

**Fair Value REIT-AG, Munich**

ISIN: DE000A0MW975 - WKN: A0MW97

**General Meeting**

**on Tuesday, May 27, 2014 at 11:00 a.m.**

**at the Haus der Bayerischen Wirtschaft**

**Europa Saal**

**Max-Joseph-Str. 5**

**80333 Munich**

**Report of the Management Board on agenda item 7 (Authorisation to exclude shareholder rights in the issuance of new shares as part of Authorised Capital 2014) to the general meeting**

**a) Introduction**

With regard to item 7 of the agenda, pursuant to Section 203 para. 2 in conjunction with Section 186 para. 4 sentence 2 AktG, the Management Board makes the following report about the reasons for the authorisation to exclude shareholder subscription rights in the issuance of new shares.

The report will be available for inspection by shareholders from the date the meeting is convened on at the business premises of Fair Value REIT-AG, Leopoldstr. 244, 80807 Munich, Germany, can be downloaded from the company website at **[www.fvreit.de/Investor-Relations/Hauptversammlung/Einladung](http://www.fvreit.de/Investor-Relations/Hauptversammlung/Einladung)** and will also be available for inspection by shareholders during the general meeting. Upon request, a copy [of the report] will be sent to any shareholder immediately and at no charge.

The general meeting of September 7, 2007 approved the creation of "Authorised Capital I." With the entry of "Authorised Capital I" [in the Commercial Register] on October 31, 2007, the Management Board was authorised until September 2, 2012 to increase the share capital of the company, with the consent of the Supervisory Board, up to EUR 21,250,000.00 by one or more issuances of new no par value creditor shares (Authorised Capital I). This authorisation has expired. The Authorised Capital I from 2007 should therefore be replaced by the proposed new Authorised Capital 2014. The authorisation

should be granted for the statutorily permissible period of five years. To that end, Section 5 paragraph 5 of the Articles of Association should be revised accordingly.

The Management Board and Supervisory Board recommend authorizing the Management Board to increase the share capital of the company, with the consent of the Supervisory Board, on or before May 26, 2019 by one or more issuances of new no par value creditor shares in exchange for contributions in cash and/or kind (Authorised Capital I4).

The amount of Authorised Capital 2014 corresponds to 50% of the currently existing share capital and makes full use of the statutory maximum for authorised capital in order to provide the greatest possible flexibility for the company. However, if the proposed resolution under agenda item 6 on the capital reduction is adopted by the general meeting, the Management Board and the Supervisory Board will submit the unchanged resolution proposal described above under agenda item 7 to a vote in the general meeting in such a way that the amount of the proposed Authorised Capital 2014 will be reduced to 50% of the share capital that will exist after the reduction. In principle, the new shares must be offered for purchase to the shareholders. An indirect subscription right as defined in Section 186 para. 5 AktG is sufficient. However, in certain cases the Management Board should be authorised, with the consent of the Supervisory Board, to exclude the statutory subscription rights of shareholders when issuing new shares.

#### **b) Excluding subscription rights for fractional amounts**

If in the case of a capital increase the shareholders are granted in principle a subscription right to the new shares, the Management Board should be authorised, with the consent of the Supervisory Board, to exclude shareholder subscription rights for fractional amounts. The option to exclude subscription rights for fractional amounts is necessary to arrive at a technically feasible subscription ratio. The shares excluded as fractional shares from the shareholders' subscription right will be sold to the company's greatest possible advantage either via the stock market or in some other way.

#### **c) Excluding subscription rights for contributions in kind**

The Management Board should be authorised, with the consent of the Supervisory Board, to exclude shareholder subscription rights in the case of capital increases as consideration for contributions in kind, in particular to issue new shares in return as part of a merger with another company or as part of the purchase of companies, parts of

companies or participations (investments) in companies, industrial property rights, such as, for example, patents, trademarks or licenses thereto, or other product rights or other contributions in kind, including bonds, convertible bonds and other financial instruments. It has become increasingly necessary in such cases to deliver in return not money, but shares of the acquiring company.

One reason for this is that the delivery of shares of the acquiring company is often demanded for attractive candidates for acquisition. In addition, especially where large entities are concerned, granting new shares as consideration can be advantageous in terms of protecting liquidity. With the proposed authorisation, the company will obtain the flexibility necessary to exploit opportunities, in particular mergers with other companies, and to acquire companies, parts of companies or participations in companies or to acquire other contributions in kind by utilizing this type of consideration. The proposed authorisation to exclude shareholder subscription rights is necessary to achieve this. Granting subscription rights makes it impossible to merge with other companies or to acquire companies, parts of companies or participations in companies or to acquire other contributions in kind in exchange for granting new shares, and makes it impossible for the company to receive the associated benefits of such actions. Although the new authorisation to be approved under item 10 of the agenda will also be used, in addition to the above purposes, to purchase and utilize own shares, the company should also be granted the flexibility to be able to achieve these goals independent of a repurchase of own shares based on the resolution to be adopted under item 10 of the agenda and purchase authorisation limited to 10% of the share capital. At present, there are no concrete plans to exercise the authorisation. If opportunities materialize to merge with other companies or to acquire companies, parts of companies or participations in companies or to acquire other contributions in kind, the Management Board will carefully analyse whether it should make use of the option of a capital increase against contribution in kind and option to exclude subscription rights. It will only do this if it becomes convinced that the merger or acquisition of companies, parts of companies or participations in companies or the acquisition of other contributions in kind in exchange for granting new shares is in the best interest of the company. The Supervisory Board will only grant the necessary content if it also comes to this conclusion. The Management Board will report in der general meeting on the details of the use of this authorisation to exclude subscription rights that follows any merger or acquisition in exchange for granting shares of the company.

**d) Excluding subscription rights in the case of capital increases in exchange for cash contributions by up to 10%**

However, the Management Board should also be authorised with the consent of the Supervisory Board, to exclude shareholder subscription rights if the capital increase is made in exchange for cash contributions and the total pro rata amount ascribed to the new shares for which subscription rights are excluded does not exceed 10% of the share capital and the issue price of the new shares is not significantly less, as defined in Section 203 paragraphs 1 and 2, and Section 186 para. 3 sentence 4 AktG, than the stock-market price of the shares of the company of the same class and features already traded on the stock market on the date of the final determination of the issue price by the Management Board.

The 10% limit is determined either by the date the authorisation takes effect upon entry into the Commercial Register or by the share capital available on the date new shares are issued, depending on which of these dates the amount of share capital is less. In other words, the lower of these amounts will be used. The legal basis for this exclusion of subscription rights is Section 203 paragraphs 1 and 2 AktG in conjunction with Section 186 para. 3 sentence 4 AktG. Any deduction from the relevant stock-market price will presumably be not more than 3%, but in no case more than 5% of the stock-market price. This option to exclude subscription rights helps the company obtain the best-possible price when issuing new shares. This will enable the company to quickly, flexibly and cost-effectively exploit opportunities that arise from beneficial stock-market conditions. The issue price that can be obtained by setting a near-market price generally leads to a significantly higher inflow of funds per new share than the placement of shares with subscription rights. Moreover, by being relieved of the time-consuming and expensive processing of subscription rights, capital requirements can be covered rapidly by exploiting short-term market opportunities. Although Section 186 para. 2 sentence 2 AktG permits publication of the subscription price up to three days prior to the expiration of the subscription period, in light of the volatility on the stock markets, there is in this case a market risk, namely the risk of changing prices, spread over several days that can lead to safety margins being built in when determining the subscription price and thus to terms and conditions not in line with the market. Moreover, due to the length of the subscription period, by granting subscription rights the company cannot react quickly to favourable market conditions. Although the aforementioned purpose is also served by the authorisation to be approved under item 10 of this agenda to purchase and use own shares, the company should also be granted the flexibility necessary to be able to achieve

these goals independent of a repurchase of own shares based on the resolution to be adopted under item 10 of the agenda and purchase authorisation limited to 10% of the share capital. Moreover, including a deduction clause that provides for a corresponding reduction in the scope of the authorisation in the event of other actions performed in accordance with Section 186 para. 3 sentence 4 AktG, whether applied directly, correspondingly or analogously, is intended to ensure that the 10% limit provided in Section 186 para. 3 sentence 4 AktG, taking into account all authorisations with the option to exclude subscription rights in accordance with Section 186 para. 3 sentence 4 AktG is observed, provided such a reduction is legally allowed. For the reasons stated, the proposed authorisation to exclude subscription rights is in the best interest of the company and its shareholders. Because the issue price for the new shares is based on the stock-market price and the authorisation is only of a limited scope, the interests of the shareholders are adequately protected. Shareholders have the option to maintain their relative participation by way of additional purchases on the stock market.

#### **e) Excluding subscription rights in the case of option or conversion rights**

If shareholders are granted in principle a subscription right to new shares in the event of a capital increase, the Management Board should also be authorised, with the consent of the Supervisory Board, to exclude shareholder subscription rights to the extent necessary to grant to holders and/or creditors of conversion and/or option rights or those subject to obligations to convert and/or exercise options from bonds that were issued by the company or by a group company, a subscription right to new shares to the extent they are entitled after exercising the conversion and/or option rights or after fulfilling the conversion and/or option obligations. Convertible bonds or bonds with warrants are generally provided with dilution protection to make it easier to place them on the capital market. The dilution protection is typically cash compensation or optionally a reduction in the conversion or option price or an adjustment of the exchange ratio. In addition, the terms and conditions of convertible bonds and bonds with warrants typically provide that, especially in the event of a capital increase granting subscription rights to shareholders, holders or creditors of conversion or option rights or those subject to conversion or option obligations can be granted, instead of dilution protection by means of the mechanisms described above, a subscription right to new shares like the one shareholders are entitled to. They will be treated, if the Management Board utilizes this option, as if they had already exercised their conversion or option right or had already fulfilled their conversion or option obligation. This has the advantage that the company – in contrast to dilution protection by reducing the conversion or option price or by adjusting the exchange ratio –

can obtain a higher issue price for the shares to be issued upon conversion or exercise of an option and without having to pay cash compensation for it. Achieving this requires excluding subscription rights.

Having considered all the above circumstances, the Management Board and Supervisory Board consider the authorisations to exclude subscription rights in the aforementioned cases to be factually justified and reasonable for the shareholders for the stated reasons, even taking into account the dilution effect which may occur to the detriment of the shareholders if the authorisation in question is utilized.

The Management Board will report to the general meeting on any use of the authorised capital.

Munich, April 2014

Fair Value REIT-AG

The Management Board