reset Date", "Interest Determination Date", "Day Count Fraction" and/or "Interest Period" (including the determination whether the Reference Rate will be determined in advance on or prior to the relevant Interest Period or in arrear on or prior to the end of the relevant Interest Period); and/or

(C) the business day convention in § 6(5).

(vi) *Notices, etc.* The Issuer will notify any New Benchmark Rate, the Adjustment Spread and the Benchmark Amendments (if any) determined under this § 3(5) to the Principal Paying Agent and the Calculation Agent and, in accordance with § 13, the Holders as soon as such notification is (in the Issuer's view) practicable following the determination thereof. Such notice shall be irrevocable and shall specify the Effective Date.

The New Benchmark Rate, the Adjustment Spread and the Benchmark Amendments (if any), each as specified in such notice, will be binding on the Issuer, the Calculation Agent, the Principal Paying Agent, any additional paying agents and the Holders. The Terms and Conditions shall be deemed to have been amended by the New Benchmark Rate, the Adjustment Spread and the Benchmark Amendments with effect from the Effective Date.

etwaigen Benchmark-Änderungen geändert.

Am Tag dieser Mitteilung hat die Emittentin der Hauptzahlstelle eine durch zwei Unterschriftsberechtigte der Emittentin unterzeichnete Bescheinigung zu übergeben, die

(A)

- (I) bestätigt, dass ein Benchmark-Ereignis eingetreten ist;
- (II) den nach Maßgabe der Bestimmungen dieses § 3(5) festgestellten Neuen Benchmarksatz benennt;
- (III) die entsprechende Anpassungsspanne und etwaige Benchmark-Änderungen benennt, die jeweils nach Maßgabe der Bestimmungen dieses § 3(5) festgestellt wurden; und
- (IV) den Stichtag benennt; und

(B) bestätigt, dass die etwaigen Benchmark-Änderungen notwendig sind, um die ordnungsgemäße Anwendung des Neuen Benchmarksatzes und der entsprechenden Anpassungsspanne zu gewährleisten.

(vii) *Definitionen.* Zur Verwendung in § 3(5):

Die "**Anpassungsspanne**", die positiv, negativ oder gleich Null sein kann, wird in Basispunkten ausgedrückt und bezeichnet entweder (a) die Spanne oder (b) das Ergebnis der Anwendung der Formel

On the date of such notice, the Issuer shall deliver to the Principal Paying Agent a certificate signed by two authorized signatories of the Issuer:

(A)

- (I) confirming that a Benchmark Event has occurred;
- (II) specifying the relevant New Benchmark Rate determined in accordance with the provisions of this § 3(5);
- (III) specifying the applicable Adjustment Spread and the Benchmark Amendments (if any), each determined in accordance with the provisions of this § 3(5); and
- (IV) specifying the Effective Date; and

(B) confirming that the Benchmark Amendments, if any, are necessary to ensure the proper operation of such relevant New Benchmark Rate and the applicable Adjustment Spread.

(vii) *Definitions.* As used in this § 3(5):

The "**Adjustment Spread**", which may be positive, negative or zero, will be expressed in basis points and means either (a) the spread or (b) the result of the operation of the formula or



oder Methode zur Berechnung der Spanne,

(A) die im Fall eines Nachfolge-Benchmarksatzes formell im Zusammenhang mit der Ersetzung des Ursprünglichen Benchmarksatzes durch den Nachfolge-Benchmarksatz vom Nominierungsgremium empfohlen wird; oder

(B) die (sofern keine Empfehlung abgegeben wurde oder im Fall eines Alternativ-Benchmarksatzes) an den internationalen Anleihekapitalmärkten (oder, hilfsweise, an den internationalen Swapmärkten) auf den Neuen Benchmarksatz (oder eine Teilkomponente davon) angewendet wird, um einen industrieweit akzeptierten Ersatz-Benchmarksatz für den Ursprünglichen Benchmarksatz zu erzeugen, wobei sämtliche Feststellungen durch den Unabhängigen Berater nach billigem Ermessen vorgenommen werden.

**"Alternativ-Benchmarksatz"** bezeichnet eine alternative Benchmark oder einen alternativen Bildschirmsatz, die bzw. der üblicherweise an den internationalen Anleihekapitalmärkten (oder, hilfsweise, an den internationalen Swapmärkten) zur Bestimmung von Zinssätzen bzw. Mid-Swap-Sätzen in Euro angewendet wird, wobei sämtliche Feststellungen durch den Unabhängigen Berater vorgenommen werden.

methodology for calculating the spread,

(A) which in the case of a Successor Benchmark Rate, is formally recommended in relation to the replacement of the Original Benchmark Rate with the Successor Benchmark Rate by any Relevant Nominating Body; or

(B) which (if no such recommendation has been made, or in the case of an Alternative Benchmark Rate) is applied to the New Benchmark Rate (or any component part thereof) in the international debt capital markets (or, alternatively, the international swap markets) to produce an industry-accepted replacement benchmark rate for the Original Benchmark Rate, provided that all determinations will be made by the Independent Adviser in its reasonable discretion.

**"Alternative Benchmark Rate"** means an alternative benchmark or an alternative screen rate which is customarily applied in the international debt capital markets (or, alternatively, the international swap markets) for the purpose of determining rates of interest or mid swap rates, respectively in EUR, provided that all determinations will be made by the Independent Adviser.

**"Benchmark-Ereignis"**  
bezeichnet:

- (A) der Ursprüngliche Benchmarksatz (oder eine Teilkomponente davon) wird nicht mehr regelmäßig veröffentlicht oder wird nicht mehr erstellt; oder
- (B) eine öffentliche Bekanntmachung des Administrators des Ursprünglichen Benchmarksatzes (oder einer Teilkomponente davon) dahingehend, dass dieser die Berechnung des Ursprünglichen Benchmarksatzes (oder einer Teilkomponente davon) dauerhaft oder auf unbestimmte Zeit eingestellt hat oder einstellen wird (in Fällen in denen kein Nachfolgeadministrator ernannt worden ist, der die Veröffentlichung des Ursprünglichen Benchmarksatzes (oder einer Teilkomponente davon) vornehmen wird); oder
- (C) eine öffentliche Bekanntmachung der Aufsichtsbehörde des Administrators des Ursprünglichen Benchmarksatzes (oder einer Teilkomponente davon), dass der Ursprüngliche Benchmarksatz (oder einer Teilkomponente davon) dauerhaft oder auf unbestimmte Zeit nicht mehr fortgeführt wird oder fortgeführt werden wird; oder
- (D) eine öffentliche Bekanntmachung der Aufsichtsbehörde des Administrators des Ursprünglichen Benchmarksatzes (oder

**"Benchmark Event"** means:

- (A) the Original Benchmark Rate (or any component part thereof) ceasing to be published on a regular basis or ceasing to exist; or
- (B) a public statement by the administrator of the Original Benchmark Rate (or any component part thereof) that it has ceased or that it will cease publishing the Original Benchmark Rate (or any component part thereof) permanently or indefinitely (in circumstances where no successor administrator has been appointed that will continue the publication of the Original Benchmark Rate (or any component part thereof)); or
- (C) a public statement by the supervisor of the administrator of the Original Benchmark Rate (or any component part thereof), that the Original Benchmark Rate (or any component part thereof) has been or will permanently or indefinitely discontinued; or
- (D) a public statement by the supervisor of the administrator of the Original Benchmark Rate (or any component part thereof) as a

einer Teilkomponente davon) infolgedessen der Ursprüngliche Benchmarksatz (oder eine Teilkomponente davon) allgemein oder in Bezug auf die Schuldverschreibungen nicht mehr verwendet wird oder verwendet werden darf oder nach welcher der Ursprüngliche Benchmark (oder eine Teilkomponente davon) nicht länger als repräsentativ für einen industrieweit akzeptierten Benchmarksatz angesehen wird; oder

(E) den Umstand, dass die Verwendung des Ursprünglichen Benchmarksatzes (oder einer Teilkomponente davon) zur Berechnung oder Bestimmung des Referenzsatzes für die Zahlstellen, die Berechnungsstelle, die Emittentin oder jeden Dritten rechtswidrig geworden ist; oder.

(F) die Methode für die Feststellung des Ursprünglichen Benchmarksatzes (oder einer Teilkomponente davon) ändert sich wesentlich gegenüber der Methode, die der Administrator des Ursprünglichen Benchmarksatzes bei Verzinsungsbeginn anwendet.

**"Nachfolge-Benchmarksatz"**  
bezeichnet einen Nachfolger oder Ersatz des Ursprünglichen Benchmarksatzes, der formell durch das Nominierungsgremium empfohlen wurde.

**"Neuer Benchmarksatz"**  
bezeichnet den jeweils gemäß diesem § 3(5) bestimmten

consequence of which the Original Benchmark Rate (or any component part thereof) has been or will be prohibited from being used either generally, or in respect of the relevant Notes or pursuant to which the Original Benchmark Rate (or any component part thereof) has ceased or will cease to be representative as an industry accepted benchmark rate); or

(E) it has become unlawful for any Paying Agent, the Calculation Agent, the Issuer or any other party to calculate or determine any Reference Rate using the Original Benchmark Rate (or any component part thereof); or

(F) the methodology for the determination of the Original Benchmark Rate (or any component part thereof) is materially altered compared to the methodology as used by the administrator of the Original Benchmark Rate at the Interest Commencement Date.

**"Successor Benchmark Rate"**  
means a successor to or replacement of the Original Benchmark Rate which is formally recommended by any Relevant Nominating Body.

**"New Benchmark Rate"**  
means the Successor Benchmark Rate or, as the case

Nachfolge-Benchmarksatz  
bzw. Alternativ-  
Benchmarksatz.

**"Nominierungsgremium"**

bezeichnet in Bezug auf die Ersetzung des Ursprünglichen Benchmarksatzes (oder einer Teilkomponente davon):

- (A) die Zentralbank für die Währung in der die Benchmark oder der Bildschirmsatz dargestellt wird oder eine Zentralbank oder andere Aufsichtsbehörde, die für die Aufsicht des Administrators der Benchmark oder des Bildschirmsatzes zuständig ist; oder
- (B) jede Arbeitsgruppe oder jedes Komitee gefördert durch, geführt oder mitgeführt von oder gebildet von (a) der Zentralbank für die Währung in der die Benchmark oder der Bildschirmsatz dargestellt wird, (b) einer Zentralbank oder anderen Aufsichtsbehörde, die für die Aufsicht des Administrators der Benchmark oder des Bildschirmsatzes zuständig ist, (c) einer Gruppe der zuvor genannten Zentralbanken oder anderer Aufsichtsbehörden oder (d) dem Finanzstabilitätsrat (*Financial Stability Board*) oder Teilen davon.

**"Unabhängiger Berater"**

bezeichnet ein von der Emittentin ernanntes unabhängiges Finanzinstitut mit internationalem Ansehen oder einen anderen unabhängigen Finanzberater mit Erfahrung in

may be, the Alternative Benchmark Rate determined in accordance with this § 3(5).

**"Relevant Nominating Body"**

means, in respect of the replacement of the Original Benchmark Rate (or any component part thereof):

- (A) the central bank for the currency to which the benchmark or screen rate (as applicable) relates, or any central bank or other supervisory authority which is responsible for supervising the administrator of the benchmark or screen rate (as applicable); or
- (B) any working group or committee sponsored by, chaired or co-chaired by or constituted at the request of (a) the central bank for the currency to which the benchmark or screen rate (as applicable) relates, (b) any central bank or other supervisory authority which is responsible for supervising the administrator of the benchmark or screen rate (as applicable), (c) a group of the aforementioned central banks or other supervisory authorities or (d) the Financial Stability Board or any part thereof.

**"Independent Adviser"**

means an independent financial institution of international repute or other independent financial adviser experienced in the international capital

- |        |  |        |   |
|--------|--|--------|---|
|        | internationalen Kapitalmärkten.  |        | markets, in each case appointed by the Issuer.  |
| (viii) | Eine Anpassung des Ursprünglichen Benchmarksatzes im Falle eines Benchmark-Ereignisses darf nur insoweit durchgeführt werden, als dass durch diese Anpassung kein Ratingagenturereignis eintritt.  | (viii) | Any adjustment to the Original Benchmark Rate in case of a Benchmark Event will be made only to the extent that no Rating Agency Event would occur as a result of such adjustment.  |
| (ix)   | Der Stichtag für die Anwendung des Neuen Benchmarksatzes, der Anpassungsspanne und der etwaigen Benchmark-Änderungen gemäß diesem § 3(5) (der " <b>Stichtag</b> ") ist der Zinsfestlegungstag, der auf den frühesten der folgenden Tage fällt oder diesem nachfolgt:   | (ix)   | The effective date for the application of the New Benchmark Rate, the Adjustment Spread and the Benchmark Amendments (if any) determined under this § 3(5) (the " <b>Effective Date</b> ") will be the Interest Determination Date falling on or after the earliest of the following dates:               |
|        | (A) den Tag des Eintritts des Benchmark-Ereignisses, wenn das Benchmark-Ereignis aufgrund des Absatzes (A) oder (F) der Definition des Begriffs "Benchmark-Ereignis" eingetreten ist; oder   | (A)    | if the Benchmark Event has occurred as a result of clause (A) or (F) of the definition of the term "Benchmark Event", the date of the occurrence of the Benchmark Event; or   |
|        | (B) den Tag, ab dem die Veröffentlichung des Ursprünglichen Benchmarksatzes (oder einer Teilkomponente davon) eingestellt wird bzw. ab dem der Ursprüngliche Benchmarksatz (oder eine Teilkomponente davon) eingestellt wird oder nicht länger als repräsentativ angesehen wird, wenn das Benchmark-Ereignis aufgrund der Absätze (B), (C) oder (D) der Definition des Begriffs "Benchmark-Ereignis" eingetreten ist; oder | (B)    | if the Benchmark Event has occurred as a result of clause (B), (C) or (D) of the definition of the term "Benchmark Event", the date from which the Original Benchmark Rate (or any component part thereof) ceases to be published, is discontinued or ceases to be representative, as the case may be; or |
|        | (C) den Tag, ab dem der Ursprüngliche Benchmarksatz nicht mehr verwendet werden darf, wenn das Benchmark-Ereignis  | (C)    | if the Benchmark Event has occurred as a result of clause (E) of the definition of the term "Benchmark Event", the  |

aufgrund des Absatzes (E) der Definition des Begriffs "Benchmark-Ereignis" eingetreten ist; oder

- (x) Wenn ein Benchmark-Ereignis in Bezug auf einen Neuen Benchmarksatz eintritt, gilt dieser § 3(5) entsprechend für die Ersetzung des Neuen Benchmarksatzes durch einen neuen Nachfolge-Benchmarksatz bzw. Alternativ-Benchmarksatz.

#### § 4

#### FÄLLIGKEIT VON ZINSZAHLUNGEN; AUFSCHUB VON ZINSZAHLUNGEN; ZAHLUNG AUFGESCHOBENER ZINSZAHLUNGEN

- (1) *Fälligkeit von Zinszahlungen; wahlweiser Zinsaufschub.* Zinsen, die während einer Zinsperiode auflaufen, werden an dem betreffenden Zinszahlungstag fällig, sofern sich die Emittentin nicht durch eine Bekanntmachung an die Gläubiger gemäß § 13 innerhalb einer Frist von nicht weniger als 10 Geschäftstagen vor dem betreffenden Zinszahlungstag dazu entscheidet, die betreffende Zinszahlung (insgesamt, jedoch nicht teilweise) auszusetzen.

Wenn sich die Emittentin an einem Zinszahlungstag zur Nichtzahlung aufgelaufener Zinsen entscheidet, dann ist sie nicht verpflichtet, an dem betreffenden Zinszahlungstag Zinsen zu zahlen. Diese sind Aufgeschobene Zinszahlungen. Eine Nichtzahlung von Zinsen aus diesem Grunde begründet keinen Verzug der Emittentin und keine anderweitige Verletzung ihrer Verpflichtungen aufgrund der Schuldverschreibungen oder für sonstige Zwecke.

Nach Maßgabe dieses § 4(1) nicht fällig gewordene Zinsen sind aufgeschobene Zinszahlungen ("**Aufgeschobene Zinszahlungen**").

Aufgeschobene Zinszahlungen werden nicht verzinst.

- (2) *Freiwillige Zahlung von Aufgeschobenen Zinszahlungen.* Die Emittentin ist berechtigt, ausstehende

date from which the prohibition applies.

- (x) If a Benchmark Event occurs in relation to any New Benchmark Rate, this § 3(5) shall apply *mutatis mutandis* to the replacement of such New Benchmark Rate by any new Successor Benchmark Rate or Alternative Benchmark Rate, as the case may be.

#### § 4

#### DUE DATE FOR INTEREST PAYMENTS, DEFERRAL OF INTEREST PAYMENTS, PAYMENT OF ARREARS OF INTEREST

- (1) *Due Date for Interest Payments; Optional Interest Deferral.* Interest which accrues during an Interest Period will be due and payable (*fällig*) on the relevant Interest Payment Date, unless the Issuer elects, by giving notice to the Holders not less than 10 Business Days prior the relevant Interest Payment Date in accordance with § 13, to defer the relevant payment of interest (in whole but not in part).

If the Issuer elects not to pay accrued interest on an Interest Payment Date, then it will not have any obligation to pay such interest on such Interest Payment Date and will constitute Arrears of Interest. Any such non-payment of interest will not constitute a default of the Issuer or any other breach of its obligations under the Notes or for any other purpose.

Interest not due and payable in accordance with this § 4(1) will constitute arrears of interest ("**Arrears of Interest**").

Arrears of Interest will not bear interest.

- (2) *Optional Settlement of Arrears of Interest.* The Issuer will be entitled to pay outstanding Arrears of Interest (in

Aufgeschobene Zinszahlungen jederzeit insgesamt, jedoch nicht teilweise, nach Bekanntmachung an die Gläubiger unter Einhaltung einer Frist von nicht weniger als 10 Geschäftstagen vor einer freiwilligen Zinszahlung zu zahlen, wobei eine solche Bekanntmachung (i) den Betrag an Aufgeschobenen Zinszahlungen, der gezahlt werden soll, und (ii) den für diese Zahlung festgelegten Termin enthalten muss.

- (3) *Pflicht zur Zahlung von Aufgeschobenen Zinszahlungen.* Die Emittentin ist verpflichtet, Aufgeschobene Zinszahlungen insgesamt und nicht nur teilweise am nächsten Pflichtnachzahlungstag zu zahlen.

**"Pflichtnachzahlungstag"** bezeichnet den frühesten der folgenden Tage:

- (i) den Tag, der fünf Geschäftstage nach dem Tag liegt, an dem ein Obligatorisches Nachzahlungsereignis eingetreten ist;
- (ii) den Tag, an dem die Emittentin Zinsen auf die Schuldverschreibungen zahlt;
- (iii) den Tag, an dem die Emittentin oder eine Tochtergesellschaft eine Dividende, sonstige Ausschüttung oder sonstige Zahlung auf eine Gleichrangige Verbindlichkeit leistet;
- (iv) den Tag, an dem die Emittentin oder eine Tochtergesellschaft eine Gleichrangige Verbindlichkeit oder eine Schuldverschreibung zurückzahlt, zurückkauft oder anderweitig erwirbt (jeweils direkt oder indirekt);
- (v) den Tag der Rückzahlung der Schuldverschreibungen gemäß diesen Anleihebedingungen; und
- (vi) den Tag, an dem eine Entscheidung hinsichtlich der Auseinandersetzung, Liquidation oder Auflösung der Emittentin ergeht (sofern dies nicht für die Zwecke oder als Folge eines Zusammenschlusses, einer

whole but not in part) at any time by giving notice to the Holders not less than 10 Business Days before such voluntary payment and specifying (i) the amount of Arrears of Interest to be paid and (ii) the date fixed for such payment.

- (3) *Mandatory Payment of Arrears of Interest.* The Issuer must pay outstanding Arrears of Interest (in whole but not in part) on the next Mandatory Settlement Date.

**"Mandatory Settlement Date"** means the earliest of:

- (i) the date falling five Business Days after the date on which a Compulsory Settlement Event has occurred;
- (ii) the date on which the Issuer pays interest on the Notes;
- (iii) the date on which the Issuer or any Subsidiary pays any dividend, other distribution or other payment in respect of any Parity Obligation;
- (iv) the date on which the Issuer or any Subsidiary redeems, repurchases or otherwise acquires (in each case directly or indirectly) any Parity Obligations or any Notes;
- (v) the date of redemption of the Notes in accordance with these Terms and Conditions; and
- (vi) the date on which an order is made for the winding up, liquidation or dissolution of the Issuer (other than for the purposes of or pursuant to an amalgamation, reorganisation or restructuring whilst solvent, where the continuing entity

Umstrukturierung oder Sanierung geschieht, bei dem bzw. bei der die Emittentin noch zahlungsfähig ist und bei dem bzw. bei der die fortführende Gesellschaft im Wesentlichen alle Vermögenswerte und Verpflichtungen der Emittentin übernimmt),

assumes substantially all of the assets and obligations of the Issuer),

mit der Maßgabe, dass

provided that

- (x) in den vorgenannten Fällen (iii) und (iv) kein Pflichtnachzahlungstag vorliegt, wenn die Emittentin oder die betreffende Tochtergesellschaft nach Maßgabe der Emissionsbedingungen der betreffenden Gleichrangigen Verbindlichkeit zu der Zahlung, zu der Rückzahlung, zu dem Rückkauf oder zu dem anderweitigen Erwerb verpflichtet ist;
- (y) in dem vorgenannten Fall (iv) kein Pflichtnachzahlungstag vorliegt, wenn die Emittentin oder die betreffende Tochtergesellschaft (jeweils direkt oder indirekt) Gleichrangige Verbindlichkeiten oder Schuldverschreibungen (insgesamt oder teilweise) nach einem öffentlichen Rückkaufangebot oder öffentlichen Umtauschangebot mit einer unter dem Nennwert liegenden Gegenleistung je Gleichrangiger Verbindlichkeit bzw. je Schuldverschreibung zurückkauft oder anderweitig erwirbt; und
- (z) in den vorgenannten Fällen (iii) und (iv) kein Pflichtnachzahlungstag vorliegt, wenn die betreffenden Zahlungen auf oder in Bezug auf Gleichrangige Wertpapiere Konzerninterne Zahlungen sind.

- (x) in the cases (iii) and (iv) above no Mandatory Settlement Date occurs if the Issuer or the relevant Subsidiary is obliged under the terms and conditions of such Parity Obligation to make such payment, such redemption, such repurchase or such other acquisition;
- (y) in the case (iv) above no Mandatory Settlement Date occurs if the Issuer or the relevant Subsidiary repurchases or otherwise acquires (in each case directly or indirectly) any Parity Obligations or any Notes in whole or in part in a public tender offer or public exchange offer at a consideration per Parity Obligation or Note below its par value; and
- (z) in the cases (iii) and (iv) above no Mandatory Settlement Date occurs if the relevant payments on, or in respect of, any Parity Securities are Intra-Group Payments.



Ein **"Obligatorisches Nachzahlungsereignis"** bezeichnet vorbehaltlich des nachstehenden Satzes 2 jedes der folgenden Ereignisse:

- (i) die ordentliche Hauptversammlung der Emittentin beschließt, eine Dividende, sonstige Ausschüttung oder sonstige Zahlung auf eine Aktie einer beliebigen Gattung der Emittentin zu leisten (mit Ausnahme einer Dividende, Ausschüttung oder Zahlung in Form von Stammaktien der Emittentin);
- (ii) die Emittentin oder eine Tochtergesellschaft zahlt eine Dividende, sonstige Ausschüttung oder sonstige Zahlung auf eine Nachrangige Verbindlichkeit (mit Ausnahme einer Dividende, Ausschüttung oder Zahlung in Form von Stammaktien der Emittentin); oder
- (iii) die Emittentin oder eine Tochtergesellschaft (jeweils direkt oder indirekt) zahlt oder kauft eine Nachrangige Verbindlichkeit zurück oder erwirbt sie anderweitig.

In den vorgenannten Fällen (ii) und (iii) tritt jedoch kein Obligatorisches Nachzahlungsereignis ein, wenn

- (x) die Emittentin oder die betreffende Tochtergesellschaft nach Maßgabe der Emissionsbedingungen der betreffenden Nachrangigen Verbindlichkeit zu der Zahlung, zu der Rückzahlung, zu dem Rückkauf oder zu dem anderweitigen Erwerb verpflichtet ist;
- (y) die Emittentin oder die betreffende Tochtergesellschaft Aktien einer beliebigen Gattung der Emittentin oder eine Nachrangige Verbindlichkeit nach Maßgabe eines bestehenden oder zukünftigen Aktienoptions- oder Aktienbeteiligungsprogramms oder ähnlichen Programms für

**"Compulsory Settlement Event"** means any of the following events, subject to the proviso in sentence 2 below:

- (i) the ordinary general meeting of shareholders (*ordentliche Hauptversammlung*) of the Issuer resolves on the payment of any dividend, other distribution or other payment on any share of any class of the Issuer (other than a dividend, distribution or payment which is made in the form of ordinary shares of the Issuer);
- (ii) the Issuer or any Subsidiary pays any dividend, other distribution or other payment in respect of any Junior Obligation (other than a dividend, distribution or payment which is made in the form of ordinary shares of the Issuer); or
- (iii) the Issuer or any Subsidiary redeems, repurchases or otherwise acquires (in each case directly or indirectly) any Junior Obligation.

The cases (ii) and (iii) above are subject to the proviso that no Compulsory Settlement Event occurs if

- (x) the Issuer or the relevant Subsidiary is obliged under the terms and conditions of such Junior Obligation to make such payment, such redemption, such repurchase or such other acquisition;
- (y) the Issuer or the relevant Subsidiary repurchases or otherwise acquires (in each case directly or indirectly) any share of any class of the Issuer or any Junior Obligation pursuant to the obligations of the Issuer under any existing or future stock option or stock ownership programme or similar

Mitglieder des Vorstands oder des Aufsichtsrats (oder, im Falle verbundener Unternehmen, ähnlicher Gremien) oder Mitarbeiter der Emittentin oder mit ihr verbundener Unternehmen (jeweils direkt oder indirekt) zurückkauft oder anderweitig erwirbt; oder

- (z) die betreffenden Zahlungen auf oder in Bezug auf Nachrangige Verbindlichkeiten Konzerninterne Zahlungen sind.

"**Konzerninterne Zahlungen**" sind Zahlungen, die ausschließlich von einer Tochtergesellschaft an die Emittentin und/oder von einer Tochtergesellschaft an andere erfolgen.

#### § 5 RÜCKZAHLUNG

- (1) *Rückzahlung bei Endfälligkeit.* Soweit nicht vorzeitig zurückgezahlt oder angekauft und entwertet, werden die Schuldverschreibungen am 12. November 2079 (der "**Fälligkeitstag**") zu ihrer festgelegten Stückelung zuzüglich aufgelaufener aber nicht bezahlter Zinsbeträge zum Fälligkeitstag (ausschließlich) sowie Aufgeschobener Zinszahlungen zurückgezahlt.
- (2) *Vorzeitige Rückzahlung nach Wahl der Emittentin.*
- (i) Die Emittentin kann die Schuldverschreibungen (insgesamt, jedoch nicht teilweise) mit Wirkung (i) zu jedem Tag während des Zeitraums ab dem **[für NC5.5 Schuldverschreibungen einfügen: 12. Februar 2025] [für NC8 Schuldverschreibungen einfügen: 12. August 2027]** (der "**Erste Rückzahlungstag**") bis zum Ersten Resettag (jeweils einschließlich) und (ii) zu jedem danach folgenden Zinszahlungstag nach unwiderruflicher Kündigungsmitteilung an die Gläubiger gemäß § 13 unter

programme for any members of the board of management or supervisory board (or, in the case of affiliates, comparable boards) or employees of the Issuer or any of its affiliates; or

- (z) the relevant payments on, or in respect of, any Junior Obligation are Intra-Group Payments.

"**Intra-Group Payments**" means payments made by a Subsidiary to the Issuer and/or by one Subsidiary to another.

#### § 5 REDEMPTION

- (1) *Redemption at Maturity.* Unless redeemed or purchased and cancelled earlier, the Notes will be redeemed on 12 November 2079 (the "**Maturity Date**") at the Specified Denomination plus accrued and unpaid interest to (but excluding) the Maturity Date and any Arrears of Interest.
- (2) *Early Redemption at the Option of the Issuer.*
- (i) The Issuer may call and redeem the Notes (in whole but not in part) with effect (i) as of any date during the period from and including **[für NC5.5 Notes insert: 12 February 2025] [für NC8 Notes insert: 12 August 2027]** (the "**First Call Date**") to and including the First Reset Date and (ii) on any Interest Payment Date thereafter upon giving not less than 20 Business Days' irrevocable notice of redemption to the Holders in accordance with § 13.

Einhaltung einer Frist von mindestens 20 Geschäftstagen kündigen.

- (ii) Eine solche Kündigungsmitteilung verpflichtet die Emittentin, sämtliche ausstehenden Schuldverschreibungen zum Gesamtnennbetrag, zuzüglich aufgelaufener aber noch nicht bezahlter Zinsbeträge bis zum Wahl-Rückzahlungstag (ausschließlich) sowie Aufgeschobener Zinszahlungen.

**"Wahl-Rückzahlungstag"** bezeichnet den Tag, der für die Rückzahlung der Schuldverschreibungen gemäß § 5 (2) (ii) festgesetzt wurde.

- (3) *Andere vorzeitige Rückzahlungsereignisse.* Die Emittentin ist berechtigt, durch Bekanntmachung gemäß § 13 unter Einhaltung einer Frist von nicht weniger als 20 und nicht mehr als 40 Tagen, die Schuldverschreibungen (insgesamt und nicht nur teilweise) jederzeit zu kündigen, falls eines der folgenden vorzeitigen Rückzahlungsereignisse eingetreten ist. Im Falle einer solchen Kündigung ist die Emittentin verpflichtet, jede Schuldverschreibung an dem in der Bekanntmachung festgelegten Rückzahlungstag zu ihrem jeweiligen Vorzeitigen Rückzahlungsbetrag zurückzuzahlen. Die Bekanntmachung hat den Grund der vorzeitigen Rückzahlung und den Rückzahlungstag anzugeben.

- (i) Ein **"Ratingereignis"** tritt ein, wenn entweder:
  - (x) eine Ratingagentur eine Veränderung in der Methodologie für Hybridkapital oder der Interpretation dieser Methodologie veröffentlicht, wodurch die Schuldverschreibungen nicht mehr länger in derselben oder einer höheren Eigenkapitalanrechnung (oder eine vergleichbare Beschreibung, die von

- (ii) Such notice of redemption shall oblige the Issuer to redeem all outstanding Notes at their principal amount plus accrued and unpaid interest up to (but excluding) the Call Redemption Date and any outstanding Arrears of Interest.

**"Call Redemption Date"** means the date fixed for redemption of the Notes pursuant to § 5 (2) (ii).

- (3) *Other Early Redemption Events.* The Issuer may, upon giving not less than 20 nor more than 40 days' notice pursuant to § 13, call the Notes for redemption (in whole but not in part) at any time, if any of the early redemption events as set forth below has occurred. In this case the Issuer shall redeem each Note at the relevant Early Redemption Amount on the redemption date specified in the notice. The notice shall set forth the underlying facts of the Issuer's right to early redemption and specify the redemption date.

- (i) A **"Rating Event"** shall occur if either:
  - (x) any Rating Agency publishes a change in hybrid capital methodology or the interpretation thereof, as a result of which change the Notes would no longer be eligible for the same or a higher category of "equity credit" or such similar nomenclature as may be used by that Rating Agency from time to time to describe

der Ratingagentur in Zukunft genutzt wird, um zu beschreiben in wieweit die Bedingungen eines Instruments die vorrangigen Verbindlichkeiten der Emittentin unterstützen) wie zum Zinslaufbeginn einzuordnen sind oder, wenn keine Eigenkapitalanrechnung zum Zinslaufbeginn von der Ratingagentur bestimmt wurde, zu dem Tag, an dem erstmals die Eigenkapitalanrechnung von der Ratingagentur bestimmt wird (ein **"Verlust der Eigenkapitalanrechnung"**), oder

- (y) die Emittentin eine schriftliche Bestätigung von einer Ratingagentur erhalten und diese an die Hauptzahlstelle in Kopie weitergegeben hat, welche besagt, dass aufgrund einer Änderung der Methodologie für Hybridkapital oder der Interpretation dieser Methodologie, ein Verlust der Eigenkapitalanrechnung erfolgt ist,

und die Emittentin die Gläubiger über das Ratingereignis gemäß § 13 informiert hat bevor die Mitteilung der Rückzahlung (wie oben beschrieben) bekanntgemacht wurde.

**"Ratingagentur"** bezeichnet jeweils Moody's, S&P und Fitch, wobei **"Moody's"** die Moody's Investors Service Ltd oder eine ihrer Nachfolgesellschaften bezeichnet, **"S&P"** die S&P Global Ratings Europe Limited bezeichnet und **"Fitch"** die Fitch Ratings Limited oder eine ihrer Nachfolgesellschaften bezeichnet, oder eine andere durch die Emittentin bezeichnete Ratingagentur mit

the degree to which the terms of an instrument are supportive of the Issuer's senior obligations, attributed to the Notes at the Interest Commencement Date, or if "equity credit" is not assigned on the Interest Commencement Date by such Rating Agency, at the date when the equity credit is assigned for the first time by such Rating Agency (a **"Loss in Equity Credit"**), or

- (y) the Issuer has received, and has provided the Principal Paying Agent with a copy of, a written confirmation from any Rating Agency that due to a change in hybrid capital methodology or the interpretation thereof, a Loss in Equity Credit occurred,

and the Issuer has given notice to the Holders in accordance with § 13 of such Rating Event prior to giving the notice of redemption referred to above.

**"Rating Agency"** means each of Moody's, S&P and Fitch, where **"Moody's"** means Moody's Investors Service Ltd or any of its successors, **"S&P"** means S&P Global Ratings Europe Limited and **"Fitch"** means Fitch Ratings Limited or any of its successors, or any other rating agency of equivalent international standing specified from time to time by the Issuer and, in each

gleichwertiger internationaler Anerkennung sowie jeweils ihre Tochter- oder Nachfolgesellschaften.

- (ii) Ein "**Steuerereignis**" tritt ein, wenn die Emittentin ein Gutachten einer international anerkannten Rechtsanwaltskanzlei erhalten hat, aus dem hervorgeht, dass nach dem Zinslaufbeginn als Folge einer Änderung von deutschem Recht oder dessen offizieller Auslegung oder Anwendung die steuerliche Behandlung von Zinszahlungen, die von der Emittentin in Bezug auf die Schuldverschreibungen zahlbar sind, dergestalt geändert wurde, dass sie für die Zwecke der Körperschaftssteuer nicht mehr vollständig abzugsfähig sind, und die Emittentin dieses Risiko nicht durch das Ergreifen zumutbarer Maßnahmen vermeiden kann.
- (iii) Ein "**Gross-up Ereignis**" tritt ein, wenn die Emittentin als Folge einer Änderung nach dem Zinslaufbeginn von deutschen Gesetzen oder veröffentlichten Vorschriften verpflichtet ist, sämtliche gemäß § 8 zahlbaren zusätzlichen Beträge zu zahlen, allerdings nur soweit die Emittentin die Zahlungsverpflichtung nicht durch das Ergreifen zumutbarer Maßnahmen vermeiden kann, die sie nach Treu und Glauben für angemessen hält.

Der "**Vorzeitige Rückzahlungsbetrag**" bezeichnet (i) im Falle eines Ratingereignisses oder eines Steuerereignisses, an dem der maßgebliche für die Rückzahlung festgelegte Tag vor dem Ersten Rückzahlungstag fällt, 101% der festgelegten Stückelung, und (ii) im Falle eines Ratingereignisses oder eines Steuerereignisses, an dem der maßgebliche für die Rückzahlung festgelegte Tag auf den oder nach dem Ersten Rückzahlungstag fällt und im Falle eines Gross-up Ereignisses, 100% der festgelegten Stückelung, jeweils zuzüglich aufgelaufener aber noch nicht

case their respective subsidiaries or successors.

- (ii) A "**Tax Deductibility Event**" shall occur if an opinion of a recognized law firm of international standing has been delivered to the Issuer, stating that by reason of a change in German law or regulation, or any change in the official application or interpretation of such law, after the Interest Commencement Date, the tax regime of any payments under the Notes is modified and such modification results in payments of interest payable by the Issuer in respect of the Notes being no longer fully deductible for corporate income tax purposes, and such risk cannot be avoided by the Issuer taking reasonable measures available to it.
- (iii) A "**Gross-up Event**" shall occur if, by reason of any change in German law or published regulations becoming effective after the Interest Commencement Date, the Issuer would have to pay any additional amounts which may be payable under § 8, provided that the payment obligation cannot be avoided by the Issuer taking such reasonable measures it (acting in good faith) deems appropriate.

The "**Early Redemption Amount**" shall be (i) in case of a Rating Event or a Tax Deductibility Event where the relevant date fixed for redemption falls prior to the First Call Date, equal to 101 per cent. of the Specified Denomination, and (ii) in the case of a Rating Event or a Tax Deductibility Event where the relevant date fixed for redemption falls on or after the First Call Date or in case of a Gross-Up Event, equal to 100 per cent. of the Specified Denomination, in each case plus accrued and unpaid interest up to (but excluding) the redemption date and any outstanding Arrears of Interest.

bezahlter Zinsbeträge bis zum Rückzahlungstag (ausschließlich) sowie Aufgeschobener Zinszahlungen.

- (4) *Vorzeitige Rückzahlung bei geringem ausstehendem Gesamtnennbetrag.* Die Emittentin ist berechtigt, durch Bekanntmachung gemäß § 13 unter Einhaltung einer Frist von nicht weniger als 20 und nicht mehr als 40 Tagen, die Schuldverschreibungen (insgesamt und nicht nur teilweise) jederzeit zu kündigen, falls mindestens 80 % des ursprünglich begebenen Gesamtnennbetrages der Schuldverschreibungen zurückgezahlt oder erworben und eingezogen worden sind. Im Falle einer solchen Kündigung ist die Emittentin verpflichtet, jede Schuldverschreibung an dem in der Bekanntmachung festgelegten Rückzahlungstag zu ihrer festgelegten Stückelung zuzüglich aufgelaufener aber noch nicht bezahlter Zinsbeträge sowie Aufgeschobener Zinszahlungen zurückzuzahlen.
- (4) *Early Redemption in Case of Minimum Outstanding Aggregate Principal Amount.* The Issuer may, upon giving not less than 20 nor more than 40 days' notice pursuant to § 13, call the Notes for redemption (in whole but not in part) at any time if at least 80 per cent. of the originally issued aggregate principal amount of the Notes have been redeemed or purchased and cancelled. In this case the Issuer shall redeem each Note at its Specified Denomination plus accrued and unpaid interest and any Arrears of Interest on the redemption date specified in the notice.

## § 6 ZAHLUNGEN

- (1) (a) *Zahlungen auf Kapital.* Zahlungen auf Kapital in Bezug auf die Schuldverschreibungen erfolgen nach Maßgabe von § 6(2) an das Clearing System oder gegebenenfalls dessen Order zur Gutschrift auf den Konten der jeweiligen Kontoinhaber des Clearing Systems gegen Vorlage und, (soweit es sich nicht um eine Teilzahlung handelt) Übergabe der Globalurkunde, mit der die Schuldverschreibungen verbrieft werden, zum Zeitpunkt der Zahlung in der bezeichneten Geschäftsstelle der Hauptzahlstelle außerhalb der Vereinigten Staaten.
- (b) *Zahlung von Zinsen.* Die Zahlung von Zinsen auf Schuldverschreibungen erfolgt nach Maßgabe von § 6(2) an das Clearing System oder gegebenenfalls dessen Order zur Gutschrift auf den Konten der jeweiligen Kontoinhaber des Clearing Systems.

Die Zahlung von Zinsen auf Schuldverschreibungen, die durch die vorläufige Globalurkunde verbrieft sind, erfolgt nach Maßgabe von § 6(2) an das Clearing System oder gegebenenfalls dessen Order zur Gutschrift auf den Konten der jeweiligen Kontoinhaber des

## § 6 PAYMENTS

- (1) (a) *Payment of Principal.* Payment of principal in respect of Notes shall be made, subject to § 6(2), to the Clearing System or (if applicable) to its order for credit to the accounts of the relevant account holders of the Clearing System upon presentation and (except in the case of partial payment) surrender of the global note representing the Notes at the time of payment at the specified office of the Principal Paying Agent outside the United States.
- (b) *Payment of Interest.* Payment of interest on Notes shall be made, subject to § 6(2), to the Clearing System or (if applicable) to its order for credit to the relevant account holders of the Clearing System.

Payment of interest on Notes represented by the Temporary Global Note shall be made, subject to § 6(2), to the Clearing System or (if applicable) to its order for credit to the relevant account holders of the Clearing System,

Clearing Systems, und zwar nach ordnungsgemäßer Bescheinigung gemäß § 1(3)(b).

- (2) *Zahlungsweise.* Vorbehaltlich geltender steuerlicher und sonstiger gesetzlicher Regelungen und Vorschriften erfolgen zu leistende Zahlungen auf die Schuldverschreibungen in der festgelegten Währung.
- (3) *Vereinigte Staaten.* Für die Zwecke des § 1(3) und § 6(1) bezeichnet "**Vereinigte Staaten**" die Vereinigten Staaten von Amerika (einschließlich deren Bundesstaaten und des District of Columbia) sowie deren Territorien (einschließlich Puerto Rico, der U.S. Virgin Islands, Guam, American Samoa, Wake Island und Northern Mariana Islands).
- (4) *Erfüllung.* Die Emittentin wird durch Leistung der Zahlung an das Clearing System oder dessen Order von ihrer Zahlungspflicht befreit.
- (5) *Zahltag.* Fällt der Fälligkeitstag einer Zahlung in Bezug auf eine Schuldverschreibung auf einen Tag, der kein Zahltag ist, dann hat der Gläubiger keinen Anspruch auf Zahlung vor dem nächsten Zahltag am jeweiligen Geschäftsort. Der Gläubiger ist nicht berechtigt, weitere Zinsen oder sonstige Zahlungen aufgrund dieser Verspätung zu verlangen.

Für diese Zwecke bezeichnet "**Zahltag**" einen Tag, der ein Geschäftstag ist.

- (6) *Bezugnahmen auf Kapital und Zinsen.* Bezugnahmen in diesen Anleihebedingungen auf einen Kapitalbetrag der Schuldverschreibungen schließen, soweit anwendbar, die folgenden Beträge ein: die festgelegte Stückelung der Schuldverschreibungen, den Vorzeitigen Rückzahlungsbetrag sowie sonstige auf oder in Bezug auf die Schuldverschreibungen zahlbaren Beträge. Bezugnahmen in diesen Anleihebedingungen auf Zinsen auf die Schuldverschreibungen sollen, soweit anwendbar, sämtliche gemäß § 8 zahlbaren zusätzlichen Beträge einschließen.

upon due certification as provided in § 1(3)(b).

- (2) *Manner of Payment.* Subject to applicable fiscal and other laws and regulations, payments of amounts due in respect of the Notes shall be made in the Specified Currency.
- (3) *United States.* For purposes of § 1(3) and § 6(1), "**United States**" means the United States of America (including the States thereof and the District of Columbia) and its possessions (including Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, Wake Island and Northern Mariana Islands).
- (4) *Discharge.* The Issuer shall be discharged by payment to, or to the order of, the Clearing System.
- (5) *Payment Business Day.* If the date for payment of any amount in respect of any Note is not a Payment Business Day then the Holder shall not be entitled to payment until the next such day in the relevant place and shall not be entitled to further interest or other payment in respect of such delay.

For these purposes, "**Payment Business Day**" means any day which is a Business Day.

- (6) *References to Principal and Interest.* Reference in these Terms and Conditions to principal in respect of the Notes shall be deemed to include, as applicable: the Specified Denomination of the Notes, the Early Redemption Amount and any other amounts which may be payable under or in respect of the Notes. Reference in these Terms and Conditions to interest in respect of the Notes shall be deemed to include, as applicable, any additional amounts which may be payable under § 8.

- (7) *Hinterlegung von Kapital und Zinsen.* Die Emittentin ist berechtigt, beim Amtsgericht Frankfurt am Main Zins- oder Kapitalbeträge zu hinterlegen, die von den Gläubigern nicht innerhalb von zwölf Monaten nach dem Fälligkeitstag beansprucht worden sind, auch wenn die Gläubiger sich nicht in Annahmeverzug befinden. Soweit eine solche Hinterlegung erfolgt, und auf das Recht der Rücknahme verzichtet wird, erlöschen die Ansprüche der Gläubiger gegen die Emittentin.

#### § 7

#### VERWALTUNGSSTELLEN

- (1) *Bestellung; bezeichnete Geschäftsstelle.* Die anfänglich bestellte Hauptzahlstelle und die anfänglich bestellte Berechnungsstelle und ihre bezeichneten Geschäftsstellen lauten wie folgt:

Hauptzahlstelle:

BNP Paribas Securities Services,  
Luxembourg Branch  
60, Avenue J.F. Kennedy  
L-1855 Luxembourg  
Luxembourg  
Postal Address: L – 2085  
Tel: +352 2696 2000  
Fax: +352 2696 97 57  
Attn: Corporate Trust Services

Berechnungsstelle:

BNP Paribas Securities Services,  
Luxembourg Branch  
60, Avenue J.F. Kennedy  
L-1855 Luxembourg  
Luxembourg  
Postal Address: L – 2085  
Tel: +352 2696 2000  
Fax: +352 2696 97 57  
Attn: Corporate Trust Services

Die Hauptzahlstelle und die Berechnungsstelle behalten sich das Recht vor, jederzeit ihre bezeichneten Geschäftsstellen durch eine andere bezeichnete Geschäftsstelle in derselben Stadt zu ersetzen.

- (2) *Änderung der Bestellung oder Abberufung.* Die Emittentin behält sich das Recht vor, jederzeit die Bestellung der Hauptzahlstelle oder der Berechnungsstelle zu ändern oder zu beenden und eine andere

- (7) *Deposit of Principal and Interest.* The Issuer may deposit with the *Amtsgericht* in Frankfurt am Main principal or interest not claimed by Holders within twelve months after the Maturity Date, even though such Holders may not be in default of acceptance of payment. If and to the extent that the deposit is effected and the right of withdrawal is waived, the respective claims of such Holders against the Issuer shall cease.

#### § 7

#### AGENTS

- (1) *Appointment; Specified Offices.* The initial Principal Paying Agent and the initial Calculation Agent and their respective initial specified offices are:

Principal Paying Agent:

BNP Paribas Securities Services,  
Luxembourg Branch  
60, Avenue J.F. Kennedy  
L-1855 Luxembourg  
Luxembourg  
Postal Address: L – 2085  
Tel: +352 2696 2000  
Fax: +352 2696 97 57  
Attn: Corporate Trust Services

Calculation Agent:

BNP Paribas Securities Services,  
Luxembourg Branch  
60, Avenue J.F. Kennedy  
L-1855 Luxembourg  
Luxembourg  
Postal Address: L – 2085  
Tel: +352 2696 2000  
Fax: +352 2696 97 57  
Attn: Corporate Trust Services

The Principal Paying Agent and the Calculation Agent reserve the right at any time to change their respective specified offices to some other specified offices in the same city.

- (2) *Variation or Termination of Appointment.* The Issuer reserves the right at any time to vary or terminate the appointment of the Principal Paying Agent or the Calculation Agent and to appoint another Principal Paying Agent,



Hauptzahlstelle, zusätzliche Zahlstellen oder eine andere Berechnungsstelle zu bestellen. Die Emittentin wird zu jedem Zeitpunkt (i) eine Hauptzahlstelle unterhalten und (ii) eine Berechnungsstelle unterhalten. Eine Änderung, Abberufung, Bestellung oder ein sonstiger Wechsel wird nur wirksam (außer im Insolvenzfall, in dem eine solche Änderung sofort wirksam wird), sofern die Gläubiger hierüber gemäß § 13 vorab unter Einhaltung einer Frist von mindestens 30 und nicht mehr als 45 Tagen informiert wurden.

- (3) *Beauftragte der Emittentin.* Die Hauptzahlstelle und die Berechnungsstelle handeln ausschließlich als Beauftragte der Emittentin und übernehmen keinerlei Verpflichtungen gegenüber den Gläubigern und es wird kein Auftrags- oder Treuhandverhältnis zwischen ihnen und den Gläubigern begründet.
- (4) Wenn die Emittentin gemäß § 3(5) einen Unabhängigen Berater bestellt, dann ist § 7(3) entsprechend auf den Unabhängigen Berater anzuwenden.

## § 8 STEUERN

Sämtliche auf die Schuldverschreibungen zu zahlenden Beträge sind an der Quelle ohne Einbehalt oder Abzug von oder aufgrund von gegenwärtig oder zukünftig bestehenden Steuern oder sonstigen Abgaben gleich welcher Art zu leisten, die von oder in der Bundesrepublik Deutschland oder für deren Rechnung oder von oder für Rechnung einer mit dem Recht zur Steuererhebung versehenen politischen Untergliederung oder Behörde der Vorgenannten auferlegt oder erhoben werden (zusammen "**Quellensteuer**"), es sei denn, dieser Einbehalt oder Abzug ist gesetzlich vorgeschrieben. Wenn die Emittentin gesetzlich zu einem Einbehalt oder Abzug von Quellensteuern verpflichtet ist, wird die Emittentin diejenigen zusätzlichen Beträge zahlen, die erforderlich sind, damit die den Gläubigern zufließenden Nettobeträge nach diesem Einbehalt oder Abzug jeweils den Beträgen an Kapital und Zinsen entsprechen, die ohne einen solchen Abzug oder Einbehalt von den Gläubigern empfangen worden wären. Die Verpflichtung zur Zahlung solcher zusätzlicher Beträge besteht jedoch nicht im Hinblick auf Steuern und Abgaben, die:

- (a) anders als durch Einbehalt oder Abzug von Zahlungen zu

additional paying agents or another Calculation Agent. The Issuer shall at all times maintain (i) a Principal Paying Agent and (ii) a Calculation Agent. Any variation, termination, appointment or change shall only take effect (other than in the case of insolvency, when it shall be of immediate effect) after not less than 30 nor more than 45 days' prior notice thereof shall have been given to the Holders in accordance with § 13.

- (3) *Agents of the Issuer.* The Principal Paying Agent and the Calculation Agent act solely as agents of the Issuer and do not have any obligations towards or relationship of agency or trust to any Holder.
- (4) If the Issuer appoints an Independent Advisor in accordance with § 3(5), § 7(3) shall apply mutatis mutandis to the Independent Advisor.

## § 8 TAXATION

Principal and interest shall be payable without deduction or withholding for or on account of any present or future taxes, duties or governmental charges of any nature whatsoever imposed, levied or collected by or on behalf of Germany or by or on behalf of any political subdivision or authority thereof having power to tax (together "**Withholding Taxes**"), unless such deduction or withholding is required by law. If the Issuer is required by law to make a deduction or withholding of Withholding Taxes, the Issuer shall pay such additional amounts as may be necessary in order that the net amounts received by the Holders after such deduction or withholding shall equal the respective amounts of principal and interest which would have been receivable had no such deduction or withholding been required. No such additional amounts shall, however, be payable on account of any taxes, duties or governmental charges which:

- (a) are payable otherwise than by withholding or deduction from

- |     |  |     |   |
|-----|--|-----|---|
|     | entrichten sind, die die Emittentin an den Gläubiger leistet; oder   |     | payments made by the Issuer to the Holder, or   |
| (b) | von einer als Depotbank oder Inkassobeauftragter des Gläubigers handelnden Person abgezogen oder einbehalten werden oder sonst auf andere Weise zu entrichten sind als dadurch, dass die Emittentin aus den von ihr zu leistenden Zahlungen von Kapital oder Zinsen einen Abzug oder Einbehalt vornimmt; oder  | (b) | are deducted or withheld by any person acting as custodian bank or collecting agent on behalf of a Holder, or otherwise payable in any manner which does not constitute a deduction or withholding by the Issuer from payments of principal or interest made by it; or  |
| (c) | von der Hauptzahlstelle oder einer zusätzlich bestellten Zahlstelle abgezogen oder einbehalten werden, wenn eine andere Zahlstelle die Zahlung ohne einen solchen Abzug oder Einbehalt hätte leisten können; oder  | (c) | are deducted or withheld by the Principal Paying Agent or an additional paying agent from a payment if the payment could have been made by another paying agent without such deduction or withholding; or   |
| (d) | aufgrund (i) einer Richtlinie oder Verordnung der Europäischen Union betreffend die Besteuerung von Zinserträgen oder (ii) einer zwischenstaatlichen Vereinbarung über deren Besteuerung, an der die Bundesrepublik Deutschland oder die Europäische Union beteiligt ist/sind, oder (iii) einer gesetzlichen Vorschrift, die diese Richtlinie, Verordnung oder Vereinbarung umsetzt oder befolgt, abzuziehen oder einzubehalten sind; oder | (d) | are deducted or withheld pursuant to (i) any European Union Directive or Regulation concerning the taxation of savings, or (ii) any international treaty or understanding relating to such taxation and to which Germany or the European Union is a party/are parties or (iii) any provision of law implementing, or complying with, or introduced to conform with, such Directive, Regulation, treaty or understanding; or |
| (e) | aufgrund einer Rechtsänderung zu zahlen sind, welche später als 30 Tage nach Fälligkeit der betreffenden Zahlung von Kapital oder Zinsen oder, wenn dies später erfolgt, ordnungsgemäßer Bereitstellung aller fälligen Beträge wirksam wird; oder  | (e) | are payable by reason of a change in law that becomes effective more than 30 days after the relevant payment becomes due, or is duly provided for, whichever occurs later; or   |
| (f) | wegen einer gegenwärtigen oder früheren persönlichen oder geschäftlichen Beziehung des Gläubigers zu der Bundesrepublik Deutschland oder weil der Gläubiger in der Bundesrepublik Deutschland wohnhaft ist bzw. für Zwecke der Besteuerung so behandelt  | (f) | are payable by reason of the Holder having, or having had, some personal or business connection with Germany or being a (deemed) resident of Germany or is treated for tax purposes as a resident of Germany or has elected to be taxed as a resident of Germany or the Holder having a (deemed) permanent establishment in Germany or another  |

wird oder weil der Gläubiger gewünscht hat, so behandelt zu werden oder weil der Gläubiger einen dauerhaften Wohnsitz in der Bundesrepublik Deutschland (oder so behandelt wird) oder in einem anderen Mitgliedstaat der Europäischen Union hat zu zahlen sind. Dies gilt jedoch nicht allein deshalb, weil Zahlungen auf die Schuldverschreibungen aus Quellen in der Bundesrepublik Deutschland stammen (oder für Zwecke der Besteuerung so behandelt werden) oder dort besichert sind.

member state of the European Union and not merely by reason of the fact that payments in respect of the Notes are, or for purposes of taxation are deemed to be, derived from sources in, or are secured in, Germany.

Ungeachtet sonstiger hierin enthaltener Bestimmungen, darf die Emittentin Beträge, die gemäß einer beschriebenen Vereinbarung in Section 1471 (b) des U.S. Revenue Code von 1986 (der "**Code**") erforderlich sind oder die anderweitig aufgrund der Sections 1471 bis 1474 des Codes (oder jeder Änderung oder Nachfolgeregelung), der Regelungen oder Verträge darunter, der offiziellen Auslegungen davon oder jeglicher rechtsausführender und zwischenstaatlicher Zusammenarbeit dazu beruhen, einbehalten oder abziehen ("**FATCA Quellensteuer**"). Die Emittentin ist aufgrund einer durch die Emittentin, die Hauptzahlstelle, eine zusätzlich bestellte Zahlstelle oder eine andere Partei abgezogenen oder einbehaltenen FATCA Quellensteuer nicht zur Zahlung zusätzlicher Beträge oder anderweitig zur Entschädigung der Gläubiger verpflichtet.

Notwithstanding any other provisions contained herein, the Issuer shall be permitted to withhold or deduct any amounts required pursuant to an agreement described in Section 1471 (b) of the U.S. Internal Revenue Code of 1986 (the "**Code**") or otherwise imposed pursuant to Sections 1471 through 1474 of the Code (or any amended or successor provisions), any regulations or agreements thereunder, official interpretations thereof, or any law implementing and intergovernmental approach thereto ("**FATCA withholding**"). The Issuer will have no obligation to pay additional amounts or otherwise indemnify any Holder for any such FATCA withholding deducted or withheld by the Issuer, the Principal Paying Agent, an additional paying agent or any other party.

#### § 9

#### VORLEGUNGSFRIST

Die in § 801 Absatz 1 Satz 1 BGB bestimmte Vorlegungsfrist wird für Ansprüche aus den Schuldverschreibungen auf zehn Jahre verkürzt.

#### § 9

#### PRESENTATION PERIOD

The presentation period provided in § 801 subparagraph 1, sentence 1 BGB (*German Civil Code*) is reduced to ten years for claims under the Notes.

#### § 10

#### ERSETZUNG

(1) *Ersetzung.* Die Emittentin ist jederzeit berechtigt, sofern sie sich nicht mit einer Zahlung von Kapital oder Zinsen auf die Schuldverschreibungen in Verzug befindet, ohne Zustimmung der Gläubiger jede andere Gesellschaft, deren stimmberechtigte Anteile zu mehr als 90% direkt oder indirekt von der Emittentin gehalten werden, an Stelle der Emittentin als Hauptschuldnerin (die "**Nachfolgeschuldnerin**") für alle Verpflichtungen aus und im

#### § 10

#### SUBSTITUTION

(1) *Substitution.* The Issuer may, without the consent of the Holders, if no payment of principal or interest on any of the Notes is in default, at any time substitute for the Issuer any other company more than 90 percent of the voting share or other equity interests of which are directly or indirectly owned by the Issuer as principal debtor in respect of all obligations arising from or in connection

Zusammenhang mit dieser Emission einzusetzen, vorausgesetzt, dass:

- |   |   |
|---|---|
| (a) die Nachfolgeschuldnerin alle Verpflichtungen der Emittentin in Bezug auf die Schuldverschreibungen übernimmt;  | (a) the Substitute Debtor assumes all obligations of the Issuer in respect of the Notes;  |
| (b) die Nachfolgeschuldnerin alle erforderlichen Genehmigungen erhalten hat und berechtigt ist, an die Hauptzahlstelle die zur Erfüllung der Zahlungsverpflichtungen aus den Schuldverschreibungen zahlbaren Beträge in Euro zu zahlen, ohne verpflichtet zu sein, jeweils in dem Land, in dem die Nachfolgeschuldnerin ihren Sitz oder Steuersitz haben, erhobene Steuern oder andere Abgaben jeder Art abzuziehen oder einzubehalten; | (b) the Substitute Debtor has obtained all necessary authorisations and may transfer to the Principal Paying Agent in Euro and without being obligated to deduct or withhold any taxes or other duties of whatever nature levied by the country in which the Substitute Debtor has its domicile or tax residence, all amounts required for the fulfilment of the payment obligations arising under the Notes; |
| (c) die Nachfolgeschuldnerin sich verpflichtet hat, jeden Gläubiger hinsichtlich solcher Quellensteuern, Abgaben oder behördlichen Lasten freizustellen, die einem Gläubiger bezüglich der Ersetzung auferlegt werden;  | (c) the Substitute Debtor has agreed to indemnify and hold harmless each Holder against any withholding tax, duty, assessment or governmental charge imposed on such Holder in respect of such substitution;  |
| (d) die Emittentin unwiderruflich und unbedingt gegenüber den Gläubigern die Zahlung aller von der Nachfolgeschuldnerin auf die Schuldverschreibungen zahlbaren Beträge auf nachrangiger Basis garantiert; und  | (d) the Issuer irrevocably and unconditionally guarantees on a subordinated basis in favour of each Holder the payment of all sums payable by the Substitute Debtor in respect of the Notes; and  |
| (e) der Hauptzahlstelle jeweils ein Rechtsgutachten bezüglich der betroffenen Rechtsordnungen von anerkannten Rechtsanwälten vorgelegt werden, die bestätigen, dass die Bestimmungen in den vorstehenden Unterabsätzen (a), (b), (c) und (d) erfüllt wurden.  | (e) there shall have been delivered to the Principal Paying Agent an opinion or opinions of lawyers of recognised standing to the effect that subparagraphs (a), (b), (c) and (d) above have been satisfied.  |
| (2) <i>Bekanntmachung.</i> Jede Ersetzung ist gemäß § 13 bekanntzumachen.   | (2) <i>Notice.</i> Notice of any such substitution shall be published in accordance with § 13.  |
| (3) <i>Änderung von Bezugnahmen.</i> Im Fall einer Ersetzung gilt jede Bezugnahme in diesen Anleihebedingungen auf die  | (3) <i>Change of References.</i> In the event of any such substitution, any reference in these Terms and Conditions to the Issuer   |

Emittentin ab dem Zeitpunkt der Ersetzung als Bezugnahme auf die Nachfolgeschuldnerin und jede Bezugnahme auf das Land, in dem die Emittentin ihren Sitz oder Steuersitz hat, gilt ab diesem Zeitpunkt als Bezugnahme auf das Land, in dem die Nachfolgeschuldnerin ihren Sitz oder Steuersitz hat.

Außerdem gilt im Falle der Ersetzung in § 8 und § 5(3) eine alternative Bezugnahme auf die Bundesrepublik Deutschland als aufgenommen zusätzlich zu der Bezugnahme nach Maßgabe des vorstehenden Satzes auf das Land, in dem die Nachfolgeschuldnerin ihren Sitz oder Steuersitz hat.

Klarstellend sei erwähnt, dass dies nur gilt, soweit sich nicht aus Sinn und Zweck der jeweiligen Bedingung ergibt, dass die Bezugnahme entweder weiterhin nur auf die Bayer AG erfolgen soll (also insbesondere im Hinblick auf Abschnitt (i) der Definition des Begriffs Obligatorisches Nachzahlungsereignis und das Ratingereignis), oder dass die Bezugnahme auf die Nachfolgeschuldnerin und gleichzeitig auch auf die Bayer AG, im Hinblick auf deren Verpflichtungen aus der Garantie gemäß § 10(1)(d), erfolgen soll (Gross-up Ereignis, Steuerereignis und § 8).

Die Emittentin ist berechtigt, die Globalurkunde und die Anleihebedingungen ohne Zustimmung der Gläubiger anzupassen, soweit dies erforderlich ist, um die Wirkungen der Ersetzung nachzuvollziehen. Entsprechend angepasste Globalurkunden oder Anleihebedingungen werden bei dem oder für das Clearing System hinterlegt.

#### **§ 11 ÄNDERUNG DER ANLEIHEBEDINGUNGEN, GEMEINSAMER VERTRETER**

- (1) *Änderung der Anleihebedingungen.* Die Emittentin kann mit Zustimmung der Gläubiger entsprechend den Bestimmungen des Gesetzes über Schuldverschreibungen aus Gesamtemissionen (Schuldverschreibungsgesetz – "SchVG") die Anleihebedingungen hinsichtlich eines nach dem SchVG

shall from then on be deemed to refer to the Substitute Debtor and any reference to the country in which the Issuer is domiciled or resident for taxation purposes shall from then on be deemed to refer to the country of domicile or residence for taxation purposes of the Substitute Debtor.

Furthermore, in the event of such substitution, in § 8 and § 5(3) an alternative reference to Germany shall be deemed to have been included in addition to the reference according to the preceding sentence to the country of domicile or residence for taxation purposes of the Substitute Debtor.

For the avoidance of doubt this will apply only to the extent that the meaning and purpose of the relevant condition requires that the relevant reference will continue to be a reference only to Bayer AG (i.e. in particular in relation to limb (i) of the definition of the term Compulsory Settlement Event and the Rating Event), or that the reference will be to the Substitute Debtor and Bayer AG, in relation to Bayer AG's obligations under the guarantee pursuant to § 10(1)(d), at the same time (Gross-up Event, Tax Deductibility Event and § 8).

The Issuer is authorized to adapt the global note and the Terms and Conditions without the consent of the Holders to the extent necessary to reflect the changes resulting from the substitution. Appropriately adjusted global notes or Terms and Conditions will be deposited with or on behalf of the Clearing System.

#### **§ 11 AMENDMENT OF THE TERMS AND CONDITIONS, HOLDERS' REPRESENTATIVE**

- (1) *Amendment of the Terms and Conditions.* In accordance with the Act on Debt Securities of 2009 (*Gesetz über Schuldverschreibungen aus Gesamtemissionen* (Schuldverschreibungsgesetz – "SchVG")) the Issuer may, with the consent of the Holders, amend the Terms and Conditions with regard to matters

zugelassenen Gegenstands ändern. Die Gläubiger entscheiden über ihre Zustimmung durch einen Beschluss mit der in § 11(2) bestimmten Mehrheit. Die Mehrheitsbeschlüsse der Gläubiger sind für alle Gläubiger gleichermaßen verbindlich. Ein Mehrheitsbeschluss der Gläubiger, der nicht gleiche Bedingungen für alle Gläubiger vorsieht, ist unwirksam, es sei denn, die benachteiligten Gläubiger stimmen ihrer Benachteiligung ausdrücklich zu.

(2) *Mehrheitserfordernisse.* Die Gläubiger entscheiden mit einer Mehrheit von 75 % der an der Abstimmung teilnehmenden Stimmrechte. Beschlüsse, durch welche der wesentliche Inhalt der Anleihebedingungen nicht geändert wird, und die keinen Gegenstand des § 5 Absatz 3 Nr. 1 bis Nr. 8 und (soweit § 10 dieser Anleihebedingungen keine andere Regelung vorsieht) Nr. 9 des SchVG betreffen, bedürfen zu ihrer Wirksamkeit einer einfachen Mehrheit der an der Abstimmung teilnehmenden Stimmrechte.

(3) *Abstimmung ohne Versammlung.* Alle Abstimmungen werden, vorbehaltlich des nächsten Satzes, ausschließlich im Wege der Abstimmung ohne Versammlung durchgeführt. Eine Gläubigerversammlung und eine Übernahme der Kosten für eine solche Versammlung durch die Emittentin findet ausschließlich im Fall des § 18 Absatz 4 Satz 2 SchVG statt. Die Gegenstände und Vorschläge zur Beschlussfassung sowie nähere Angaben zu den Abstimmungsmodalitäten werden den Gläubigern mit der Aufforderung zur Stimmabgabe bekannt gemacht. Die Ausübung der Stimmrechte ist von einer vorherigen Anmeldung der Gläubiger abhängig. Die Anmeldung muss unter der in der Aufforderung zur Stimmabgabe mitgeteilten Adresse spätestens am dritten Tag vor Beginn des Abstimmungszeitraums zugehen. Mit der Anmeldung müssen die Gläubiger ihre Berechtigung zur Teilnahme an der Abstimmung durch einen in Textform erstellten besonderen Nachweis der Depotbank gemäß § 14(3)(i)(a) und (b) und durch Vorlage eines Sperrvermerks der Depotbank, aus dem hervorgeht, dass die betreffenden

permitted by the SchVG. The Holders' consent to such amendments is given by resolution with the majority specified in § 11(2). Majority resolutions shall be binding on all Holders. Resolutions which do not provide for identical conditions for all Holders are void, unless Holders who are disadvantaged have expressly consented to their being treated disadvantageously.

(2) *Majority.* Resolutions shall be passed by a majority of not less than 75 per cent. of the votes cast. Resolutions relating to amendments of the Terms and Conditions which are not material and which do not relate to the matters listed in § 5(3) No. 1 – 8 and (if § 10 of these Terms and Conditions does not provide otherwise) No. 9 of the SchVG require a simple majority of the votes cast.

(3) *Vote without a meeting.* All votes will be taken, subject to the next sentence, exclusively by vote taken without a meeting. A meeting of Holders and the assumption of the fees by the Issuer for such a meeting will only take place in the circumstances of § 18(4) sentence 2 of the SchVG. The subject matter of the vote as well as the proposed resolutions and further information on voting procedures shall be notified to the Holders together with the request for voting. The exercise of voting rights is subject to the Holders' registration. The registration must be received at the address stated in the request for voting no later than the third day preceding the beginning of the voting period. As part of the registration, Holders must demonstrate their eligibility to participate in the vote by means of a special confirmation of the Custodian in accordance with § 14(3)(i)(a) and (b) hereof in text form and by submission of a blocking instruction by the Custodian stating that the relevant Notes are not transferable from and including the day such registration has been sent until and including the day the voting period ends.

Schuldverschreibungen ab dem Tag der Absendung der Anmeldung (einschließlich) bis zum letzten Tag des Abstimmungszeitraums (einschließlich) nicht übertragbar sind, nachweisen.

- (4) *Zweite Versammlung.* Wird für die Abstimmung ohne Versammlung gemäß § 11(3) die mangelnde Beschlussfähigkeit festgestellt, kann der Abstimmungsleiter eine zweite Versammlung im Sinne von § 15 Abs. 3 Satz 3 SchVG einberufen. Die Teilnahme an der zweiten Versammlung und die Ausübung der Stimmrechte sind von einer vorherigen Anmeldung der Gläubiger abhängig. Die Anmeldung muss unter der in der Bekanntmachung der Einberufung mitgeteilten Adresse spätestens am dritten Tag vor der zweiten Versammlung zugehen. Mit der Anmeldung müssen die Gläubiger ihre Berechtigung zur Teilnahme an der Abstimmung durch einen in Textform erstellten besonderen Nachweis der Depotbank gemäß § 14(3)(i)(a) und (b) und durch Vorlage eines Sperrvermerks der Depotbank, aus dem hervorgeht, dass die betreffenden Schuldverschreibungen ab dem Tag der Absendung der Anmeldung (einschließlich) bis zum angegebenen Ende der Versammlung (einschließlich) nicht übertragbar sind, nachweisen.
- (4) *Second Meeting.* If it is ascertained that no quorum exists for the vote without a meeting pursuant to § 11(3), the scrutineer (*Abstimmungsleiter*) may convene a second meeting within the meaning of section 15 paragraph 3 sentence 3 of the SchVG. Attendance at the second meeting and exercise of voting rights is subject to the Holders' registration. The registration must be received at the address stated in the convening notice no later than the third day preceding the second meeting. As part of the registration, Holders must demonstrate their eligibility to participate in the vote by means of a special confirmation of the Custodian in accordance with § 14(3)(i)(a) and (b) hereof in text form and by submission of a blocking instruction by the Custodian stating that the relevant Notes are not transferable from and including the day such registration has been sent until and including the stated end of the meeting.
- (5) *Leitung der Abstimmung.* Die Abstimmung wird von einem von der Emittentin beauftragten Notar oder, falls der Gemeinsame Vertreter (wie in § 11(7) definiert) zur Abstimmung aufgefordert hat, vom Gemeinsamen Vertreter geleitet.
- (5) *Chair of the vote.* The vote will be chaired by a notary appointed by the Issuer or, if the Holders' Representative (as defined in § 11(7) below) has convened the vote, by the Holders' Representative.
- (6) *Stimmrecht.* An Abstimmungen der Gläubiger nimmt jeder Gläubiger nach Maßgabe des Nennwerts oder des rechnerischen Anteils seiner Berechtigung an den ausstehenden Schuldverschreibungen teil.
- (6) *Voting rights.* Each Holder participating in any vote shall cast votes in accordance with the nominal amount or the notional share of its entitlement to the outstanding Notes.
- (7) *Gemeinsamer Vertreter.* Die Gläubiger können durch Mehrheitsbeschluss zur Wahrnehmung ihrer Rechte einen gemeinsamen Vertreter für alle Gläubiger bestellen (der "**Gemeinsame Vertreter**"). Der Gemeinsame Vertreter hat die Aufgaben und Befugnisse, welche ihm durch Gesetz oder von den Gläubigern durch Mehrheitsbeschluss eingeräumt wurden. Er hat die Weisungen der Gläubiger zu befolgen.
- (7) *Holders' Representative.* The Holders may by majority resolution appoint a common representative (the "**Holders' Representative**") to exercise the Holders' rights on behalf of each Holder. The Holders' Representative shall have the duties and powers provided by law or granted by majority resolution of the Holders. The Holders' Representative shall comply with the instructions of the Holders. To the extent that the Holders'

Soweit er zur Geltendmachung von Rechten der Gläubiger ermächtigt ist, sind die einzelnen Gläubiger zur selbständigen Geltendmachung dieser Rechte nicht befugt, es sei denn, der Mehrheitsbeschluss sieht dies ausdrücklich vor. Über seine Tätigkeit hat der Gemeinsame Vertreter den Gläubigern zu berichten. Für die Abberufung und die sonstigen Rechte und Pflichten des Gemeinsamen Vertreters gelten die Vorschriften des SchVG.

- (8) *Garantie.* Im Fall einer Schuldnerersetzung gemäß § 10 gilt dieser § 11 entsprechend für Änderungen der Garantie gemäß § 10(1)(d), und Änderungen der Anleihebedingungen und der Garantie sind nur mit Zustimmung der Nachfolgeschuldnerin und der Bayer Aktiengesellschaft als Garantin zulässig.

## **§ 12 BEGEBUNG WEITERER SCHULDVERSCHREIBUNGEN, ANKAUF UND ENTWERTUNG**

- (1) *Begebung weiterer Schuldverschreibungen.* Die Emittentin ist jederzeit berechtigt, ohne Zustimmung der Gläubiger weitere Schuldverschreibungen mit den gleichen Bedingungen (gegebenenfalls mit Ausnahme des Tages der Begebung, des Zinslaufbeginns und/oder des Ausgabepreises) in der Weise zu begeben, dass sie mit den Schuldverschreibungen eine einheitliche Emission bilden.
- (2) *Ankauf.* Die Emittentin ist berechtigt, jederzeit Schuldverschreibungen im Markt oder anderweitig zu jedem beliebigen Preis zu kaufen. Die von der Emittentin erworbenen Schuldverschreibungen können nach Wahl der Emittentin von ihr gehalten, weiterverkauft oder bei der Hauptzahlstelle zwecks Entwertung eingereicht werden. Sofern diese Käufe durch öffentliches Rückkaufangebot erfolgen, muss dieses Angebot allen Gläubigern gleichermaßen gemacht werden.
- (3) *Entwertung.* Sämtliche vollständig zurückgezahlten Schuldverschreibungen sind unverzüglich zu entwerten und

Representative has been authorised to assert certain rights of the Holders, the Holders shall not be entitled to assert such rights themselves, unless explicitly provided for in the relevant majority resolution. The Holders' Representative shall provide reports to the Holders on its activities. The regulations of the SchVG apply with regard to the recall and the other rights and obligations of the Holders' Representative.

- (8) *Guarantee.* In the event of a substitution pursuant to § 10, this § 11 shall apply *mutatis mutandis* for any amendment of the guarantee pursuant to § 10(1)(d), and the Terms and Conditions and such guarantee may only be amended with the consent of the Substitute Debtor and Bayer Aktiengesellschaft as guarantor.

## **§ 12 FURTHER ISSUES, PURCHASES AND CANCELLATION**

- (1) *Further Issues.* The Issuer may from time to time, without the consent of the Holders, issue further Notes having the same terms and conditions as the Notes in all respects (or in all respects except for the issue date, interest commencement date and/or issue price) so as to form a single issue with the Notes.
- (2) *Purchases.* The Issuer may at any time purchase Notes in the open market or otherwise and at any price. Notes purchased by the Issuer may, at the option of the Issuer, be held, resold or surrendered to the Principal Paying Agent for cancellation. If purchases are made by public tender, tenders for such Notes must be made available to all Holders of such Notes alike.
- (3) *Cancellation.* All Notes redeemed in full shall be cancelled forthwith and may not be reissued or resold.



können nicht wiederbegeben oder wiederverkauft werden.

### § 13 MITTEILUNGEN

- (1) *Bekanntmachung.* Alle die Schuldverschreibungen betreffenden Mitteilungen werden im Bundesanzeiger veröffentlicht und erfolgen zusätzlich durch elektronische Publikation auf der Website der Luxemburger Börse (www.bourse.lu). Jede Mitteilung gilt am dritten Tag nach dem Tag der Veröffentlichung als wirksam erfolgt.
- (2) *Mitteilungen an das Clearing System.* Solange Schuldverschreibungen an der Offiziellen Liste der Luxemburger Börse notiert sind, findet Absatz 1 Anwendung. Soweit die Regeln der Luxemburger Börse dies sonst zulassen, kann die Emittentin eine Veröffentlichung nach Absatz 1 durch eine Mitteilung an das Clearing System zur Weiterleitung an die Gläubiger ersetzen; jede derartige Mitteilung gilt am siebten Tag nach dem Tag der Mitteilung an das Clearing System als den Gläubigern mitgeteilt.

### § 14 ANWENDBARES RECHT, GERICHTSSTAND UND GERICHTLICHE GELTENDMACHUNG

- (1) *Anwendbares Recht.* Form und Inhalt der Schuldverschreibungen sowie Pflichten der Emittentin und Rechte der Gläubiger bestimmen sich in jeder Hinsicht nach deutschem Recht.
- (2) *Gerichtsstand.* Vorbehaltlich eines zwingend vorgeschriebenen Gerichtsstands für bestimmte Verfahren nach dem SchVG ist nicht ausschließlich zuständig für sämtliche im Zusammenhang mit den Schuldverschreibungen entstehenden Klagen oder sonstige Verfahren ("**Rechtsstreitigkeiten**") das Landgericht Frankfurt am Main.
- (3) *Gerichtliche Geltendmachung.* Jeder Gläubiger von Schuldverschreibungen ist berechtigt, in jedem Rechtsstreit gegen die Emittentin oder in jedem Rechtsstreit, in dem der Gläubiger und die Emittentin Partei sind, seine Rechte

### § 13 NOTICES

- (1) *Publication.* All notices concerning the Notes shall be published in the Federal Gazette (*Bundesanzeiger*) and in addition will be made by means of electronic publication on the internet website of the Luxembourg Stock Exchange (www.bourse.lu). Any notice so given will be deemed to have been validly given on the third day following the date of such publication.
- (2) *Notification to Clearing System.* So long as any Notes are listed on the Official List of the Luxembourg Stock Exchange, subparagraph (1) shall apply. If the Rules of the Luxembourg Stock Exchange otherwise so permit, the Issuer may deliver the relevant notice to the Clearing System for communication by the Clearing System to the Holders, in lieu of publication as set forth in subparagraph (1) above; any such notice shall be deemed to have been validly given on the seventh day after the day on which the said notice was given to the Clearing System.

### § 14 APPLICABLE LAW, PLACE OF JURISDICTION AND ENFORCEMENT

- (1) *Applicable Law.* The Notes, as to form and content, and all obligations of the Issuer and rights of the Holders shall be governed by German law.
- (2) *Submission to Jurisdiction.* Subject to any mandatory jurisdiction for specific proceedings under the SchVG, the District Court (*Landgericht*) in Frankfurt am Main shall have non-exclusive jurisdiction for any action or other legal proceedings ("**Proceedings**") arising out of or in connection with the Notes.
- (3) *Enforcement.* Any Holder of Notes may in any proceeding against the Issuer, or to which such Holder and the Issuer are parties, protect and enforce in its own name its rights arising under such Notes on the basis of (i) a statement issued by

aus diesen Schuldverschreibungen im eigenen Namen auf der folgenden Grundlage wahrzunehmen oder geltend zu machen: (i) er bringt eine Bescheinigung der Depotbank bei, bei der er für die Schuldverschreibungen ein Wertpapierdepot unterhält, welche (a) den vollständigen Namen und die vollständige Adresse des Gläubigers enthält, (b) den Gesamtnennbetrag der Schuldverschreibungen bezeichnet, die unter dem Datum der Bestätigung auf dem Wertpapierdepot verbucht sind und (c) bestätigt, dass die Depotbank gegenüber dem Clearing System eine schriftliche Erklärung abgegeben hat, die die vorstehend unter (a) und (b) bezeichneten Informationen enthält; und (ii) er legt eine Kopie der die betreffenden Schuldverschreibungen verbriefenden Globalurkunde vor, deren Übereinstimmung mit dem Original eine vertretungsberechtigte Person des Clearing Systems oder des Verwahrers des Clearing Systems bestätigt hat, ohne dass eine Vorlage der Originalbelege oder der die Schuldverschreibungen verbriefenden Globalurkunde in einem solchen Verfahren erforderlich wäre. Für die Zwecke des Vorstehenden bezeichnet "**Depotbank**" jede Bank oder ein sonstiges anerkanntes Finanzinstitut, das berechtigt ist, das Wertpapierverwahrungsgeschäft zu betreiben und bei der/dem der Gläubiger ein Wertpapierdepot für die Schuldverschreibungen unterhält, einschließlich des Clearing Systems. Unbeschadet des Vorstehenden kann jeder Gläubiger seine Rechte aus den Schuldverschreibungen auch auf jede andere Weise schützen oder geltend machen, die im Land des Rechtsstreits prozessual zulässig ist.

### **§ 15 SPRACHE**

Diese Anleihebedingungen sind in deutscher Sprache abgefasst. Eine Übersetzung in die englische Sprache ist beigelegt. Der deutsche Text ist bindend und maßgeblich. Die Übersetzung in die englische Sprache ist unverbindlich.

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the Custodian (as defined below) with whom such Holder maintains a securities account in respect of the Notes (a) stating the full name and address of the Holder, (b) specifying the aggregate principal amount of Notes credited to such securities account on the date of such statement and (c) confirming that the Custodian has given written notice to the Clearing System containing the information pursuant to (a) and (b) and (ii) a copy of the Note in global form certified as being a true copy by a duly authorized officer of the Clearing System or a depository of the Clearing System, without the need for production in such proceedings of the actual records or the global note representing the Notes. For purposes of the foregoing, "**Custodian**" means any bank or other financial institution of recognised standing authorized to engage in securities custody business with which the Holder maintains a securities account in respect of the Notes and includes the Clearing System. Each Holder may, without prejudice to the foregoing, protect and enforce its rights under these Notes also in any other way which is admitted in the country of the Proceedings.

### **§ 15 LANGUAGE**

These Terms and Conditions are written in the German language and provided with an English language translation. The German text shall be controlling and binding. The English language translation is provided for convenience only.

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## **Beschränkungen bezüglich der Rückzahlung und des Rückkaufs der Schuldverschreibungen**

*Der folgende Absatz in Kursivschrift ist nicht Bestandteil der Anleihebedingungen.*

*Die Emittentin beabsichtigt (ohne dadurch eine Rechtspflicht zu übernehmen) die Schuldverschreibungen nur zurückzuzahlen oder zurückzukaufen, soweit sie durch Instrumente mit gleichwertiger S&P Eigenkapitalanrechnung (oder eine vergleichbare Bezeichnung durch S&P) ersetzt werden. Als gleichwertig gelten Nettoerlöse, welche die Emittentin oder eine Tochtergesellschaft der Emittentin aus dem Verkauf von Wertpapieren an Dritte erhält und die eine S&P Eigenkapitalanrechnung haben, die mindestens so hoch ist wie die S&P Eigenkapitalanrechnung der zurückzuzahlenden oder zurückzukaufenden Schuldverschreibungen, die diesen am Tag der Begebung der Schuldverschreibungen zugewiesen wurde (wobei Änderungen der Hybrid Rating Methodologie oder deren Auslegung seit dem Tag der Begebung der Schuldverschreibungen berücksichtigt werden).*

*Es gelten jedoch folgende Ausnahmen in Bezug auf die Absicht der Emittentin. Es muss nicht für Ersatz gesorgt werden:*

- (i) wenn das der Emittentin durch S&P erteilte Rating mindestens BBB (oder eine vergleichbare Bezeichnung durch S&P) beträgt und die Emittentin sich sicher ist, dass ein solches Rating infolge der Rückzahlung oder des Rückkaufs nicht unter diesen Wert fallen würde oder*
- (ii) im Fall eines Rückkaufs von Schuldverschreibungen zusammen mit anderen Rückkäufen von hybriden Wertpapieren der Emittentin (je nach Fall), in Höhe von weniger als (x) 10% des Gesamtnennbetrags der ausstehenden hybriden Wertpapiere der Emittentin während einer Frist von 12 aufeinander folgenden Monaten oder (y) 25% des Gesamtnennbetrags der ausstehenden hybriden Wertpapiere der Emittentin während einer Frist von 10 aufeinander folgenden Jahren, vorausgesetzt, dass ein solcher Rückkauf in jedem Fall keine wesentlichen negativen Auswirkungen auf das Kreditprofil der Emittentin hat, oder*
- (iii) im Fall der Rückzahlung der Schuldverschreibungen gemäß (i) einem*

## **Restrictions regarding the Redemption and Repurchase of the Notes**

*The following paragraphs in italics do not form part of the Terms and Conditions.*

*The Issuer intends (without thereby assuming a legal or contractual obligation) that it will redeem or repurchase the Notes only to the extent they are replaced with instruments with equivalent S&P equity credit. The net proceeds which are received by the Issuer or a Subsidiary of the Issuer from the sale of securities to third parties and are assigned an S&P equity credit that is at least equal to the S&P equity credit assigned to the Notes to be redeemed or repurchased on the issue date of the Notes (but taking into account any changes in hybrid capital methodology or the interpretation thereof since the issue date of the Notes).*

*The following exceptions apply as to the Issuer's replacement intention. The Notes are not required to be replaced:*

- (i) if the rating assigned by S&P to the Issuer is at least BBB (or such similar nomenclature then used by S&P) and the Issuer is comfortable that such rating would not fall below this level as a result of such redemption or repurchase, or*
- (ii) in the case of repurchase of the Notes taken together with other repurchases of hybrid securities of the Issuer (as the case may be) which are less than (x) 10 per cent. of the aggregate principal amount of the Issuer's outstanding hybrid securities in any period of 12 consecutive months or (y) 25 per cent. of the aggregate principal amount of the Issuer's outstanding hybrid securities in any period of 10 consecutive years provided that in each case such repurchase has no materially negative effect on the Issuer's credit profile, or*
- (iii) if the Notes are redeemed: (i) pursuant to a Rating Event, a Tax Deductibility*

Ratingereignis, einem Steuerereignis, einem Gross-Up Ereignis, oder (ii) im Fall von geringem ausstehendem Gesamtnennbetrag oder

Event, a Gross-Up Event, or (ii) in case of a Minimum Outstanding Aggregate Principal Amount, or

- (iv) wenn die Schuldverschreibungen keine (nicht einmal 'minimale', außer bei minimalen Ergebnissen aufgrund der effektiven Restlaufzeit) Eigenkapitalanrechnung (oder eine solche von S&P zum Zeitpunkt der Rückzahlung oder des Rückkaufs dann verwendete gleichartige Klassifikation) aufweisen oder
- (v) wenn die Rückzahlung oder der Rückkauf am oder nach dem **[für NC5.5 Schuldverschreibungen einfügen: 12. Mai 2045]** **[für NC8 Schuldverschreibungen einfügen: 12. November 2047]** erfolgt.
- (iv) if the Notes are not assigned any category (not even minimal, except where minimal results due to effective remaining maturity) of "equity credit" (or such similar nomenclature then used by S&P at the time of such redemption or repurchase), or
- (v) if such redemption or repurchase occurs on or after **[for NC5.5 Notes insert: 12 May 2045]** **[for NC8 Notes insert: 12 November 2047]**.

Die Absicht der Emittentin zur Ersetzung gilt, auch während der ersten fünf Jahre nach dem Zinslaufbeginn, nicht für Rückkäufe von Schuldverschreibungen mit einem Gesamtnennbetrag bis zum S&P Überschussbetrag. "S&P Überschussbetrag" bezeichnet den Nennbetrag der insgesamt ausstehenden Hybridanleihen der Emittentin, der die maximale Anrechnungsgrenze, bezogen auf die angepasste gesamte Kapitalisierung (adjusted total capitalization) der Emittentin, nach der in diesem Zeitpunkt anwendbaren S&P Methodologie überschreitet.

The replacement intention of the Issuer, including during the period of five years following the Interest Commencement Date, shall not apply for repurchases of Notes with an aggregate amount up to the S&P Excess Amount. "S&P Excess Amount" means the aggregate principal amount of outstanding hybrid capital of the Issuer exceeding the maximum aggregate principal amount of hybrid capital for which S&P under its then prevailing methodology would recognize equity credit from time to time based on the Issuer's adjusted total capitalization.

## DESCRIPTION OF BAYER AG AND THE BAYER GROUP

### **Bayer AG**

#### ***History and Incorporation***

Bayer AG was established on 19 December 1951 under the name "Farbenfabriken Bayer Aktiengesellschaft". It was registered under German law in the commercial register at the local court of Opladen (today the local court of Cologne) under the number HRB 1122 (today, at the local court of Cologne, under the number HRB 48248). Its name was changed to "Bayer Aktiengesellschaft" by resolution of the Meeting of the Stockholders on 14 June 1972.

The registered office of Bayer AG is at Kaiser-Wilhelm-Allee 1, 51373 Leverkusen, Germany, telephone number: +49 214 30 48334. The official website of Bayer AG can be found at: <https://www.bayer.com/>.

The legal entity identifier (LEI) of Bayer AG is 549300J4U55H3WP1XT59

#### ***Articles of Incorporation and Fiscal Year***

According to its Articles of Incorporation (paragraph 2), the object of Bayer AG is manufacturing, marketing and other industrial activities or the provision of services in the fields of health care and agriculture. The company may also perform these activities in the fields of polymers and chemicals.

Bayer AG's fiscal year is the calendar year.

#### ***Capital Stock***

The capital stock of Bayer AG on 30 September 2019, amounted to EUR 2,387 million (31 December 2018: EUR 2,387 million), divided into 932,556,122 (31 December 2018: 932,551,964) registered no-par shares, and was fully paid in. Each no-par share confers one voting right.

### **Business Overview**

#### ***Principal activities of Bayer AG and the Bayer Group***

Bayer is a life science company, active in the fields of health and nutrition. Our products support efforts to overcome challenges presented by a growing and aging global population. Guided by our corporate purpose "Bayer: Science for a better life," we help to prevent, alleviate and treat diseases. We are also making an important contribution to providing a reliable supply of high-quality food, feed and plant-based raw materials, while at the same time promoting the sustainable use of natural resources. Our business activities therefore also support the attainment of the United Nations Sustainable Development Goals.

#### ***Principal Markets***

Bayer's subsidiaries and affiliates around the world are grouped into four regions:

- Europe/Africa/Middle East
- North America
- Asia/Pacific
- Latin America

The Group's total sales in fiscal year 2018 based on customer location, were as follows: 35.8 per cent. in Europe / Africa / Middle East; 29.2 per cent. in North America; 20.5 per cent. in the Asia/Pacific region; and 14.5 per cent. in the Latin America region. For the nine months ended 30 September 2019, the Group's total sales based on customer location were as follows: 31.1 per cent. in Europe/Africa/Middle East; 35.7 per cent. in North America; 19.7 per cent. in the Asia/Pacific region; and 13.5 per cent. in the Latin America region.

## **Organizational Structure and Competitive Position**

The management structure of the Bayer Group comprises three divisions – Pharmaceuticals, Consumer Health and Crop Science, which are also our reporting segments. The Animal Health business unit was also a reporting segment up to the signing of an agreement to sell the business in August 2019. The corporate functions, Business Services and the service company Currenta support the operational business.

Pharmaceuticals concentrates on prescription products, especially for cardiology and women's health care, and on specialty therapeutics focused on the areas of oncology, hematology and ophthalmology. The division also comprises the radiology business, which markets diagnostic imaging equipment together with the necessary contrast agents. The prescription products from Pharmaceuticals are primarily distributed through wholesalers, pharmacies and hospitals.

Consumer Health is a supplier of nonprescription (OTC = over-the-counter) medicines, medical products, cosmetics and other self-care solutions in the categories of dermatology, nutritional supplements, pain and cardiovascular risk prevention, digestive health, allergy, cough and cold. The products are generally sold by pharmacies, supermarket and drugstore chains, online retailers and other large retailers.

Crop Science offers a broad portfolio of seeds, plant traits, chemical and biological crop protection products, digital solutions and extensive customer service for sustainable agriculture. We market these products primarily via wholesalers and retailers or directly to farmers. In addition, we market pest and weed control products and services to professional users outside the agriculture industry. Most of our crop-protection products are manufactured at the segment's own production sites. Numerous decentralized formulation and filling sites enable the company to quickly react to the needs of local markets. The breeding, propagation, production and / or processing of seeds, including seed dressing, takes place at locations close to our customers, either at our own facilities or under contract.

Animal Health develops products and solutions for the prevention and treatment of diseases in companion and farm animals. We market our animal health products globally through veterinarians and other distribution channels such as pharmacies or retail stores. On 20 August 2019, we entered into a definitive agreement to sell our Animal Health business. For further information, please see "*Appendix to condensed interim financial information*" below.

The corporate functions and Business Services operate as Group-wide competence centers in which business support services are bundled. Currenta is the service company responsible for managing and operating the Chempark sites in Leverkusen, Dormagen and Krefeld-Uerdingen. On 6 August 2019, we entered into agreements to sell our stake in Currenta. For further information, please see "*Appendix to condensed consolidated interim financial information*" below.

We operate sites around the world, and some are used by multiple segments. As of 31 December 2018, the Bayer Group comprised 420 consolidated companies in 90 countries.

As the parent company of the Bayer Group, Bayer AG – represented by its Board of Management – performs the principal management functions for the entire company. This mainly comprises the Group's strategic alignment, resource allocation, and the management of financial affairs and managerial staff, along with the management of the Group-wide operational business of the segments. In addition, Bayer AG also performs the corresponding parent company functions for Pharmaceuticals and Crop Science in Germany.

The financial statements of the Bayer Group as of 30 September 2019 included 408 consolidated companies (31 December 2018: 420).

## **The Monsanto Acquisition**

Bayer acquired 100% of the outstanding shares of Monsanto Company, St. Louis, Missouri, United States ("**Monsanto**"), on 7 June 2018. The acquisition of Monsanto combines Bayer's chemical and biological crop protection portfolio with Monsanto's expertise in the field of seeds and traits.

Among the production sites maintained by Monsanto are facilities in Luling, Muscatine and Soda Springs (all United States), Antwerp (Belgium), Zarate (Argentina) and Camacari (Brazil). Monsanto's portfolio of established brands includes Dekalb™, Asgrow™ and Roundup™, among others. The purchase price of EUR 48,029 million pertained mainly to intangible assets for technologies in the areas of seeds and traits

(useful lives of between 9 and 30 years), herbicides (useful lives of between 5 and 20 years) and digital platforms (useful lives of 15 years), as well as for research and development projects, brands (useful lives of between 10 and 30 years), customer relationships (useful lives of between 20 and 30 years), property, plant and equipment, inventories and goodwill. No value was assigned to the company name "Monsanto".

The goodwill included expected synergies in administration processes and infrastructure, including cost savings in the selling, R&D and general administration functions, as well as expected sales synergies resulting from the combined offering of products. The goodwill is non-tax-deductible.

For the fiscal year ended 31 December 2018, sales of EUR 5,328 million and an after-tax loss of EUR 1,341 million were recorded for the acquired businesses since the date of first-time consolidation.

Bonds with total nominal volumes of US\$ 15 billion and EUR 5 billion in total were issued in June 2018 to finance the acquisition. As part of the acquisition, bonds with a nominal volume of US\$ 6.9 billion were taken over from Monsanto.

The purchase price allocation of the Monsanto acquisition was completed on 6 June 2019, resulting in Net assets of EUR 48,206 million. For further information on the financing of the Monsanto acquisition, please see "*Material Contracts - Financing Arrangements related to Monsanto Acquisition*".

### Selected Financial Information

This selected Financial Information has been extracted from the audited consolidated financial statements of the Bayer Group as of and for the year ended 31 December 2018 and the unaudited condensed consolidated interim financial information of the Bayer Group as of and for the nine months ended 30 September 2019. The consolidated financial statements have been prepared according to the International Financial Reporting Standards (IFRS) issued by the International Accounting Standards Board (IASB), London, and the interpretations of the IFRS Interpretations Committee, both as endorsed by the European Union and in effect at the end of the respective reporting periods. The condensed consolidated interim financial information has been prepared in accordance with the IFRS accounting policies and measurement principles.

	<b>As of and for the nine months ended</b>		<b>As of and for the year ended</b>	
	<b><u>30 September</u></b> <b><u>2019</u></b> <i>(unaudited)</i>	<b><u>30 September</u></b> <b><u>2018<sup>(a)</sup></u></b> <i>(unaudited)</i>	<b><u>31 December</u></b> <b><u>2018</u></b> <i>(audited)</i>	<b><u>31 December</u></b> <b><u>2017</u></b> <i>(audited)</i>
	<i>in million EUR</i>			
Sales	32,795	26,387	39,586	35,015
Net income <sup>(b), (c)</sup>	2,677	5,619	1,695	7,336
Net cash provided by operating activities (total) <sup>(c)</sup>	4,961	4,949	7,917	8,134
Total assets <sup>(d)</sup>	130,763	130,513	126,732	75,087
Equity	46,147	50,397	46,148	36,861

<sup>(a)</sup> Figures restated due to the effects of adjustments to the purchase price allocation for Monsanto which was completed on 6 June 2019. In addition, the previously reportable Animal Health segment and the Currenta business have been reported as discontinued operations in accordance with IFRS 5 (Non-current Assets Held for Sale and Discontinued Operations) since the divestment agreements were signed in 2019.

<sup>(b)</sup> Net income = Income (loss) after income taxes attributable to Bayer AG stockholders.

<sup>(c)</sup> From continuing and discontinued operations.

<sup>(d)</sup> Figure as of 31 December 2018 restated due to the effects of adjustments to the purchase price allocation for Monsanto which was completed on 6 June 2019.

### Management and Supervisory Bodies

In accordance with the German Stock Corporation Act (*Aktiengesetz*), Bayer AG has both a Board of Management (*Vorstand*) and a Supervisory Board (*Aufsichtsrat*). The Board of Management is responsible for the management of Bayer's business; the Supervisory Board supervises the Board of Management and appoints its members. The two boards are separate, and no individual may simultaneously be a member of both boards.

### ***Board of Management***

The following table shows the current members of Bayer's Management Board, their responsibilities, the date of their initial appointment and their current term of office.

<b>Name</b>	<b>Position/ Responsibilities/</b>	<b>Appointed</b>	<b>Term of Office</b>
Werner Baumann	Chairman of the Board of Management (CEO)	1 January 2010	Current term expires 2021
Liam Condon	Member of the Board of Management and President Crop Science Division. Also responsible for the Animal Health Business Unit.	1 January 2016	Current term expires 2023
Wolfgang Nickl	Member of the Board of Management and responsible for Finance (Chief Financial Officer) and for the region North America.	26 April 2018	Current term expires 2021
Dr. Hartmut Klusik	Member of the Board of Management and responsible for Human Resources, Technology & Sustainability. Labor Director	1 January 2016	Current term expires 2019
Kemal Malik	Member of the Board of Management and responsible for Innovation and the Asia/Pacific regions	1 February 2014	Current term expires 2019
Heiko Schipper	Member of the Board of Management and President of the Consumer Health Division	1 March 2018	Current term expires 2021
Stefan Oelrich	Member of the Board of Management and President of the Pharmaceuticals Division. Also responsible for the region Latin America.	1 November 2018	Current term expires 2021

No member of the Management Board performs any principal activities outside the Group which are significant with respect to Bayer AG or the Bayer Group.

In September 2019, the Supervisory Board of Bayer AG reached a decision to reduce the size of the company's Board of Management from seven to five members effective 1 January 2020. Dr. Hartmut Klusik and Kemal Malik are to leave the company as of 31 December 2019. As part of the announced efficiency measures, neither position will be retained and the respective responsibilities will be reallocated.

### ***Supervisory Board***

The following table shows the current members of Bayer's Supervisory Board, their principal occupations, the year in which they were first elected or appointed and memberships they held as per 31 December 2018 (unless otherwise indicated) on the supervisory boards of other companies or in comparable domestic and foreign controlling bodies.



<b>Name</b>	<b>Position/ Responsibilities/ Education</b>	<b>First Elected</b>	<b>Memberships on other Supervisory Boards or in comparable domestic and foreign Controlling Bodies</b>
Werner Wenning	Chairman of the Supervisory Board of Bayer AG	2012	Henkel Management AG Henkel AG & Co. KGaA (Shareholders' Committee) Siemens AG (Vice Chairman)
Oliver Zühlke <sup>1</sup>	Vice Chairman of the Supervisory Board, Chairman of the Bayer Central Works Council	2007	-
Dr. Paul Achleitner	Chairman of the Supervisory Board of Deutsche Bank AG	2002	Daimler AG Deutsche Bank AG (Chairman) Henkel AG & Co. KGaA (Shareholders' Committee)
Dr. rer. nat. Simone Bagel-Trah	Chairwoman of the Supervisory Board of Henkel AG & Co. KGaA and Henkel Management AG and Shareholders' Committee of Henkel AG & Co. KGaA	2014	Henkel AG & Co. KGaA (Chairwoman) Henkel Management AG (Chairwoman) Heraeus Holding GmbH Henkel AG & Co. KGaA (Shareholders' Committee, Chairwoman)
Dr. Norbert W. Bischofberger	President and Chief Executive Officer of Kronos Bio, Inc.	2017	InCarda Therapeutics, Inc. (Board of Directors) Kronos Bio, Inc. (Board of Directors) Morphic Therapeutics, Inc. (Board of Directors) (effective June 2019)
André van Broich	Chairman of the Bayer Group Works Council and Chairman of the Works Council of the Dormagen site	2012	-
Ertharin Cousin	Independent consultant	2019	-
Dr. Thomas Elsner	Chairman of the Managerial Employees' Committee of Bayer AG, Leverkusen and Chairman of	2017	-

<b>Name</b>	<b>Position/ Responsibilities/ Education</b>	<b>First Elected</b>	<b>Memberships on other Supervisory Boards or in comparable domestic and foreign Controlling Bodies</b>
	the Bayer Group Managerial Employees' Committee		
Johanna W. (Hanneke) Faber	President Europe at Unilever N.V./plc	2016	-
Colleen A. Goggins	Independent consultant	2017	The Toronto-Dominion Bank (Board of Directors) IQVIA Holdings Inc. (Board of Directors) SIG Combibloc Services AG (Board of Directors)
Heike Hausfeld	Chairwoman of the Works Council of the Leverkusen site	2017	Bayer Business Services GmbH (Vice Chairwoman)
Reiner Hoffmann	Chairman of the German Trade Union Confederation	2006	-
Frank Löllgen	North Rhine District Secretary of the German Mining, Chemical and Energy Industrial Union	2015	Evonik Industries AG IRR – Innovationsregion Rheinisches Revier GmbH
Prof. Dr. Wolfgang Plischke	Independent consultant	2016	Evotec AG (Chairman)
Petra Reinbold-Knape	Member of the Executive Committee of the German Mining, Chemical and Energy Industrial Union	2012	Lausitz Energie Kraftwerk AG (Vice Chairwoman) Lausitz Energie Bergbau AG (Vice Chairwoman) DGB Rechtsschutz GmbH
Detlef Rennings	Chairman of the Central Works Council of CURRENTA and Chairman of the Works Council of CURRENTA of the Uerdingen site	2017	Currenta Geschäftsführungs- GmbH
Sabine Schaab	Vice Chairwoman of the Works Council of the Elberfeld site	2017	-
Michael Schmidt- Kießling	Chairman of the Works Council of the Elberfeld site	2012	-

<b>Name</b>	<b>Position/ Responsibilities/ Education</b>	<b>First Elected</b>	<b>Memberships on other Supervisory Boards or in comparable domestic and foreign Controlling Bodies</b>
Prof. Dr. Dr. h.c. Otmar D. Wiestler	President of the Helmholtz Association of German Research Centers	2014	-
Prof. Dr. Norbert Winkeljohann <sup>2</sup>	Independent management consultant	2018	Deutsche Bank Aktiengesellschaft Georgsmarienhütte Holding GmbH (effective January 2019) heristo aktiengesellschaft (Chairman) Sievert AG (Chairman) (effective January 2019)

1) Vice Chairman of the Supervisory Board since 1 July 2015

2) Expert member pursuant to section 100 paragraph 5 of the German Stock Corporation Act (AktG)

The business address of each member of the Board of Management and the Supervisory Board is Bayer Aktiengesellschaft, Kaiser-Wilhelm-Allee 1, 51373 Leverkusen, Germany.

There are no potential conflicts of interest between any duties of the members of the Board of Management or the Supervisory Board toward Bayer and their respective private interests and/or other duties.

#### ***Committees of the Supervisory Board***

The committees set up by the Supervisory Board operate in compliance with the German Stock Corporation Act and the German Corporate Governance Code. The committees of the Supervisory Board are as follows (as of 26 June 2019):

Presidial Committee/ Mediation Committee	Wenning (Chairman), Achleitner, Reinbold-Knape, Zühlke
Audit Committee	Winkeljohann (Chairman), Elsner, Löllgen, Plischke, Wenning, Zühlke
Human Resources Committee	Wenning (Chairman), Achleitner, Hausfeld, van Broich
Nominations Committee	Wenning (Chairman), Achleitner
Innovation Committee	Plischke (Chairman), Bischofberger, van Broich, Reinbold-Knape, Schaab, Wenning, Wiestler, Zühlke
Glyphosate Litigation Committee	Wenning (Chairman), Achleitner, van Broich, Elsner, Goggins, Reinbold-Knape, Winkeljohann, Zühlke

### *Presidial Committee*

This comprises the Chairman and Vice Chairman of the Supervisory Board along with a further stockholder representative and a further employee representative. The Presidial Committee serves primarily as the mediation committee pursuant to the German Code termination Act. It has the task of submitting proposals to the Supervisory Board on the appointment of members of the Board of Management if the necessary two-thirds majority is not achieved in the first vote at a plenary meeting. Certain decision-making powers in connection with capital measures, including the power to amend the Articles of Incorporation accordingly, have also been delegated to this committee. In addition, the Supervisory Board may assign specific responsibilities to the Presidial Committee on a case-by-case basis. The Presidial Committee may also make preparations for Supervisory Board meetings.

### *Audit Committee*

The Audit Committee comprises three stockholder representatives and three employee representatives. The Chairman of the Audit Committee, Prof. Dr. Norbert Winkeljohann, meets the statutory requirements concerning the expertise in the field of accounting or auditing that a member of the Supervisory Board and the Audit Committee is required to possess.

The Audit Committee meets regularly four times a year. Its principal tasks are to oversee the financial reporting process, the effectiveness and ongoing development of the internal control system, the risk management system, the internal audit system, the compliance system and the audit of the financial statements. It prepares the decisions of the Supervisory Board pertaining to the financial statements, the management report, the proposal for the use of the distributable profit, the consolidated financial statements, the Group management report and the agreements with the external auditor, including, in particular, the audit contract, the definition of audit priorities and the fee agreement.

The Audit Committee submits a proposal to the Supervisory Board concerning the auditor's appointment and takes appropriate steps to ascertain and oversee the auditor's independence. In particular, it verifies whether the financial statements were prepared in accordance with the statutory requirements and give a true and fair view of the net assets, financial position and results of operations of the company and the Group.

At each of its meetings, the Audit Committee discusses new developments in the area of compliance where necessary. The Chairman of the Board of Management and the Chief Financial Officer regularly attended the meetings. Representatives of the auditor also attended all of the meetings, reporting in detail on the audit work and the audit reviews of the quarterly financial reports.

### *Human Resources Committee*

On this committee, too, there is parity of representation between stockholders and employees. It consists of the Chairman of the Supervisory Board and three other Supervisory Board members. The Human Resources Committee prepares the personnel decisions of the full Supervisory Board, which resolves on appointments or revocations of appointments of members of the Board of Management.

The Human Resources Committee resolves on behalf of the Supervisory Board on the service contracts of the members of the Board of Management. However, it is the task of the full Supervisory Board to resolve on the total compensation of the individual members of the Board of Management and the respective compensation components, as well as to regularly review the compensation system on the basis of recommendations submitted by the Human Resources Committee.

The Human Resources Committee also discusses the long-term succession planning for the Board of Management.

### *Nominations Committee*

This committee carries out preparatory work when an election of stockholder representatives to the Supervisory Board is to be held. It suggests suitable candidates for the Supervisory Board to propose to the Annual Stockholders' Meeting for election. The Nominations Committee comprises the Chairman of the Supervisory Board and the other stockholder representative on the Presidial Committee.

### *Innovation Committee*

The Innovation Committee is primarily concerned with the innovation strategy and innovation management, the strategy for protection of intellectual property, and Bayer's major research and development projects. Within its area of responsibility, the committee advises and oversees the management and prepares any Supervisory Board decisions.

The committee comprises the Chairman of the Supervisory Board and seven other members, with parity of representation between stockholder and employee representatives. The Chairman of the Board of Management and the member of the Board of Management responsible for innovation regularly attend the meetings of the Innovation Committee.

### *Glyphosate Litigation Committee*

The committee was established as an ad hoc committee to help Bayer decisively but prudently advance the glyphosate litigation. It is tasked with intensively monitoring these topics, consulting with the Board of Management and making recommendations on the litigation strategy. The committee is made up of eight Supervisory Board members, with four shareholder representatives and four employee representatives. Its meetings are also attended by U.S. lawyer John H. Beisner, a recognized expert in product liability litigation whom Bayer has retained to advise the Supervisory Board on matters related to the glyphosate litigations, including trial tactics and mediation, on an ongoing basis.

### ***Declaration of Conformity***

With respect to the past, present and future corporate governance practices at Bayer AG, the following declaration of the Board of Management and Supervisory Board of Bayer AG refers to the German Corporate Governance Code amended on 7 February 2017.

Pursuant to Section 161 of the German Stock Corporation Act, the Board of Management and Supervisory Board of Bayer AG hereby declare as follows:

"1. Since the last annual compliance declaration was issued in December 2017, the recommendations set out in the Code have been met, with two transitory exceptions that are set out in the May 2018 amendment to the compliance declaration dated December 2017.

The Code recommendation in Section 7.1.2, Sentence 3, was not complied with on one occasion as a result of the interim report for the second quarter of 2018 first being published on 5 September 2018, and thus not within 45 days of the end of the reporting period as recommended. The reason for this was that, with the acquisition of the Monsanto Company having closed in the second quarter, a multitude of measures needed to be undertaken as part of the first-time consolidation of the company. Despite all the preparations undertaken, the work required in this connection could not be carried out within 45 days of the end of the reporting period as recommended. The Board of Management and the Supervisory Board therefore considered a one-time deviation from the recommendation in question to be an appropriate course of action to ensure proper financial reporting for the second quarter of 2018.

The Code recommendation in Section 4.2.3, Paragraph 2, Sentence 8 was not complied with on one occasion because the performance targets for the short-term variable components of the Board of Management's compensation for 2018 were adjusted. The targets were set by the Supervisory Board at the beginning of 2018 originally on the basis of the 2018 budget. The closing of the acquisition of the Monsanto Company in the second quarter resulted in substantial deviations from the original planning for the current fiscal year of Bayer AG. This related to parameters and structural aspects that are relevant for the short-term compensation of members of the Board of Management of Bayer AG. To ensure that the short-term variable components of the Board of Management's compensation continued to be based on appropriate and challenging performance targets after the closing of the Monsanto acquisition, the relevant performance targets and structural aspects of this short-term variable compensation were adjusted. The Supervisory Board believes that these changes were necessary to ensure that the short-term variable compensation was appropriate.

2. All the recommendations of the Code will be complied with in full in the future."

No further declaration has been issued since December 2018.

## Major Shareholders

Under Bayer AG's Articles of Incorporation, each of Bayer AG's shares represents one vote. Major shareholders do not have different voting rights. As of 30 September 2019, there are 932,556,122 shares outstanding.

Under the German Securities Trading Act (*Wertpapierhandelsgesetz*; "WpHG"), holders of voting securities of a listed German company must notify that company of the level of their holding whenever it reaches, exceeds or falls below specified thresholds. The thresholds are 3, 5, 10, 15, 20, 25, 30, 50 and 75 per cent. of the company's outstanding voting securities. As of the date of this Prospectus we received the following notifications of stockholdings in Bayer AG pursuant to Section 33, Paragraph 1 of the WpHG. In cases where stockholdings reached, exceeded or fell below the thresholds set out in this legislation on several occasions, only the most recent notification is mentioned:

- BlackRock, Inc., Wilmington, United States, notified us that its voting rights amounted to 7.44% on 26 March 2018. 7.17% of these voting rights (59,256,963 voting rights) were attributable to this company pursuant to Section 34 WpHG. 0.26% of these voting rights (2,119,910 voting rights) were attributable to this company as an instrument within the meaning of Section 38, Paragraph 1, No. 1 WpHG (securities loan). 0.02% of these voting rights (174,418 voting rights) were attributable to this company as an instrument within the meaning of Section 38, Paragraph 1, No. 2 WpHG (call option or contract for difference).
- The Republic of Singapore, Singapore, represented by the Minister for Finance, notified us that its voting rights exceeded the 3% threshold on 18 April 2018, and amounted on that date to 4.17% (35,763,529 voting rights). 3.97% of these voting rights (34,078,853 voting rights) were attributable to it pursuant to Section 34 WpHG. 0.20% of these voting rights (1,684,676 voting rights) were attributable to it as an instrument within the meaning of Section 38, Paragraph 1, No. 2 WpHG (put option).
- The Kingdom of Norway, Oslo, Norway, represented by the Minister of Finance, notified us that its voting rights amounted to 3.03% as of 22 October 2019. 3.01% of these voting rights (28,081,770 voting rights) were attributable to it pursuant to Section 34 WpHG. 0.02% of these voting rights (179,341 voting rights) were attributable to it as an instrument within the meaning of Section 38, Paragraph 1, No. 1 WpHG (securities loan). 0.00002% of these voting rights (150 voting rights) were attributable to it as an instrument within the meaning of Section 38, Paragraph 1, No. 2 WpHG (contract for difference).
- The Goldman Sachs Group, Wilmington, United States, notified us that its voting rights amounted to 0.29% on 3 May 2019. 0.07% of these voting rights (613,925 voting rights) were attributable to this company pursuant to Section 34 WpHG. 0.02% of these voting rights (228,774 voting rights) were attributable to this company as an instrument within the meaning of Section 38, Paragraph 1, No. 1 WpHG (securities loan). 0.2% of these voting rights (1,830,814 voting rights) were attributable to this company as an instrument within the meaning of Section 38, Paragraph 1, No. 2 WpHG (contract for difference).
- Harris Associates L.P., Wilmington, United States, notified us that its voting rights amounted to 2.99% on 15 August 2019. 2.99% of these voting rights (27,902,083 voting rights) were attributable to this company pursuant to Section 34 WpHG.

For further details, please see the individual voting rights notifications, which are published on our website at [www.bayer.com](http://www.bayer.com).

## **Governmental, Legal, Tax and Arbitration Proceedings**

As a global company with a diverse business portfolio, the Bayer Group is exposed to numerous legal, tax and arbitration proceedings, particularly in the areas of product liability, competition and antitrust law, anticorruption, patent disputes, tax assessments and environmental matters.

Legal proceedings currently considered by us to be material are outlined below. The legal proceedings referred to do not represent an exhaustive list.

### ***Product-related litigation***

#### ***Mirena™***

As of 11 October 2019, lawsuits from approximately 2,700 users of Mirena™, a levonorgestrel-releasing intrauterine system providing long-term contraception, had been served upon Bayer in the United States (excluding lawsuits no longer pending). Plaintiffs allege personal injuries resulting from the use of Mirena™, including perforation of the uterus, ectopic pregnancy or idiopathic intracranial hypertension, and seek compensatory and punitive damages. Plaintiffs claim, inter alia, that Mirena™ is defective and that Bayer knew or should have known of the risks associated with it and failed to adequately warn its users. Additional lawsuits are anticipated. In 2017, most of the cases pending in U.S. federal courts in which plaintiffs allege idiopathic intracranial hypertension were consolidated in a multidistrict litigation ("MDL") proceeding for common pre-trial management. In June 2019, the competent court granted summary judgment dismissing all approximately 730 cases pending before that court. Plaintiffs are appealing the decision. Another MDL proceeding concerning perforation cases has been dismissed. The Second Circuit Court of Appeals affirmed the perforation MDL district court's summary judgment order of 2016 dismissing approximately 1,230 cases pending before that court. In April 2018, a master settlement agreement regarding the global settlement of the perforation cases for a total amount of US\$ 12.2 million was executed. Plaintiffs did not reach the 98% participation threshold as required under the settlement agreement, and therefore a US\$ 200,000 reduction in the total settlement amount was negotiated. Upon completion of the settlement, the vast majority of filed cases nationwide have been (or will be) dismissed with 15 claimants affirmatively opting out of the settlement. Almost all the other non-participating claimants (approximately 200) have not filed cases and are presently unreachable by plaintiffs' attorneys. As of 11 October 2019, a total of approximately 3,900 cases would be included in the settlement.

As of 11 October 2019, five Canadian lawsuits relating to Mirena™ seeking class action certification had been served upon Bayer. Bayer believes it has meritorious defenses and intends to defend itself vigorously.

#### ***Xarelto™***

As of 11 October 2019, U.S. lawsuits from approximately 27,700 recipients of Xarelto™, an oral anticoagulant for the treatment and prevention of blood clots, had been served upon Bayer and Janssen Pharmaceuticals, Inc., the company distributing Xarelto™ in the United States. Plaintiffs allege personal injuries from the use of Xarelto™, including cerebral, gastrointestinal or other bleeding and death, and seek compensatory and punitive damages. They claim, among other things, that Xarelto™ is defective and that Bayer knew or should have known of these risks associated with the use of Xarelto™ and failed to adequately warn its users. Additional lawsuits are anticipated. Cases pending in U.S. federal courts have been consolidated in an MDL for common pre-trial management. In 2017, the first three MDL trials resulted in complete defense verdicts. In January 2018, after the first trial to proceed in Pennsylvania state court had initially resulted in a judgment in favor of the plaintiff, the trial judge vacated the jury's verdict and granted judgment in favor of Bayer. In April and August 2018, the second and third Pennsylvania state court trials also resulted in complete defense verdicts. Appeals are pending in all of the six cases. In March 2019, Bayer and Janssen reached an agreement in principle with plaintiffs to resolve the Xarelto™ litigation in the United States, without admission of liability, for an amount of US\$ 775 million. The settlement amount will be shared equally between the two companies. It is expected that Bayer's share will be partially offset by product liability insurance. Bayer and Janssen may withdraw from the agreement if certain participation rates are not satisfied. If the settlement proceeds, it will resolve virtually all of the currently pending Xarelto™ claims. Bayer does not expect the net financial burden to have a material adverse impact on the consolidated financial statements of the Bayer Group.

As of 11 October 2019, ten Canadian lawsuits relating to Xarelto™ seeking class action certification had been served upon Bayer. One of the proposed class actions has been certified. Bayer has filed a motion for leave to appeal. Bayer believes it has meritorious defenses and intends to defend itself vigorously.

#### *Essure™*

As of 11 October 2019, U.S. lawsuits from approximately 32,000 users of Essure™, a medical device offering permanent birth control with a nonsurgical procedure, had been served upon Bayer. Plaintiffs allege personal injuries from the use of Essure™, including hysterectomy, perforation, pain, bleeding, weight gain, nickel sensitivity, depression and unwanted pregnancy, and seek compensatory and punitive damages. Additional lawsuits are anticipated. As of 11 October 2019, two Canadian lawsuits relating to Essure™ seeking class action certification had been served upon Bayer. In March 2019, one of the proposed class actions was certified. Bayer believes it has meritorious defenses and intends to defend itself vigorously.

#### *Class actions over neonicotinoids in Canada*

Proposed class actions against Bayer were filed in Quebec and Ontario (Canada) concerning crop protection products containing the active substances imidacloprid and clothianidin (neonicotinoids). Plaintiffs are honey producers, who have filed a proposed nationwide class action in Ontario and a Quebec-only class action in Quebec. Plaintiffs claim for damages and punitive damages and allege Bayer and another crop protection company were negligent in the design, development, marketing and sale of neonicotinoid pesticides. The proposed Ontario class action is in a very early procedural phase. In Quebec, a court certified a class proposed by plaintiffs in February 2018. Bayer believes it has meritorious defenses and intends to defend itself vigorously.

#### *Roundup™ (Glyphosate)*

As of 11 October 2019, lawsuits from approximately 42,700 plaintiffs claiming to have been exposed to glyphosate-based products manufactured by Bayer's subsidiary Monsanto had been served upon Monsanto in the United States. Glyphosate is the active ingredient contained in a number of Monsanto's herbicides, including Roundup™-branded products. Plaintiffs allege personal injuries resulting from exposure to those products, including non-Hodgkin lymphoma ("NHL") and multiple myeloma, and seek compensatory and punitive damages. Plaintiffs claim, inter alia, that the glyphosate-based herbicide products are defective and that Monsanto knew, or should have known, of the risks allegedly associated with such products and failed to adequately warn its users. Additional lawsuits are anticipated. The majority of plaintiffs have brought actions in state courts in Missouri and California. Cases pending in U.S. federal courts have been consolidated in an MDL in the Northern District of California for common pre-trial management.

In August 2018, a state court jury in San Francisco, California, awarded roughly US\$ 39 million in compensatory and US\$ 250 million in punitive damages to a plaintiff who claimed that a Monsanto product caused his NHL. While the punitive damages were subsequently reduced by the trial court to roughly US\$ 39 million, we still disagree with the verdict and have filed an appeal with the California Court of Appeal. More than 800 scientific studies and regulatory authorities all over the world confirm that glyphosate is safe for use when used according to label instructions. This includes an independent study which followed more than 50,000 licensed pesticide applicators for more than 20 years which found no association between glyphosate-based herbicides and cancer, and the U.S. Environmental Protection Agency's 2017 risk assessment which examined more than 100 studies and concluded that glyphosate is "not likely to be carcinogenic to humans."

In March 2019, in the first trial conducted in the MDL, a jury awarded around US\$ 5 million in compensatory and US\$ 75 million in punitive damages to a plaintiff who claimed that a Monsanto product caused his NHL. While the punitive damages were subsequently reduced by the trial court to roughly US\$ 20 million, we still disagree with the verdict and have filed an appeal with the United States Court of Appeals for the Ninth Circuit.

In May 2019, in the third trial in this litigation, a California state court jury in Alameda County (Oakland) awarded the two plaintiffs a total of US\$ 55 million in compensatory and US\$ 2 billion in punitive damages. While the total damages award was subsequently reduced by the trial court from US\$ 2.055 billion to US\$ 86.7 million, we still disagree with the verdict and have filed an appeal with the California Court of Appeal.



We continue to believe that we have meritorious defenses and we intend to defend ourselves vigorously in all of these lawsuits. Three trials that were originally scheduled for 2019 have been postponed. The next four trials are scheduled to begin in January 2020 in California and Missouri state courts, respectively. However, trial dates in all venues remain subject to change depending on court schedules and rulings. In parallel to the continued litigation, Bayer will constructively engage in the mediation process ordered by the judge presiding over the MDL.

As of 11 October 2019, nine Canadian lawsuits relating to Roundup™ seeking class action certification had been served upon Bayer. Bayer believes it has meritorious defenses and intends to defend itself vigorously.

#### *Insurance against statutory product liability claims*

In connection with the above-mentioned product-related litigation, Bayer is insured against statutory product liability claims against Bayer to the extent customary in the respective industries and has, based on the information currently available, taken appropriate accounting measures for anticipated defense costs. However, the accounting measures relating to Essure™ claims exceed the available insurance coverage.

#### **Patent disputes**

##### *Adempas™*

In January 2018, Bayer filed patent infringement lawsuits in a U.S. federal court against Alembic Pharmaceuticals Limited, Alembic Global Holding SA, Alembic Pharmaceuticals, Inc. and INC Research, LLC (together "Alembic"), against MSN Laboratories Private Limited and MSN Pharmaceuticals Inc. (together "MSN") and against Teva Pharmaceuticals USA, Inc. and Teva Pharmaceutical Industries Ltd. (together "Teva"). In 2017, Bayer had received notices of an Abbreviated New Drug Application with a paragraph IV certification ("ANDA IV") pursuant to which Alembic, MSN and Teva each seek approval of a generic version of Bayer's pulmonary hypertension drug Adempas™ in the United States. In October 2018, the court decided, upon a joint request by Bayer and Teva, that Bayer's patent is valid and infringed by Teva. This terminated the patent dispute with Teva.

##### *Betaferon™ / Betaseron™*

In 2010, Bayer filed a complaint against Biogen Idec MA Inc. in a U.S. federal court seeking a declaration by the court that a patent issued to Biogen in 2009 is invalid and not infringed by Bayer's production and distribution of Betaseron™, Bayer's drug product for the treatment of multiple sclerosis. Biogen is alleging patent infringement by Bayer through Bayer's production and distribution of Betaseron™ and Extavia™ and has sued Bayer accordingly. Bayer manufactures Betaseron™ and distributes the product in the United States. Extavia™ is also a drug product for the treatment of multiple sclerosis; it is manufactured by Bayer, but distributed in the United States by Novartis Pharmaceuticals Corporation, another defendant in the lawsuit. In 2016, the U.S. federal court decided a disputed issue regarding the scope of the patent in Biogen's favor. Bayer disagrees with the decision, which may be appealed at the conclusion of the proceedings in the U.S. federal court. In February 2018, a jury decided that Biogen's patent is invalid at the end of a trial regarding Biogen's claims against EMD Serono, Inc. ("Serono") and Pfizer Inc. ("Pfizer") for infringement of the same patent. In September 2018, the court overturned the jury decision and granted judgment in favor of Biogen. Serono and Pfizer appealed. The trial of Biogen's claim against Bayer has not yet been scheduled.

##### *Jivi™ (BAY94-9027)*

In August 2018, Nektar Therapeutics ("**Nektar**"), Baxalta Incorporated and Baxalta U.S., Inc. (together "**Baxalta**") filed another complaint in a U.S. federal court against Bayer alleging that BAY94-9027, approved as Jivi™ in the United States for the treatment of hemophilia, infringes five patents by Nektar. The five patents are part of a patent family registered in the name of Nektar and further comprising a European patent application with the title "Branched polymers and their conjugates." This patent family is different from the one at issue in the earlier patent disputes still pending in the United States and Germany. In October 2018, Bayer filed a lawsuit in the administrative court of Munich, Germany, claiming rights to the European patent application based on a past collaboration between Bayer and Nektar in the field of hemophilia. In 2017, Baxalta and Nektar had already filed a complaint in the same U.S. federal court against Bayer alleging that BAY94-9027 infringes seven other patents by Nektar. The seven patents are part of a patent family registered in the name of Nektar and further comprising European patent applications with

the title "Polymer-factor VIII moiety conjugates" which are at issue in a lawsuit Bayer had filed against Nektar in 2013 in the district court of Munich, Germany. In this proceeding, Bayer claims rights to the European patent applications based on a past collaboration between Bayer and Nektar in the field of hemophilia. However, Bayer believes that the patent families do not include any valid patent claim relevant for Jivi™.

#### *Stivarga™*

In 2016, Bayer filed a patent infringement lawsuit in a U.S. federal court against Apotex, Inc. and Apotex Corp. (together "**Apotex**"). Bayer had received a notice of an ANDA IV application pursuant to which Apotex seeks approval of a generic version of Bayer's cancer drug Stivarga™ in the United States.

#### *Bollgard II RR Flex™ / Intacta™*

In Brazil, the Cotton Producers Association of the State of Mato Grosso (AMPA) in July 2019 filed a patent invalidity action in federal court seeking to invalidate four of Bayer's patents covering Bollgard II RR Flex™, a cotton technology by Bayer. Two of the patents are also being challenged in administrative nullity proceedings before the Brazilian patent office. One of the patents, the promoter patent, is also at issue in a patent invalidation action filed in Brazilian federal court by the Soybean Growers Association from the State of Mato Grosso (Aprosoja/MT) in 2017 regarding the Intacta™ soybean technology. In addition to the patent invalidity claims, both lawsuits seek a refund of twice the amount of the paid royalties. Both lawsuits were filed as collective actions and are proceeding before the same federal judge. Bayer's Intacta™ soybean technology is further protected by two other patents one of which has been challenged in administrative nullity proceedings before the Brazilian patent office by the Soybean Growers Association from the State of Rio Grande do Sul (Aprosoja/RS). Bayer believes it has meritorious defenses in these patent disputes and intends to defend itself vigorously.

Bayer believes it has meritorious defenses in the above ongoing patent disputes and intends to defend itself vigorously.

#### ***Further Legal Proceedings***

##### *Trasylol™ / Avelox™*

A qui tam complaint relating to marketing practices for Trasylol™ (aprotinin) and Avelox™ (moxifloxacin) filed by a former Bayer employee is pending in the United States District Court in New Jersey. Bayer's motion for partial summary judgment related to the relator's Trasylol claims was denied. The case is proceeding with discovery. The U.S. government has declined to intervene at the present time.

##### *Baycol™*

A qui tam complaint (filed by the same relator as in Trasylol™ / Avelox™) asserting Bayer fraudulently induced a contract with the Department of Defense is pending in the United States District Court in Minnesota. In October 2018, the District Court judge issued a brief decision denying Bayer's renewed motion to dismiss. The case is proceeding with discovery.

##### *BASF Arbitration*

In September 2019, Bayer was served with a request for arbitration by BASF SE. BASF alleges to have indemnification claims under the asset purchase agreements signed in 2017 and 2018 related to the divestment of certain CropScience businesses to BASF. BASF alleges that particular cost items, including certain personnel costs, had not been appropriately disclosed and allocated to some of the divested businesses. Bayer believes it has meritorious defenses and intends to defend itself vigorously.

##### *Newark Bay Environmental Matters*

In the United States, Bayer is one of numerous parties involved in a series of claims brought by federal and state environmental protection agencies. The claims arise from operations by entities which historically were conducted near Newark Bay or surrounding bodies of water, or which allegedly discharged hazardous waste into these waterways or onto nearby land. Bayer and the other potentially responsible parties are being asked to remediate and contribute to the payment of past and future remediation or restoration costs and damages. In 2016, Bayer learned that two major potentially responsible parties had filed for protection

under Chapter 11 of the U.S. Bankruptcy Code. While Bayer remains unable to determine the extent of its liability for these matters, this development is likely to adversely affect the share of costs potentially allocated to Bayer.

In the Lower Passaic River matter, a group of more than sixty companies including Bayer is investigating contaminated sediments in the riverbed under the supervision of the United States Environmental Protection Agency (EPA) and other governmental authorities. Future remediation will involve some form of dredging, the nature and scope of which are not yet defined, and potentially other tasks. The cost of the investigation and the remediation work may be substantial if the final remedy involves extensive dredging and disposal of impacted sediments. In July 2018, Occidental Chemical Company, one of the parties potentially liable for cleanup costs in the Lower Passaic River, filed a lawsuit in New Jersey federal court seeking contribution and cost recovery from dozens of other potentially responsible parties, including a Bayer subsidiary, for past and future cleanup costs. Bayer is currently unable to determine the extent of its liability in this matter. In the Newark Bay matter, an unaffiliated party is currently conducting an investigation of sediments in Newark Bay under EPA supervision. The investigation is in a preliminary stage. Bayer has contributed to certain investigation costs in the past and may incur costs for future investigation and remediation activities in Newark Bay.

Bayer has also been notified by governmental authorities acting as natural resource trustees that it may have liability for natural resource damages arising from the contamination of the Lower Passaic River, Newark Bay and surrounding water bodies. Bayer is currently unable to determine the extent of its liability.

#### *Asbestos*

In many cases, plaintiffs allege that Bayer and co-defendants employed third parties on their sites in past decades without providing them with sufficient warnings or protection against the known dangers of asbestos. Additionally, a Bayer affiliate in the United States is the legal successor to companies that sold asbestos products until 1976. Union Carbide has agreed to indemnify Bayer for this liability. Similarly, Bayer's subsidiary Monsanto faces numerous claims based on exposure to asbestos at Monsanto premises without adequate warnings or protections and based on manufacture and sale of asbestos-containing products. Bayer believes it has meritorious defenses and intends to defend itself vigorously.

#### *PCB*

Bayer's subsidiary Monsanto has been named in lawsuits brought by various governmental entities in the United States claiming that Monsanto, Pharmacia and Solutia, collectively as a manufacturer of PCBs, should be responsible for a variety of damages due to PCBs in bodies of water, regardless of how PCBs came to be located there. Monsanto also faces numerous lawsuits claiming personal injury and / or property damage due to use of and exposure to PCB products. PCBs are man-made chemicals that were widely used for various purposes until the manufacture of PCBs was prohibited by the Environmental Protection Agency (EPA) in the United States in 1979. We believe that we have meritorious defenses and intend to defend ourselves vigorously.

#### ***Tax Proceedings***

##### *Stamp taxes in Greece*

In 2014, 2016 and 2017, a Greek administrative court of first instance dismissed Bayer's lawsuits against the assessment of stamp taxes and contingent penalties in a total amount of approximately EUR 130 million on certain intra-Group loans to a Greek subsidiary. Bayer is convinced that the decisions are wrong and either has appealed the relevant decisions or plans to do so in due course. Bayer believes it has meritorious arguments to support its legal position and intends to defend itself vigorously.

## Material Contracts

### *Syndicated Credit Facility*

Bayer AG and its U.S. subsidiary Bayer Corporation are party to a EUR 4.5 billion syndicated facility agreement. The facility is available until December 2023 and is, as of the date of this Prospectus, undrawn. The participating banks are entitled to terminate the credit facility in the event of a change of control at Bayer and demand repayment of any loans that may have been granted under this facility up to that time.

### *Financing Arrangements related to Monsanto Acquisition*

A syndicated credit facility in the original amount of US\$ 56.9 billion was granted to Bayer US Finance II LLC and Bayer AG in September 2016 to finance the acquisition of Monsanto (the "**Monsanto Credit Facility**"). Pursuant to the agreement, the Monsanto Credit Facility was reduced in 2016 by the US\$ 4.2 billion net proceeds from the issuance of mandatory convertible notes, to US\$ 52.7 billion, and in June 2017 by the US\$ 1.2 billion net proceeds from the issuance of an exchangeable bond, to US\$ 51.5 billion.

The mandatory convertible notes were issued by Bayer Capital Corporation B.V., guaranteed by Bayer AG and mature in November 2019.

The exchangeable bond was issued by Bayer AG and matures in 2020, and Bayer AG can flexibly exchange bonds for cash, Covestro AG shares or a combination of the two.

The Monsanto Credit Facility was drawn in June 2018 to finance the acquisition of Monsanto. The resulting loan had a value of US\$ 3.8 billion as of 31 December 2018.

The Monsanto Credit Facility and the loan were reduced in 2018 through the proceeds from the aforementioned capital increases, a further reduction of Bayer's interest in Covestro AG, a series of divestments to fulfill antitrust requirements, a bond with a nominal volume of EUR 5 billion issued by Bayer Capital Corporation B.V. and guaranteed by Bayer AG, and a US\$15 billion bond in 144A / Reg S format issued by Bayer US Finance II LLC and guaranteed by Bayer AG.

Moreover, bonds with a nominal volume of US\$ 6.9 billion were taken over from Monsanto as part of the acquisition. Thereof, US\$ 6.1 billion were outstanding as of 30 September 2019.

### *Bonds*

As of 30 September 2019, additional bonds with an aggregate nominal amount of EUR 1.4 billion, issued by Bayer in the years 2014 to 2017 under its Debt Issuance Programme, were outstanding.

In October 2014, Bayer issued a US\$ 7 billion bond in 144A / Reg S format. As of 30 September 2019, the outstanding amount of this bond was US\$ 5.3 billion.

## Ratings

The following ratings have been assigned to Bayer:

Rating	Long-term rating	Short-term rating	Outlook
Moody's	Baa1	P2	negative
S & P Global Ratings	BBB	A2	stable
Fitch Ratings	BBB+	F2	negative

## Independent Auditors

The independent auditor of Bayer AG is Deloitte GmbH Wirtschaftsprüfungsgesellschaft, Rosenheimer Platz 4, 81669 Munich, Germany ("**Deloitte**"), member of *Wirtschaftsprüferkammer* Berlin. Deloitte has audited the consolidated financial statements of Bayer AG as of and for the fiscal years ended 31 December 2017 and 2018 and has issued an unqualified auditor's report in each case.

**Financial Information concerning the Issuer's Assets and Liabilities, Financial Position and Profit and Losses**

The audited consolidated financial statements of the Bayer Group as of and for the fiscal years ended 31 December 2018 and 2017 are incorporated by reference into this Prospectus and the unaudited condensed consolidated interim financial information of the Bayer Group as of and for the nine months ended 30 September 2019 is included in this Prospectus. Selected financial information appears in section "*Selected Financial Information*" above.

**Trend Information and Significant Changes**

There has been no material adverse change in the prospects of Bayer AG or Bayer Group since 31 December 2018.

There have been no significant changes in the financial performance of Bayer AG or the Bayer Group since 30 September 2019.

There has been no significant change in the financial position of Bayer AG or the Bayer Group since 30 September 2019.

**Recent Developments**

On 8 October 2019, Bayer U.S. Finance LLC, U.S.A., redeemed at maturity a bond with a nominal volume of US\$ 2 billion.

## TAXATION

The following is a general discussion of certain German income tax consequences of the acquisition and ownership of the Notes. This discussion does not purport to be a comprehensive description of all tax considerations which may be relevant to a decision to purchase Notes. In particular, this discussion does not consider any specific facts or circumstances that may apply to a particular purchaser. This summary is based on the laws of Germany currently in force and as applied on the date of this Prospectus, which are subject to change, possibly with retroactive effect.

**Prospective purchasers of Notes are advised to consult their own tax advisors as to the tax consequences of the purchase, ownership and disposition of Notes, including the effect of any state or local taxes, under the tax laws in Germany and any country of which they are residents.**

### 1. Germany

#### *Income Taxation – Tax Residents*

Persons (individuals and corporate entities) who are tax resident in Germany (in particular, persons having a residence, habitual abode, seat or place of management in Germany) are subject to income taxation (income tax or corporate income tax, as the case may be, plus solidarity surcharge thereon plus church tax and/or trade tax, if applicable) on their worldwide income, regardless of its source, including interest from debt of any kind (such as the Notes) and, in general, capital gains.

#### Taxation if the Notes are held as private assets (*Privatvermögen*)

In the case of German tax-resident individual investors (*unbeschränkt Steuerpflichtige*) holding the Notes as private assets (*Privatvermögen*), the following applies:

- Income

The Notes should qualify as other capital receivables (*sonstige Kapitalforderungen*) in terms of section 20 para 1 no 7 German Income Tax Act ("**ITA**" – *Einkommensteuergesetz*).

Accordingly, payments of interest on the Notes should qualify as taxable savings income (*Einkünfte aus Kapitalvermögen*) pursuant to section 20 para 1 no 7 ITA.

Capital gains / capital losses realised upon sale of the Notes, computed as the difference between the acquisition costs and the sales proceeds reduced by expenses directly and factually related to the sale, should qualify as positive or negative savings income in terms of section 20 para 2 sentence 1 no 7 ITA. If similar Notes kept or administered in the same custodial account have been acquired at different points in time, the Notes first acquired will be deemed to have been sold first for the purposes of determining the capital gains. Where the Notes are acquired and/or sold in a currency other than Euro, the acquisition costs will be converted into Euro at the time of acquisition, the sales proceeds will be converted into Euro at the time of sale and the difference will then be computed in Euro. If interest claims are disposed of separately (i.e. without the Notes), the proceeds from the sale are subject to taxation. The same applies to proceeds from the payment of interest claims if the Notes have been disposed of separately. If the Notes are assigned, redeemed, repaid or contributed into a corporation by way of a hidden contribution (*verdeckte Einlage in eine Kapitalgesellschaft*) rather than sold, as a rule, such transaction is treated like a sale. Losses from the sale of Notes can only be offset against other savings income and, if there is not sufficient other positive savings income, carried forward to subsequent assessment periods.

Pursuant to a tax decree issued by the Federal Ministry of Finance dated 18 January 2016, as amended from time to time, neither a bad debt loss (*Forderungsausfall*), i.e. should the Issuer become insolvent, nor a waiver of a receivable (*Forderungsverzicht*), to the extent the waiver does not qualify as a hidden contribution, shall not be treated like a sale. Accordingly, losses suffered upon such bad debt loss or waiver shall be tax-deductible. With respect to a bad debt loss, the German Federal Fiscal Court (*Bundesfinanzhof*) has objected the view expressed by the Federal Ministry of Finance. However, the Federal Ministry of Finance has not yet updated the aforementioned tax decree in this respect. Rather, the legislator intends to change the law reflecting the tax authorities' view.

Initially, the aforementioned tax decree also provided that a sale shall be disregarded where the transaction costs exceed the sales proceeds, which means that losses suffered from such "sale" would not have been

tax-deductible. Following a decision of the Federal Fiscal Court, the Federal Ministry of Finance changed its view and changed the tax decree such that a transaction shall now be regarded as a sale irrespective of the amount of the sales proceeds and the amount of transactions costs. Thus, losses resulting from a transaction in which the transaction costs exceed the sales proceeds should be tax-deductible. However, pursuant to the tax decree, German Disbursing Agents (as defined below) may apply the former view of the tax authorities until the end of 2019 with respect to German withholding tax.

If the Issuer exercises the right to substitute the debtor of the Notes, the substitution might, for German tax purposes, be treated as an exchange of the Notes for new notes issued by the new debtor. Such a substitution could result in the recognition of a taxable gain or loss for the respective investors.

- German withholding tax (*Kapitalertragsteuer*)

With regard to savings earnings (*Kapitalerträge*), e.g. interest or capital gains, German withholding tax (*Kapitalertragsteuer*) will be levied if the Notes are kept or administered in a custodial account which the investor maintains with a German branch of a German or non-German credit or financial services institution or with a German securities trading business or a German securities trading bank (a "**German Disbursing Agent**") and such German Disbursing Agent credits or pays out the earnings.

The tax base is, in principle, equal to the taxable gross income as set out above (i.e. prior to withholding). However, in the case of capital gains, if the custodial account has changed since the time of acquisition of the Notes (e.g. if the Notes had been transferred from a non-EU custodial account prior to the sale) and the acquisition costs of the Notes are not proven to the German Disbursing Agent in the form required by law, withholding tax is applied to 30 per cent. of the proceeds from the redemption or sale of the Notes. When computing the tax base for withholding tax purposes, the German Disbursing Agent has to deduct any negative savings income (*negative Kapitalerträge*) or paid accrued interest (*Stückzinsen*) in the same calendar year or unused negative savings income of previous calendar years.

German withholding tax will be levied by a German Disbursing Agent at a flat withholding tax rate of 26.375 per cent. (including solidarity surcharge) plus, if applicable, church tax. Church tax, if applicable, will be collected by the German Disbursing Agent by way of withholding unless the investor has filed a blocking notice (*Sperrvermerk*) with the German Federal Central Tax Office (*Bundeszentralamt für Steuern*). In the latter case, the investor has to include the savings income in the tax return and will then be assessed to church tax.

No German withholding tax will be levied if the investor has filed a withholding tax exemption certificate (*Freistellungsauftrag*) with the German Disbursing Agent, but only to the extent the savings income does not exceed the exemption amount shown on the withholding tax exemption certificate. Currently, the maximum exemption amount is EUR 801 (EUR 1,602 in the case of individuals filing jointly). Similarly, no withholding tax will be levied if the investor has submitted a certificate of non-assessment (*Nichtveranlagungs-Bescheinigung*) issued by the relevant local tax office to the German Disbursing Agent.

The Issuer is, as a rule, not obliged to levy German withholding tax in respect of payments on the Notes.

- Tax assessment

The taxation of savings income shall take place mainly by way of levying withholding tax (please see above). If and to the extent German withholding tax has been levied, such withholding tax shall, in principle, become definitive and replace the investor's income taxation. If no withholding tax has been levied other than by virtue of a withholding tax exemption certificate (*Freistellungsauftrag*) and in certain other cases, the investor is nevertheless obliged to file a tax return, and the savings income will then be taxed within the assessment procedure. If the investor is subject to church tax and has filed a blocking notice (*Sperrvermerk*) with the German Federal Central Tax Office (*Bundeszentralamt für Steuern*), the investor is also obliged to include the savings income in the tax return for church tax purposes.

However, also in the assessment procedure, savings income is principally taxed at a separate tax rate for savings income (*gesonderter Steuertarif für Einkünfte aus Kapitalvermögen*) being identical to the withholding tax rate (26.375 per cent. - including solidarity surcharge (*Solidaritätszuschlag*) plus, if applicable, church tax). In certain cases, the investor may apply to be assessed on the basis of its personal tax rate if such rate is lower than the above tax rate. Such application can only be filed consistently for all

savings income within the assessment period. In case of individuals filing jointly the application can only be filed for savings income of both individuals.

When computing the savings income, the saver's lump sum amount (*Sparer-Pauschbetrag*) of EUR 801 (EUR 1,602 in the case of individuals filing jointly) will be deducted. The deduction of the actual income related expenses, if any, is excluded. That holds true even if the investor applies to be assessed on the basis of its personal tax rate.

#### Taxation if the Notes are held as business assets (*Betriebsvermögen*)

In the case of German tax-resident corporations or individual investors (*unbeschränkt Steuerpflichtige*) holding the Notes as business assets (*Betriebsvermögen*), interest payments and capital gains will be subject to corporate income tax at a rate of 15 per cent. or income tax at a rate of up to 45 per cent., as the case may be, (in each case plus 5.5 per cent. solidarity surcharge thereon). In addition, trade tax may be levied, the rate of which depends on the municipality where the business is located. Further, in the case of individuals, church tax may be levied. Business expenses that are connected with the Notes are deductible.

The provisions regarding German withholding tax (*Kapitalertragsteuer*) apply, in principle, as set out above for private investors. However, investors holding the Notes as business assets cannot file a withholding tax exemption certificate with the German Disbursing Agent. Instead, no withholding tax will be levied on capital gains from the redemption, sale or assignment of the Notes if, for example, (a) the Notes are held by a corporation or (b) the proceeds from the Notes qualify as income of a domestic business and the investor notifies this to the German Disbursing Agent by use of the officially required form.

Any withholding tax levied is credited as prepayment against the German (corporate) income tax amount. If the tax withheld exceeds the respective (corporate) income tax amount, the difference will be refunded within the tax assessment procedure.

#### Potential change in law

Please note that – pursuant to the coalition agreement of CDU, CSU and SPD – the flat tax regime shall be abolished for certain investment income, which might also affect the taxation of income from the Notes. For example, interest income might become taxed at the progressive tax rate of up to 45 per cent. (excluding solidarity surcharge). Further, the solidarity surcharge shall be abolished provided that certain thresholds are not exceeded. However, there is no draft law available yet, i.e. any details and, in particular, timing remain unclear.

#### ***Income Taxation – Non-residents***

Persons who are not tax resident in Germany are not subject to tax with regard to income from the Notes unless (i) the Notes are held as business assets (*Betriebsvermögen*) of a German permanent establishment (including a permanent representative) which is maintained by the investor or (ii) the income from the Notes qualifies for other reasons as taxable German source income. If a non-resident person is subject to tax with its income from the Notes, in principle, similar rules apply as set out above with regard to German tax resident persons (please see above).

If the income is subject to German tax as set out in the preceding paragraph, German withholding tax should be applied like in the case of a German tax resident person.

#### ***Inheritance and Gift Tax***

Inheritance or gift taxes with respect to any Note will, in principle, arise under German law if, in the case of inheritance tax, either the decedent or the beneficiary or, in the case of gift tax, either the donor or the donee is a resident of Germany or if such Note is attributable to a German trade or business for which a permanent establishment is maintained or a permanent representative has been appointed.

The few existing double taxation treaties regarding inheritance and gift tax may lead to different results. Special rules apply to certain German citizens that are living in a foreign country and German expatriates.



### ***Other Taxes***

No stamp, issue, registration or similar taxes or duties are payable in Germany in connection with the issuance, delivery or execution of the Notes. Currently, net assets tax (*Vermögensteuer*) is not levied in Germany. It is intended to introduce a financial transaction tax (FTT). However, it is unclear if and in what form such tax will be actually introduced (please see below).

#### **2. The proposed financial transactions tax ("FTT")**

On 14 February 2013, the European Commission published a proposal (the "**Commission's Proposal**") for a directive for a common FTT in Belgium, Germany, Greece, Spain, France, Italy, Austria, Portugal, Slovenia, Slovakia (the "**Participating Member States**") and Estonia. However, Estonia has since stated that it will not participate.

The Commission's Proposal has a very broad scope and could, if introduced, apply to certain dealings in the Notes (including secondary market transactions) in certain circumstances.

Under the Commission's Proposal the FTT could apply in certain circumstances to persons both within and outside of the Participating Member States. Generally, it would apply to certain dealings in the Notes where at least one party is a financial institution, and at least one party is established in a Participating Member State. A financial institution may be, or be deemed to be, "established" in a Participating Member State in a broad range of circumstances, including (a) by transacting with a person established in a Participating Member State or (b) where the financial instrument which is subject to the dealings is issued in a Participating Member State.

However, the FTT proposal remains subject to negotiation between Participating Member States. It may, therefore, be altered prior to any implementation, the timing of which remains unclear. Additional EU Member States may decide to participate.

Prospective holders of the Notes are advised to seek their own professional advice in relation to the FTT.

## OFFER AND SUBSCRIPTION OF THE NOTES

### Subscription by the Joint Bookrunners

The Joint Bookrunners will enter into a subscription agreement on or about the date of this Prospectus (the "**Subscription Agreement**") in which they will subscribe the Notes. The Subscription Agreement is subject to customary closing conditions and hence, the Joint Bookrunners will be, under certain circumstances, entitled to terminate the Subscription Agreement. In such event, no Notes will be delivered to investors. Furthermore, the Issuer will agree in the Subscription Agreement to indemnify the Joint Bookrunners against certain liabilities in connection with the offer and sale of the Notes.

The Joint Bookrunners or their affiliates have provided from time to time, and expect to provide in the future, investment services to the Issuer and its affiliates, for which the Joint Bookrunners or their affiliates have received or will receive customary fees and commissions. In addition, in the ordinary course of their business activities, the Joint Bookrunners and their affiliates may make or hold a broad array of investments and actively trade debt and equity securities (or related derivative securities) and financial instruments (including bank loans) for their own account and for the accounts of their customers. Such investments and securities activities may involve securities and/or instruments of the Issuer or Issuer's affiliates. Certain of the Joint Bookrunners or their affiliates that have a lending relationship with the Issuer routinely hedge their credit exposure to the Issuer consistent with their customary risk management policies. Typically, such Joint Bookrunners and their affiliates would hedge such exposure by entering into transactions which consist of either the purchase of credit default swaps or the creation of short positions in securities, including potentially the Notes. Any such short positions could adversely affect future trading prices of the Notes. The Joint Bookrunners and their affiliates may also make investment recommendations and/or publish or express independent research views in respect of such securities or financial instruments and may hold, or recommend to clients that they acquire, long and/or short positions in such securities and instruments. There are no interests of natural and legal persons other than the Issuer involved in the issue, including conflicting ones that are material to the issue.

### Offer, Delivery of the Notes to investors

The Notes may only be offered in consideration of a purchase amount of not less than EUR 100,000 or to qualified investors (as defined in Article 2 lit (e) of Regulation (EU) 2017/1129 on the prospectus to be published when securities are offered to the public or admitted to trading on a regulated market and repealing Directive 2003/71/EC (the "**Prospectus Regulation**")) or otherwise in compliance with applicable offer restrictions.

Delivery and payment of the Notes will be made on the Issue Date, which is expected to be 12 November 2019. The Notes so purchased will be delivered via book-entry through the Clearing System and their depository banks against payment of the issue price therefor.

### Costs and expenses relating to the offer

The Issuer will not charge any costs, expenses or taxes directly to any investor in connection with the Notes. Investors must, however, inform themselves about any costs, expenses or taxes in connection with the Notes which are generally applicable in their respective country of residence, including any charges their own depository banks charge them for purchasing or holding securities.

## SELLING RESTRICTIONS

### General

Each Joint Bookrunner has acknowledged that, other than with respect to the listing of the Notes on the relevant stock exchange, no action has been or will be taken in any country or jurisdiction by the Issuer or the Joint Bookrunners that would permit a public offering of Notes, or possession or distribution of any offering material in relation thereto, in any country or jurisdiction where action for that purpose is required. Each Joint Bookrunner will (to the best of its knowledge) comply with all applicable laws and regulations in each country or jurisdiction in or from which it purchases, offers, sells or delivers Notes or has in its possession or distributes such offering material, in all cases at its own expense.

### United States of America

The Notes have not been and will not be registered under the U.S. Securities Act of 1933, as amended (the "**Securities Act**"). Subject to certain exceptions, Notes may not be offered or sold within the United States or to, or for the account or benefit of, U.S. persons. Each of the Joint Bookrunners has agreed that it will not offer, sell or deliver the Notes within the United States or to, or for the account or benefit of, U.S. persons except in accordance with Regulation S under the Securities Act ("**Regulation S**") or pursuant to an exemption from the registration requirements of the Securities Act.

The Notes are subject to U.S. tax law requirements and may not be offered, sold or delivered within the United States or its possessions or to a United States person, except in certain transactions permitted by the U.S. tax regulations. Terms used in this paragraph have the meanings given to them by the U.S. Internal Revenue Code of 1986 and regulations thereunder.

Each of the Joint Bookrunners has represented that it has offered and sold the Notes, and has agreed that it will offer and sell the Notes (i) as part of its distribution at any time and (ii) otherwise until 40 days after the later of the commencement of the offering and the Issue Date, only in accordance with Rule 903 of Regulation S. Accordingly, neither it, its affiliates nor any persons acting on its or their behalf have engaged or will engage in any directed selling efforts with respect to the Notes, and it and they have complied and will comply with the offering restrictions requirement of Regulation S. Each of the Joint Bookrunners has agreed that, at or prior to confirmation of sale of Notes, it will have sent to each distributor, dealer or person receiving a selling concession, fee or other remuneration that purchases Notes from it during the distribution compliance period a confirmation or notice to substantially the following effect:

"The securities covered hereby have not been registered under the U.S. Securities Act of 1933 (the "**Securities Act**") and may not be offered or sold within the United States or to, or for the account or benefit of, U.S. persons (i) as part of their distribution at any time or (ii) otherwise until 40 days after the later of the commencement of the offering and the Closing Date, except in either case in accordance with Regulation S under the Securities Act. Terms used above have the meanings given to them by Regulation S under the Securities Act."

Terms used in this paragraph have the meanings given to them by Regulation S.

Each Joint Bookrunner has represented that it has not entered and has agreed that it will not enter into any contractual arrangement with any distributor (as that term is defined in Regulation S) with respect to the distribution or delivery of the Notes, except with its affiliates or with the prior written consent of the Issuer.

### European Economic Area

In relation to each Member State of the European Economic Area (each, a "**Member State**"), each Joint Bookrunner has represented, warranted and agreed that it has not offered, sold or otherwise made available and will not offer, sell or otherwise make available any Notes to any retail investor in the European Economic Area. For the purposes of this provision the expression retail investor means a person who is one (or more) of the following:

- (a) a retail client as defined in point (11) of Article 4(1) of MiFID II (as amended); or
- (b) a customer within the meaning of Directive 2016/97/EU, where that customer would not qualify as a professional client as defined in point (10) of Article 4(1) of MiFID II.

## **United Kingdom**

Each Joint Bookrunner has represented, warranted and agreed that:

- (a) it has only communicated or caused to be communicated and will only communicate or cause to be communicated an invitation or inducement to engage in investment activity (within the meaning of Section 21 of the FSMA) received by it in connection with the issue or sale of any Notes in circumstances in which Section 21(1) of the FSMA does not apply to the Issuer; and
- (b) it has complied and will comply with all applicable provisions of the FSMA with respect to anything done by it in relation to any Notes in, from or otherwise involving the United Kingdom.

## GENERAL INFORMATION

### Listing and admission to trading

Application has been made to the Luxembourg Stock Exchange for each Series of Notes to be listed on the Official List of the Luxembourg Stock Exchange and to be admitted to trading on the Luxembourg Stock Exchange's Regulated Market. The Luxembourg Stock Exchange's Regulated Market is a regulated market for the purposes of Directive 2014/65/EU.

### Use of Proceeds

The net proceeds from the issue of the Notes will be used for general corporate purposes of the Issuer including the refinancing of the existing EUR 1,750,000,000 Subordinated Resettable Fixed Rate Notes due 2075 callable 1 July 2020 (ISIN: DE000A11QR65).

### Authorisation and Issue Date

The creation and issue of the Notes has been authorised by a resolution of the Board of Management of the Issuer dated 25 July 2019 and of the Supervisory Board of the Issuer dated 6 August 2019. The Issue Date of the Notes is expected to be 12 November 2019.

**Legal Entity Identifier:** The legal entity identifier (LEI) of Bayer AG is 549300J4U55H3WP1XT59.

**Expenses:** The total expenses related to the admission to trading of the Notes are expected to amount to EUR 25,200.

### Documents on Display

As long as the Notes are outstanding, copies and, where appropriate, English translations of the following documents may be inspected (and in the case of (b) and (c) will be available free of charge and can be found on the website of the Luxembourg Stock Exchange) during normal business hours at the specified office of the Principal Paying Agent, namely:

- (a) the constitutional documents of the Issuer;
- (b) this Prospectus;
- (c) any document incorporated by reference into this Prospectus.

An electronic version of the Issuer's Articles of Incorporation (*Satzung*) is also available on the Issuer's website at <https://www.investor.bayer.de/en/bayer-group/articles-of-incorporation/>.

### Clearing and Settlement

The Notes have been accepted for clearance through:

Clearstream Banking S.A.  
42 Avenue JF Kennedy  
1855 Luxembourg  
The Grand Duchy of Luxembourg

and

Euroclear Bank SA/NV  
1 Boulevard du Roi Albert II  
1210 Brussels  
Kingdom of Belgium

The Notes have been assigned the following securities codes:

**NC5.5 Notes:**

ISIN XS2077670003, Common Code 207767000, WKN A255C8

**NC8 Notes:**

ISIN XS2077670342, Common Code 207767034, WKN A255C9

**Yield**

The yield in respect of the NC5.5 Notes from the Issue Date to the NC5.5 First Reset Date is 2.500% *per annum*, calculated on the basis of the NC5.5 Issue Price. Such yield is calculated in accordance with the ICMA (*International Capital Market Association*) method. The ICMA method determines the effective interest rate of fixed rate instruments taking into account accrued interest on a daily basis.

The yield in respect of the NC8 Notes from the Issue Date to the NC8 First Reset Date is 3.125% *per annum*, calculated on the basis of the NC8 Issue Price. Such yield is calculated in accordance with the ICMA (*International Capital Market Association*) method. The ICMA method determines the effective interest rate of fixed rate instruments taking into account accrued interest on a daily basis.

The yield of the Notes for the reset periods after their respective first reset date cannot be determined as of the date of this Prospectus.

## Rating of the Notes

The Notes are expected to be rated Baa3<sup>1</sup> by Moody's Investors Service Ltd<sup>2</sup> ("**Moody's**"), BB+<sup>3</sup> by S&P Global Ratings Europe Limited<sup>4</sup> ("**S&P**") and BBB-<sup>5</sup> by Fitch Ratings Limited<sup>6</sup> ("**Fitch**") (together, the "**Rating Agencies**"). A rating is not a recommendation to buy, sell or hold securities and may be subject to revision, suspension or withdrawal at any time by the assigning rating organization. As of the date of this Prospectus, each of the Rating Agencies is a credit rating agency established in the European Union and registered under Regulation (EC) No 1060/2009 of the European Parliament and of the Council of 16 September 2009 on credit rating agencies (as amended) (the "**CRA Regulation**"). In general, European regulated investors are restricted from using a credit rating for regulatory purposes if such credit rating is not issued by a rating agency established in the European Union and registered under the CRA Regulation. A list of credit rating agencies registered under the CRA Regulation is available for viewing at <http://www.esma.europa.eu/page/List-registered-and-certified-CRAs>.

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<sup>1</sup> Moody's defines "Baa" as follows: "Obligations rated Baa are judged to be medium-grade and subject to moderate credit risk and as such may possess certain speculative characteristics"

Moody's appends numerical modifiers 1, 2, and 3 to each generic rating classification from Aa through Caa. The modifier 1 indicates that the obligation ranks in the higher end of its generic rating category; the modifier 2 indicates a mid-range ranking; and the modifier 3 indicates a ranking in the lower end of that generic rating category.

<sup>2</sup> Moody's is established in the European Community and is registered under the CRA Regulation.

The European Securities and Markets Authority publishes on its website ([www.esma.europa.eu/page/list-registered-and-certified-CRAs](http://www.esma.europa.eu/page/list-registered-and-certified-CRAs)) a list of credit rating agencies registered in accordance with the CRA Regulation. That list is updated within five working days following the adoption of a decision under Article 16, 17 or 20 CRA Regulation. The European Commission shall publish that updated list in the Official Journal of the European Union within 30 days following such update.

<sup>3</sup> S&P defines "BB" as follows: "An obligation rated 'BB' is less vulnerable to nonpayment than other speculative issues. However, it faces major ongoing uncertainties or exposure to adverse business, financial, or economic conditions that could lead to the obligor's inadequate capacity to meet its financial commitments on the obligation."

Ratings by S&P from "AA" to "CCC" may be modified by the addition of a plus (+) or minus (-) sign to show relative standing within the major rating categories.

<sup>4</sup> S&P is established in the European Community and is registered under the CRA Regulation.

The European Securities and Markets Authority publishes on its website ([www.esma.europa.eu/page/list-registered-and-certified-CRAs](http://www.esma.europa.eu/page/list-registered-and-certified-CRAs)) a list of credit rating agencies registered in accordance with the CRA Regulation. That list is updated within five working days following the adoption of a decision under Article 16, 17 or 20 CRA Regulation. The European Commission shall publish that updated list in the Official Journal of the European Union within 30 days following such update.

<sup>5</sup> Fitch defines "BBB" as follows: "'BBB' ratings indicate that expectations of default risk are currently low. The capacity for payment of financial commitments is considered adequate, but adverse business or economic conditions are more likely to impair this capacity."

The modifiers "+" or "-" may be appended to a rating by Fitch from "AA" to "B" to denote relative status within major rating categories.

<sup>6</sup> Fitch is established in the European Community and is registered under the CRA Regulation.

The European Securities and Markets Authority publishes on its website ([www.esma.europa.eu/page/list-registered-and-certified-CRAs](http://www.esma.europa.eu/page/list-registered-and-certified-CRAs)) a list of credit rating agencies registered in accordance with the CRA Regulation. That list is updated within five working days following the adoption of a decision under Article 16, 17 or 20 CRA Regulation. The European Commission shall publish that updated list in the Official Journal of the European Union within 30 days following such update.

**CONDENSED CONSOLIDATED INTERIM FINANCIAL INFORMATION AS OF  
30 SEPTEMBER 2019**

**Bayer Group Consolidated Income Statements**

in million EUR	Q3 2018	Q3 2019	9M 2018	9M 2019
<b>Net sales</b>	<b>9,261</b>	<b>9,830</b>	<b>26,387</b>	<b>32,795</b>
Cost of goods sold	(4,101)	(3,743)	(9,737)	(12,592)
<b>Gross profit</b>	<b>5,160</b>	<b>6,087</b>	<b>16,650</b>	<b>20,203</b>
Selling expenses	(2,861)	(3,016)	(8,025)	(9,270)
Research and development expenses	(1,167)	(1,292)	(3,407)	(3,934)
General administration expenses	(844)	(798)	(1,812)	(2,840)
Other operating income	4,216	707	4,552	1,182
Other operating expenses	(181)	(473)	(298)	(1,548)
<b>EBIT<sup>1</sup></b>	<b>4,323</b>	<b>1,215</b>	<b>7,660</b>	<b>3,793</b>
Equity-method income (loss)	(16)	212	82	175
Financial income	152	77	682	313
Financial expenses	(815)	(468)	(1,612)	(1,419)
<b>Financial result</b>	<b>(679)</b>	<b>(179)</b>	<b>(848)</b>	<b>(931)</b>
<b>Income before income taxes</b>	<b>3,644</b>	<b>1,036</b>	<b>6,812</b>	<b>2,862</b>
Income taxes	(829)	(33)	(1,460)	(405)
<b>Income from continuing operations after income taxes</b>	<b>2,815</b>	<b>1,003</b>	<b>5,352</b>	<b>2,457</b>
of which attributable to noncontrolling interest	8	8	14	8
<b>of which attributable to Bayer AG stockholders</b>	<b>2,807</b>	<b>995</b>	<b>5,338</b>	<b>2,449</b>
<b>Income from discontinued operations after income taxes</b>	<b>64</b>	<b>41</b>	<b>281</b>	<b>228</b>
of which attributable to noncontrolling interest	–	–	–	–
<b>of which attributable to Bayer AG stockholders</b>	<b>64</b>	<b>41</b>	<b>281</b>	<b>228</b>
<b>Income after income taxes</b>	<b>2,879</b>	<b>1,044</b>	<b>5,633</b>	<b>2,685</b>
of which attributable to noncontrolling interest	8	8	14	8
<b>of which attributable to Bayer AG stockholders (net income)</b>	<b>2,871</b>	<b>1,036</b>	<b>5,619</b>	<b>2,677</b>
Shares (million)				
<b>Weighted average number of shares<sup>2</sup></b>	<b>980,152</b>	<b>982,432</b>	<b>927,478</b>	<b>981,446</b>
EUR				
<b>Earnings per share</b>				
From continuing operations				
Basic	2.86	1.01	5.76	2.50
Diluted	2.86	1.01	5.76	2.50
From discontinued operations				
Basic	0.07	0.04	0.30	0.23
Diluted	0.07	0.04	0.30	0.23
From continuing and discontinued operations				
Basic	2.93	1.05	6.06	2.73
Diluted	2.93	1.05	6.06	2.73

2018 figures restated

<sup>1</sup> EBIT (earnings before interest and taxes) serves to present the Issuer's performance while eliminating the effects of differences among local taxation systems and different financing activities.

<sup>2</sup> Weighted average number of shares (basic and diluted) restated for all periods prior to June 2018 to reflect the effect of the bonus component of the subscription rights issued as part of the June 2018 capital increase.



## Bayer Group Consolidated Statements of Financial Position

in million EUR	30 Sept. 2018	<b>30 Sept. 2019</b>	31 Dec. 2018
<b>Noncurrent assets</b>			
Goodwill	39,567	39,871	38,442
Other intangible assets	37,696	35,593	36,696
Property, plant and equipment	13,190	13,072	12,943
Investments accounted for using the equity method	505	638	515
Other financial assets	2,605	2,297	2,212
Other receivables	787	698	526
Deferred taxes	4,095	5,081	4,333
	<b>98,445</b>	<b>97,250</b>	<b>95,667</b>
<b>Current assets</b>			
Inventories	11,042	10,515	11,132
Trade accounts receivable	11,560	11,876	11,714
Other financial assets	1,601	1,144	1,166
Other receivables	2,107	1,606	1,958
Claims for income tax refunds	673	712	809
Cash and cash equivalents	4,850	4,410	4,052
Assets held for sale	235	3,250	234
	<b>32,068</b>	<b>33,513</b>	<b>31,065</b>
<b>Total assets</b>	<b>130,513</b>	<b>130,763</b>	<b>126,732</b>
<b>Equity</b>			
Capital stock	2,387	2,387	2,387
Capital reserves	18,388	18,388	18,388
Other reserves	29,450	25,190	25,202
Equity attributable to Bayer AG stockholders	50,225	<b>45,965</b>	45,977
Equity attributable to noncontrolling interest	172	182	171
	<b>50,397</b>	<b>46,147</b>	<b>46,148</b>
<b>Noncurrent liabilities</b>			
Provisions for pensions and other post-employment benefits	7,992	9,384	8,717
Other provisions	2,438	3,982	3,418
Refund liabilities	118	274	160
Contract liabilities	1,076	764	986
Financial liabilities	40,358	37,762	37,712
Income tax liabilities	1,223	1,617	1,433
Other liabilities	369	474	366
Deferred taxes	6,081	4,302	4,667
	<b>59,655</b>	<b>58,559</b>	<b>57,459</b>
<b>Current liabilities</b>			
Other provisions	2,969	3,196	3,365
Refund liabilities	4,617	4,960	3,622
Contract liabilities	656	1,011	3,235
Financial liabilities	3,492	6,023	3,682
Trade accounts payable	5,557	5,697	6,038
Income tax liabilities	1,140	509	1,050
Other liabilities	2,018	2,251	2,121
Liabilities directly related to assets held for sale	12	2,410	12
	<b>20,461</b>	<b>26,057</b>	<b>23,125</b>
<b>Total equity and liabilities</b>	<b>130,513</b>	<b>130,763</b>	<b>126,732</b>

## Bayer Group Consolidated Statements of Cash Flows

in million EUR	Q3 2018	Q3 2019	9M 2018	9M 2019
Income from continuing operations after income taxes	2,815	1,003	5,352	2,457
Income taxes	829	33	1,460	405
Financial result	679	179	848	931
Income taxes paid	(585)	(388)	(1,453)	(1,758)
Depreciation, amortization and impairments	944	1,072	2,088	3,759
Change in pension provisions	(41)	(80)	(196)	(283)
(Gains) losses on retirements of noncurrent assets	(3,982)	(392)	(4,044)	(341)
Decrease (increase) in inventories	5	(317)	176	296
Decrease (increase) in trade accounts receivable	2,325	2,180	2,564	(44)
(Decrease) increase in trade accounts payable	616	409	141	(18)
Changes in other working capital, other noncash items	(1,689)	(1,534)	(2,272)	(715)
<b>Net cash provided by (used in) operating activities from continuing operations</b>	<b>1,916</b>	<b>2,165</b>	<b>4,664</b>	<b>4,689</b>
Net cash provided by (used in) operating activities from discontinued operations	135	117	285	272
<b>Net cash provided by (used in) operating activities (total)</b>	<b>2,051</b>	<b>2,282</b>	<b>4,949</b>	<b>4,961</b>
Cash outflows for additions to property, plant, equipment and intangible assets	(659)	(729)	(1,467)	(1,582)
Cash inflows from the sale of property, plant, equipment and other assets	47	–	129	65
Cash inflows from divestments	7,349	1,054	7,563	1,046
Cash inflows from (outflows for) noncurrent financial assets	(105)	(121)	2,883	(172)
Cash outflows for acquisitions less acquired cash	–	(297)	(45,316)	(361)
Interest and dividends received	55	14	200	96
Cash inflows from (outflows for) current financial assets	(285)	(160)	2,427	202
<b>Net cash provided by (used in) investing activities (total)</b>	<b>6,402</b>	<b>(239)</b>	<b>(33,581)</b>	<b>(706)</b>
Capital contributions	–	–	8,986	–
Dividend payments	(3)	(4)	(2,406)	(2,615)
Issuances of debt	3,877	1,350	61,205	5,521
Retirements of debt	(12,057)	(2,057)	(40,741)	(5,871)
Interest paid including interest-rate swaps	(349)	(321)	(793)	(980)
Interest received from interest-rate swaps	18	17	400	27
Cash outflows for the purchase of additional interests in subsidiaries	(47)	–	(47)	–
<b>Net cash provided by (used in) financing activities (total)</b>	<b>(8,561)</b>	<b>(1,015)</b>	<b>26,604</b>	<b>(3,918)</b>
<b>Change in cash and cash equivalents due to business activities (total)</b>	<b>(108)</b>	<b>1,028</b>	<b>(2,028)</b>	<b>337</b>
<b>Cash and cash equivalents at beginning of period</b>	<b>5,011</b>	<b>3,381</b>	<b>7,436</b>	<b>4,052</b>
Change in cash and cash equivalents due to changes in scope of consolidation	–	–	1	(1)
Change in cash and cash equivalents due to exchange rate movements	(53)	1	(559)	22
<b>Cash and cash equivalents at end of period</b>	<b>4,850</b>	<b>4,410</b>	<b>4,850</b>	<b>4,410</b>

## Appendix to condensed consolidated interim financial information

The information in this section does not constitute an interim report according to the International Accounting Standard (IAS) 34. The accounting policies and measurement principles applied are based on those used in the consolidated financial statements of the Bayer Group for the fiscal year 2018, except where financial reporting standards have been applied for the first time in 2019 or an accounting policy has changed.

### Financial reporting standards applied for the first time in 2019

Details of the new standards whose first-time application has a material impact on the Group's financial position and results of operations are given below.

In January 2016, the IASB published the new standard for lease accounting, IFRS 16 (Leases), which replaces the rules contained in IAS 17 (Leases) along with the associated interpretations. The new standard is to be applied for annual periods beginning on or after 1 January 2019. The standard introduces a single lessee accounting model, requiring lessees to recognize right-of-use assets for granted rights of use and corresponding lease liabilities. It eliminates the requirement for lessees to differentiate between operating leases – without recognizing the respective assets or liabilities – and finance leases. However, IFRS 16 contains the option of exercising exemptions for the recognition of short-term leases and those pertaining to low-value assets. As under the previous standard, IAS 17, lessors still have to differentiate between operating and finance leases. According to IFRS 16, subleases are classified with reference to the right-of-use asset arising from the sublease in relation to the head lease.

Bayer applied IFRS 16 for the first time as of 1 January 2019, retrospectively without restating the prior-year figures. In this connection, various options and practical expedients were exercised as of the transition date for lease agreements in which a Bayer company is the lessee. No additional assessment was undertaken upon the first-time application of the new standard with regard to whether a contract represents or contains a leasing relationship. For contracts previously classified as operating leases, Bayer measured the lease liabilities as of the date of first-time application of IFRS 16 at the present value of the outstanding lease payments, using as the discount rate the respective incremental borrowing rate as of that date. On the date of first-time application, right-of-use assets were generally measured at the amount of the lease liability, adjusted by the amounts of any prepaid or accrued lease payments and / or provisions for onerous leases recognized in the statement of financial position as of 31 December 2018. Initial direct costs were not taken into account in the measurement of right-of-use assets as of the date of first-time application. The current state of knowledge as of the date of first-time application was taken into account in making discretionary decisions.

Bayer exercised the option of exempting intangible assets from the scope of application of IFRS 16 and applying the exemptions for short-term leases to certain leases ending in 2019. It is also applying these exemptions for short-term leases beginning after 31 December 2018.

The first-time application of IFRS 16 as of 1 January 2019, resulted in the recognition of additional lease liabilities of EUR 1.0 billion and a corresponding increase in net financial debt. Right-of-use assets, including those recognized as finance leases according to IAS 17 until 31 December 2018, rose in line with the lease liabilities by EUR 1.0 billion as of 1 January 2019, after the adjustments resulting from the first-time application of IFRS 16.

The significant effects on the individual items in the statement of financial position that were recognized as of 31 December 2018, in line with previous requirements were as follows:

<b>IFRS 16 Accounting Changes: Consolidated Statements of Financial Position as of 1 January 2019</b>			
in million EUR	<b>31 December 2018</b>	Adjustments due to IFRS 16	<b>1 January 2019</b>
Property, plant and equipment	12,943	1,012	13,955
Deferred tax assets	4,333	229	4,562
Financial liabilities	41,394	1,012	42,406
Deferred tax liabilities	4,667	232	4,899

The following right-of-use assets, including those recognized as finance leases according to IAS 17 until 31 December 2018, were recognized in property, plant and equipment as of the date of first-time application of IFRS 16:

<b>Right-of-Use Assets</b>	
in million EUR	<b>1 January 2019</b>
Land and buildings	985
Plant installations and machinery	195
Furniture, fixtures and other equipment	344
<b>Total</b>	<b>1,524</b>

In the statement of comprehensive income, Bayer ceased recognizing expenses for operating leases in operating income and instead recognized the depreciation of the right-of-use assets and the interest expense for the lease liabilities under IFRS 16. An analogous effect occurred in the statement of cash flows, where IFRS 16 had a positive effect on the operating cash flow by reducing cash outflows for operating activities, while the repayment component of lease payments and the interest expense were recognized in the financing cash flow.

Material items in connection with the reconciliation of operating lease commitments as of 31 December 2018, to the lease liabilities recognized as of 1 January 2019, comprised EUR 399 million in finance leases already recognized as liabilities, the EUR 187 million discount on the lease liabilities initially recognized under IFRS 16 and EUR 35 million in lease commitments not recognized under IFRS 16 that pertained to intangible assets.

The weighted average incremental borrowing rate for leases initially recognized upon the first-time application of IFRS 16 was 5.0%.

#### **Acquisitions, divestments and discontinued operations**

##### Acquisitions in 2019

On 20 September 2019, Bayer completed the acquisition of BlueRock Therapeutics L.P., Cambridge, Massachusetts, United States, which had previously been a joint venture. BlueRock Therapeutics focuses on the development of cell therapies in the fields of neurology, cardiology and immunology using a proprietary induced pluripotent stem cell platform. Under the agreement, Bayer made an upfront payment of approximately US\$ 0.2 billion, while further payments of up to US\$ 0.4 billion will be due upon achievement of pre-defined milestones.

##### Discontinued operations

On 20 August 2019, Bayer entered into an agreement to sell its Animal Health business unit to Elanco Animal Health Incorporated, Greenfield, Indiana, United States. The transaction is valued at US\$ 7.6 billion, consisting of US\$ 5.3 billion in cash, subject to customary purchase price adjustments, and US\$ 2.3 billion in Elanco stock based on the unaffected 30-day volume-weighted average price as of 6 August 2019. The number of shares constituting the equity consideration is fixed within a 7.5% collar.<sup>7</sup> The divestment is expected to be concluded in mid-2020 subject to the satisfaction of customary closing conditions, including antitrust clearance.

On 6 August 2019, Bayer and Lanxess entered into an agreement to sell their stakes in site services provider Currenta to InfraChem Holdings S.à r.l., Luxembourg, a company controlled by Macquarie Infrastructure and Real Assets (Europe) Limited. The base purchase price for Bayer's interest amounts to approximately EUR 1.2 billion and is subject to customary purchase price adjustments. Bayer is also selling a portfolio of real estate and infrastructure to the Currenta Group for approximately EUR 0.2 billion. The transaction is expected to close in the fourth quarter of 2019 subject to regulatory approval.

<sup>7</sup> This means that the number of Elanco shares that Bayer receives increases (decreases) in the event of share price decreases (increases) within this 7.5% corridor. Based on the closing price of Elanco shares on 30 September 2019, Bayer would receive approximately 73 million Elanco shares.

In accordance with IFRS 5 (Non-current Assets Held for Sale and Discontinued Operations), financial information is given for continuing operations unless otherwise explicitly indicated. Here it should be noted that the previously reportable Animal Health segment and the Currenta business have been reported as discontinued operations since the divestment agreements were signed. The data for prior periods has been restated accordingly.

#### Assets held for sale

On 19 July 2019, Bayer entered into an agreement with Yellow Wood Partners, Boston, United States, regarding the sale of the Dr. Scholl's™ business of Consumer Health for a purchase price of US\$ 0.6 billion. The transaction closed on 1 November 2019.

#### Divestments in 2019

On 30 August 2019, Bayer completed the sale of the Coppertone™ brand to Beiersdorf, with the two companies having signed a purchase agreement in May of this year. The base purchase price amounts to approximately US\$ 0.6 billion.

On 27 July 2018, the sale of Consumer Health's global prescription dermatology business outside the United States to LEO Pharma A/S, Ballerup, Denmark, was completed following the transfer of the U.S. business in September 2018. The base purchase price for the remaining global business was EUR 0.6 billion and is subject to customary purchase price adjustments. The divestment gain is provisionally estimated at EUR 0.3 billion.

## LIQUID ASSETS AND NET FINANCIAL DEBT AS OF 30 SEPTEMBER 2019

### Net Financial Debt <sup>1</sup>

	31 Dec 2018	30 June 2019	<b>30 Sept. 2019</b>	Change (%) vs. 30 June 2019
Bonds and notes / promissory notes	35,402	35,482	36,055	+ 1.6
of which hybrid bonds <sup>2</sup>	4,537	4,539	4,540	0.0
Liabilities to banks <sup>3</sup>	4,865	4,420	4,163	- 5.8
Lease liabilities	399	1,308	1,269	- 3.0
Liabilities from derivatives <sup>4</sup>	172	127	125	- 1.6
Other financial liabilities	556	1,991	2,173	+ 9.1
Receivables from derivatives <sup>4</sup>	(137)	(89)	(187)	+ 110.1
Financial debt	41,257	43,239	<b>43,598</b>	+ 0.8
Cash and cash equivalents	(4,052)	(3,343)	(4,410)	+ 31.9
Current financial assets <sup>5</sup>	(930)	(567)	(799)	+ 40.9
Shares in Covestro <sup>6</sup>	(596)	(521)	(529)	+ 1.5
Net financial debt	35,679	38,808	<b>37,860</b>	- 2.4

<sup>1</sup> Net financial debt is an important financial management indicator for the Group and is used both internally and externally in assessing its liquidity, capital structure and financial flexibility.

<sup>2</sup> Classified as debt according to IFRS.

<sup>3</sup> These include both financial and nonfinancial liabilities.

<sup>4</sup> These include the market values of interest-rate and currency hedges of recorded transactions.

<sup>5</sup> These include short-term receivables with maturities between 3 and 12 months outstanding from banks and other companies as well as financial investments in debt and equity instruments that were recorded as current on first-time recognition.

<sup>6</sup> Covestro shares are held for risk management purposes relating to the exchangeable bond issued in 2017 that matures in 2020.

## INCORPORATION BY REFERENCE

### Interim Financial Information

The Issuer publishes interim financial statements on a semi-annual basis.

### Incorporation by Reference

The following information is incorporated by reference into this Prospectus to the extent set forth in the table below:

1. the audited consolidated financial statements of the Bayer Group (augmented version) as of and for the year ended 31 December 2017 (the "**Group 2017 Report**") consisting of
  - Consolidated Income Statements (page 208 of the Group 2017 Report),
  - Consolidated Statements of Comprehensive Income (page 209 of the Group 2017 Report),
  - Consolidated Statements of Financial Position (page 210 of the Group 2017 Report),
  - Consolidated Statements of Cash Flows (page 212 of the Group 2017 Report),
  - Consolidated Statements of Changes in Equity (page 211 of the Group 2017 Report)
  - Notes to the Consolidated Financial Statements (pages 213 to 306 of the Group 2017 Report),
  - the Independent Auditor's Report<sup>8</sup> (page 308 to 315 of the Group 2017 Report),
2. the audited consolidated financial statements of the Bayer Group as of and for the year ended 31 December 2018 (the "**Group 2018 Report**") consisting of
  - Consolidated Income Statements (page 165 of the Group 2018 Report),
  - Consolidated Statements of Comprehensive Income (page 166 of the Group 2018 Report),
  - Consolidated Statements of Financial Position (page 167 of the Group 2018 Report),
  - Consolidated Statements of Cash Flows (page 170 of the Group 2018 Report),
  - Consolidated Statements of Changes in Equity (page 168 to 169 of the Group 2018 Report),
  - Notes (pages 171 to 257 of the Group 2018 Report),
  - the Independent Auditor's Report<sup>8</sup> (page 259 to 268 of the Group 2018 Report),

Any information not incorporated by reference into this Prospectus but contained in one of the documents mentioned as source documents in the cross reference list above is either not relevant for the investor or covered in another part of this Prospectus.

The source documents from which the information mentioned above has been incorporated by reference into this Prospectus will be published on the website of the Luxembourg Stock Exchange ([www.bourse.lu](http://www.bourse.lu)).

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<sup>8</sup> The auditor's report (*Bestätigungsvermerk*) has been issued in accordance with Section 322 German Commercial Code (*Handelsgesetzbuch*) in German language on the German version on the consolidated financial statements and the combined management report (*zusammengefasster Lagebericht*) of Bayer Aktiengesellschaft as of and for the fiscal years ended 31 December 2018 and 2017. The respective combined management report is neither included nor incorporated by reference in this Prospectus.

Electronic versions of the documents incorporated by reference are also available on the website of the Issuer (<https://www.investor.bayer.de/en/reports/bayer-ag-financial-statements/>) and can be accessed by using the following hyperlinks:

1. Group 2017 Report:

- <https://www.annualreport2017.bayer.com/>

2. Group 2018 Report:

- <https://www.annualreport2018.bayer.com/>



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