

# Report by the Supervisory Board for the Financial Year 2019

## Supervision and Advice by Means of Regular Exchanges with the Management Board

In the year under review, the Supervisory Board performed the duties incumbent upon it under the law, the Articles of Association and the Rules of Procedure with great care. The Supervisory Board advised the Management Board on the management of the company, continuously monitored its activities and always satisfied itself of the legality, appropriateness and regularity of its actions. The Management Board fulfilled its duties to provide information and informed the Supervisory Board regularly, promptly and comprehensively in written and verbal form about events and measures relevant to the Company. The reports contained all relevant information on strategy development, planning, business developments during the year, risks and compliance. Furthermore, in addition to the Chairwoman of the Supervisory Board, the other two members of the Supervisory Board also maintained a close and regular exchange of information with the members of the Management Board between meetings. In this way, the Supervisory Board was informed comprehensively and promptly about the intended business policy, corporate planning including financial, investment and personnel planning, the profitability of the Company, risk management, the course of business and the situation of the Group as well as questions of strategic corporate development. The Management Board also coordinated the Company's strategic orientation with the Supervisory Board. Important findings and deviations in the course of business from the approved plans were presented, explained and discussed at the next meeting at the latest. The Supervisory Board discussed with the Management Board the business transactions of importance to the Company and the further development of the Group.

The members of the Supervisory Board approved the draft resolutions at the meetings or on the basis of written and oral information after thorough examination, insofar as approval was required for decisions or measures of the Management Board by law, the Articles of Association or the Rules of Procedure. In 2019 the Supervisory Board held five regular meetings. They took place on March 11, March 27, June 21, August 12 and October 29. During one meeting one member excused his absence. In addition, a total of three conference calls were held on May 10, November 14 and December 11. During one call one member excused his absence.

## Focal Points of Supervisory Board Deliberations

There were no committees in the 2019 financial year, with the result that the Supervisory Board's deliberations took place as a whole. In addition to the statutory reporting requirements, the following key issues in particular were discussed and examined in detail by the Supervisory Board:

- Annual and consolidated financial statements as of December 31, 2018
- Changes in the Management Board and Supervisory Board (e.g. selection of candidates, ensuring smooth transitions and evaluation of the regular reviews of the new Chairman of the Management Board / CEO after taking office)
- Monitoring the implementation of the package of measures to strengthen the financial base (consisting of a capital increase with subscription rights as well as sale and rent-back and factoring agreements)
- Monitoring of the four QM-relevant audits carried out in financial year 2019 and the conversion of the entire management process to regulatory requirements of the new EU Medical Device Regulation (MDR)
- Evaluation of the results of the analysis to identify cost reduction and efficiency improvement potentials and monitoring of the implementation of appropriate measures (e.g. change of stock exchange listing and discontinuation of parts of the standard trauma portfolio)
- Discussion and evaluation of further potential measures to reduce costs and strengthen the financial base in order to demonstrate the assumption of a going concern in the context of the preparation of the financial statements for 2019

- Discussion of guidelines for pricing policy in the sales business with the aim of increasing the gross margin
- Evaluation of strategic options to create more value including, among other things, co-development partnerships, distribution and license agreements as well as joint venture agreements to corporate transactions (e.g. merger, share or asset deal as well as carve out)
- Increase in sales by expanding business with existing customers and acquiring new customers with a focus on national and international key markets
- Monitoring of the implementation of the package of measures to restructure the US sales organization and the further development of the US market
- Activities related to aimed CE and FDA approvals for silver coating technology with a focus on obtaining regulatory approvals to start human clinical study and prepare it
- Development activities related to the completion of the LOQTEQ® portfolio, especially sterile packed implants
- Activities with global partners with a focus on development and distribution contracts
- Development of the working capital management with a focus on higher inventory turnover, including through consistent consignment management
- Discussion of legal disputes and ways of settling them as well as mapping legal risks in financial reporting; as a result, *aap* was able to settle several legal disputes amicably in 2019
- Act on the Implementation of the Second Shareholders' Rights Directive (ARUG II)
- Corporate Governance Code
- Management Agenda and budget 2020

The subject of regular consultations was the development of *aap* Implantate AG's sales, earnings and employment, the financial position, strategic prospects, the Group's further development and investment planning. The Management Board informed the Supervisory Board regularly and comprehensively about corporate planning, the course of business and the Group's current situation.

The Supervisory Board dealt in detail with the economic situation and with the operative and strategic development and discussed the further development of the Group.

### **Corporate Governance**

In the past fiscal year, the Supervisory Board continuously monitored the implementation of the provisions of the German Corporate Governance Code and the development of corporate governance standards. In December 2019, the Management Board and Supervisory Board issued an updated Declaration of Conformity in accordance with section 161 of the German Stock Corporation Act (AktG) and made it permanently available to shareholders on the Company's website. Information on corporate governance within the company and a detailed report on the amount and structure of the remuneration of the Supervisory Board and Management Board can be found in the corporate governance declaration pursuant to Sections 289 f and 315 d of the German Commercial Code (HGB) and in the remuneration report of the consolidated annual financial report 2019. Both documents are also available on the Company's website.

### **Annual and Consolidated Financial Statements, Audit**

Mazars GmbH & Co. KG Wirtschaftsprüfungsgesellschaft Steuerberatungsgesellschaft, Hamburg, appointed at the annual general meeting held on June 21, 2019, to be the external auditor for the financial statements 2019, audited the annual financial statements and the combined management report for the individual and consolidated financial statements as well as the consolidated financial statements, prepared in accordance with the International Financial Reporting Standards (IFRS), of *aap* Implantate AG as at December 31, 2019. Since by the time of the balance sheet meeting on June 29, 2020 the auditor had not been presented with sufficient evidence that *aap* Implantate AG's financing is secured for a 12-month period, the auditor issued a note of refusal on the grounds of objections to accounting under going concern. The Supervisory Board was supplied with the annual financial statements and the combined management report for the individual and consolidated

financial statements as well as the consolidated financial statements and the auditor's reports. The financial statement documents and the audit reports were discussed in detail at the balance sheet meeting on June 29, 2020. At this meeting, the Management Board explained the financial statements of *aap* Implantate AG and the Group and the reasons for not issuing the auditor's opinion. The auditor who signed the auditor's report attended the Supervisory Board's and Management Board's discussion on the reports, outlined the principal audit findings and was available to answer questions.

After reviewing and discussing the annual and consolidated financial statements and the combined management report for the individual and consolidated financial statements, the Supervisory Board approved the annual and consolidated financial statements prepared by the Management Board for the year ending December 31, 2019. The annual financial statements are thus adopted.

#### **Statements Pursuant to Articles 289 (4) and 315 (4) HGB**

The Supervisory Board dealt with the information and the report on the information in the combined management report for the individual and consolidated financial statements in accordance with Sections 289 (4) and 315 (4) of the German Commercial Code (HGB). The Supervisory Board approved the corresponding explanations in the combined management report for the individual and consolidated financial statements.

In the name of the Supervisory Board, I would like to thank the members of the Management Board and all of the employees for their above-average personal commitment and the constructive cooperation in the eventful past months of our Company.

The Supervisory Board



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**Dr. med. Nathalie Krebs**  
Chairwoman