

Report on agenda item 9

The Executive Board makes the following report on agenda item 9 relating to the exclusion of subscription right pursuant to Article 203 Section 2 sentence 2 Stock Corporation Act (AktG) in conjunction with Article 186 Section 4 sentence 2 Stock Corporation Act (AktG):

In accordance with agenda item 9, the Executive Board is to be authorized with the approval of the Supervisory Board to increase the capital stock of the company in the period up to 20 May 2026 (inclusive) up to a nominal amount of EUR 18,706,050.00 by issue of up to 18,706,050 new registered no-par-value shares against cash and/or non-cash consideration (authorized capital 2021).

When utilizing the authorized capital 2021 the shareholders have a right of subscription. However, in certain cases, this subscription right can be excluded.

a) Exclusion of subscription right for fractional amounts

The Executive Board is to be able to exclude the subscription right for fractional amounts with the agreement of the Supervisory Board. This is intended to facilitate the handling of issues with general subscription right of the shareholders. Such fractional amounts may result from the individual issue volume and the presentation of a practical subscription ratio. Their value is generally low for the individual shareholder, whereas the expense for this issue without such exclusion is significantly higher. The exclusion therefore serves to enhance the practical feasibility and easier implementation of an issue. The new shares excluded as free fractions from the subscription right of shareholders will be exploited in the best interests of the company.

b) Exclusion of subscription right for capital increases for cash of up to 10 %

Furthermore, it is to be possible to exclude the subscription right in the case of capital increases for a cash consideration in respect of up to 10% of the capital stock which is in existence at the date of implementation or exercise of the authorization, if the new shares are issued at an amount pursuant to Article 186 Section 3 sentence 4 Stock Corporation Act (AktG) which does not differ significantly from the stock market price (so-called simplified exclusion of subscription rights). This limit of 10% shall include shares which are sold or issued during the period of this authorization with exclusion of the subscription right in direct or corresponding application of Article 186 Section 3 sentence 4 Stock Corporation Act (AktG). Furthermore, the limit shall include shares to service bonds (including participation rights) with conversion and/or option rights or a conversion and/or option obligation, insofar as the bonds or participation rights are issued during the course of this authorization with exclusion of the subscription right in corresponding application of Article 186 Section 3 sentence 4 Stock Corporation Act (AktG).

This authorization places the Executive Board in the position of being able to take advantage of market opportunities quickly and flexibly. It means that we can cover a capital requirement that may arise in this connection, if necessary at very short notice, without having to engage in a subscription offer which takes at least 14 days to arrange. The placement of the new shares is carried out here at a price close to the stock market price and this is generally associated with a lower discount than in the case of subscription rights issues. In addition, this type of placement is able to achieve strategic acquisition of new shareholder groups. The simplified subscription right exclusion generally relates to the standard case under statutory

regulations whereby the subscription right of shareholders can be excluded. The limit of 10% of the capital stock which is in existence at the date of implementation or exercise of the authorization with the inclusion of other cases of direct or corresponding application of Article 186 Section 3 sentence 4 Stock Corporation Act (AktG) takes account of the need to protect the shareholders in relation to a proportionate dilution of their shareholdings. Shareholders who want to retain their proportionate shareholding can prevent the reduction of their proportionate shareholding by acquisitions on the stock market. In the case of the simplified subscription right exclusion, the issue amount of the new shares must not fall significantly below the stock market price. This takes adequate account of the need to protect shareholders from dilution of the value of their shareholding. In accordance with the statutory rationale of Article 186 Section 3 sentence 4 Stock Corporation Act (AktG) and following assessment of the circumstances outlined above, exclusion of subscription rights within the circumscribed limits preserves the interests of the shareholders to a reasonable extent and is in accordance with the interests of the company, particularly in relation to safeguarding the necessary scope for taking action.

c) Exclusion of subscription right for capital increases against a non-cash consideration

The subscription right is also to be excluded in the case of capital increases against a non-cash consideration. The company should also continue to be able to acquire enterprises, parts of enterprises, shareholdings or economic assets in connection with a project, and other assets or claims, in order to strengthen its competitiveness, enhance the company's profitability and increase the value of the company. Experience shows in the case of such projects that large units are regularly involved. Very high contributions have to be paid many times in such situations. They should or can – also from the perspective of an optimum financial structure – often be provided entirely or partly as a non-cash consideration. Moreover, sellers frequently insist on acquiring shares as a consideration because this can be more cost-effective for them and sellers can in this way also indirectly have a share in the opportunities and risks of the units sold. The possibility of using own shares as an acquisition currency thereby gives the company the option of exploiting such acquisition opportunities quickly, flexibly and with the preservation of liquidity. It places the company in a position to acquire even large units in exchange for shares. Even in the case of individual economic assets, it should be possible under certain circumstances to make acquisitions either entirely or partly in exchange for shares. In all cases, it must be possible to exclude the subscription right of shareholders. Since this type of acquisition generally has to be carried out at short notice, it is not possible to achieve this for practical reasons by passing resolutions at the Annual General Meeting which only takes place once a year. This approach requires authorized capital which the Executive Board – with the agreement of the Supervisory Board – can quickly access. Using the authorized capital with exclusion of subscription rights means that a non-cash/optional dividend can be implemented in which the entitlements of the shareholders to payment of a dividend can be enabled as a contribution in kind though the issue of new shares in order to maintain liquidity levels (known as a scrip dividend). In the cases described, the company does not suffer any disadvantage as a result of this, because the issue of shares against a non-cash consideration always assumes that the value of the non-cash consideration is in a reasonable relationship with the value of the shares to be issued. The Executive Board will carefully review the valuation ratio when exercising the authorization and ensure that the interests of the company and its shareholders are appropriately safeguarded and that a reasonable issue price is obtained for the new shares

- d) Exclusion of subscription rights for capital increases for cash in order to issue shares to holders of financial instruments with conversion and/or option rights or conversion and/or option obligations

Furthermore, the subscription right is also to be excluded in the case of capital increases for cash if in future it is necessary to grant owners of enterprises in which the company or Group companies hold a majority shareholding directly or indirectly on the basis of an authorization granted separately by a resolution passed by the Annual General Meeting in respect of issued bonds or participation rights with conversion and/or option rights or conversion and/or option obligations a subscription right to new shares in the company in the volume that would be attributable to them as a shareholder after exercising the option or conversion right or fulfilling the option or conversion obligation or after exercising a substitution right of the company. Bonds or participation rights with conversion and/or option rights or conversion and/or option obligations generally provide protection against dilution in their conditions of issuance, which guarantees a subscription right to new shares for owners or creditors in subsequent share issues and certain other measures. As a consequence, they are treated as though they were already shareholders. In order to provide these financial instruments with protection against dilution in this way, the subscription right of the shareholders to these shares must be excluded. This facilitates easier placement of the financial instruments and hence is in the interests of the shareholders in an optimum financial structure for the company. Furthermore, the exclusion of the subscription right in favor of the owners or creditors of these financial instruments has the advantage that if the authorization is utilized the option or conversion price does not have to be reduced for the owners or creditors of existing financial instruments in accordance with the relevant conditions of the bonds. This permits a higher inflow of funds and is therefore in the interest of the company and its shareholders.

- e) Exclusion of subscription rights for capital increases for cash for purposes of issuing shares as part of the compensation programs and employee share programs

Furthermore, it is to be possible to exclude the subscription right in the case of capital increases for a cash consideration for purposes of issuing shares to employees and Executive Board Members of the company and to employees and Members of the Executive Management of enterprises dependent on it or in the majority ownership of the company with the scope of share-based compensation programs or employee share programs, insofar as the total share of the capital stock arithmetically attributable to the issued shares with exclusion of the subscription right does not exceed 10 % of the capital stock either at the time this authorization becomes effective or at the time of exercising this authorization. The shares can be issued to employees in such a way that the contribution to be paid in return is taken from the part of the earnings after income taxes that the Executive Board and the Supervisory Board could transfer to other retained earnings pursuant to Article 58 Section 2 Stock Corporation Act (AktG). Insofar as shares are to be granted to Members of the Executive Board, the decision on this matter shall be taken by the Supervisory Board of the company.

Share-based compensation components have been proven compensation elements for managers and other employees of listed companies for a long time. Employee participation is also desired by lawmakers and is therefore facilitated in several different ways. In 2021, KPS AG expanded the long-term bonus plan for certain employees (*Long Term Incentive Plan*) in the KPS Group by a share-based element. The bonus fundamentally based on Group income in an initial appraisal stage is converted to virtual shares of the company (phantom shares), the market value of which is converted or calculated retrospectively after the expiry of a defined waiting time in a second appraisal stage within a final claim to a monetary

consideration, which can be fulfilled at the discretion of the company partly or entirely also in shares in the company. The liquidity-preserving issue of new shares to employees instead of a compensation in the form of a cash consideration can be in the interest of the company and its shareholders, since this is a means of enhancing identification of the employees with the company and can hence increase the corporate value and the assumption of communal responsibility. In order to be able to offer employees own shares for acquisition, the subscription right of shareholders to these shares must be excluded. The possibility is also to be granted within the framework permitted by Article 204 Section 3 Sentence 1 Stock Corporation Act (AktG) to issue new shares in such a way that the contribution to be paid in return is taken from the part of the earnings after income taxes that the Executive Board and the Supervisory Board could transfer to other retained earnings pursuant to Article 58 Section 2 Stock Corporation Act (AktG). This facilitates the processing of the share issue and reflects the fact that the issue in these cases has the character of compensation. Insofar as the new shares are to be issued to the Members of the Executive Board of the company, the decision on the grant of the shares shall not be taken by the Executive Board but by the Supervisory Board of the company in accordance with the allocation of responsibility under legislation relating to stock corporations.

After carefully considering all the circumstances, the Executive Board has come to the conclusion that exclusion of the subscription right in the cases referred to is appropriate, necessary, objectively justified and reasonable for the reasons presented, also taking into account the corresponding dilution effects to the detriment of shareholders. The Executive Board will carry out a careful review in each case to ascertain whether the utilization of the authorized capital 2021 is in the interests of the company and its shareholders. The Executive Board will report to the Annual General Meeting about any utilization of the authorized capital 2021.

Unterföhring, April 2021

Leonardo Musso

Sole Member of the Executive Board