



**Rules of Procedure
of the Supervisory Board of
Merck KGaA, Darmstadt,
Germany**

As of February 26, 2021

Rules of Procedure of the Supervisory Board of Merck KGaA, Darmstadt, Germany (the “company”)

§ 1 Duties

- 1.1 The Supervisory Board performs its duties in accordance with the statutory provisions, the Articles of Association, the applicable recommendations of the German Corporate Governance Code and those applied pursuant to the Declaration of Conformity and these Rules of Procedure. In the performance of its duties, the Supervisory Board works in a spirit of trust with the other boards of the company and the boards of E. Merck KG, Darmstadt, Germany in the interests of the company.
- 1.2 In particular, the Supervisory Board is responsible for the duty of receiving and reviewing the reports to be executed by the Executive Board of the company (“Executive Board”) pursuant to section 90 of the German Stock Corporation Act. These include, *inter alia*, regular reports on intended corporate policy and other fundamental matters regarding the future conduct of the company’s business, in particular, plans regarding financials, investments and personnel, the profitability of the company, the course of business, the risk situation, risk management (including compliance), and the internal auditing system.
- 1.3 Through its consultations with the Executive Board, the Supervisory Board creates the foundation for the Supervisory Board’s ability to supervise the Executive Board of the company pursuant to section 111 (1) of the German Stock Corporation Act.
- 1.4 The Supervisory Board can demand at any time a report from the Supervisory Board about the matters of the company, about its legal and business relationships with associated companies as well as the business transactions of these companies that could have a significant impact on the position of the company. An individual member may also demand a report, but only from the Supervisory Board.
- 1.5 Each Supervisory Board member has the right to acknowledge the reports. If the reports are made in writing, these are also to be handed over to each respective Supervisory Board member on demand, unless the Supervisory Board has resolved otherwise.

§ 2 Members

- 2.1 The members of the Supervisory Board have the same rights and obligations. They are not bound to orders and instructions.
- 2.2 As to its composition, the Supervisory Board must possess in its entirety the



knowledge, skills and professional experience required to properly perform its duties. By accepting the board position, each Supervisory Board member simultaneously declares that he or she is capable of appropriately performing the Supervisory Board's monitoring function and assures that he or she is capable of understanding and analyzing the economic interrelations relevant for the company as well as the routine business transactions.

- 2.3 The members of the Supervisory Board are independently responsible for the basic and advanced training measures required for their duties. They are adequately supported by the company in doing so.
- 2.4 For its composition, the Supervisory Board determines specific objectives, which, *inter alia*, take into account the international activities of the Merck group, potential conflicts of interest, the number of independent Supervisory Board members as well as diversity while having regard to the company-specific situation. The Supervisory Board takes into consideration these objectives when proposing candidates to the Annual General Meeting.
- 2.5 The members of the Supervisory Board may resign from office subject to a two-weeks' notice period by submitting a written declaration to the Chairman of the Supervisory Board or to the Executive Board.

§ 3 Chairman and Vice Chairman

- 3.1 The Supervisory Board elects a chairman and a vice chairman from among its members. The election is led by the oldest member of the Supervisory Board.
- 3.2 The election is valid for the respective term of the elected Supervisory Board member. If the Chairman or Vice Chairman retires from office during his or her term, a new election for the remainder of the leaving member's term of office must be held without delay.
- 3.3 Correspondence relating to Supervisory Board matters is handled by the Chairman. Declarations of intent of the Supervisory Board are issued by the Chairman on behalf of the Supervisory Board.
- 3.4 If the Chairman is prevented from performing his duties, then the Vice Chairman will perform them on his behalf.

§ 4 Meetings

- 4.1 The meetings of the Supervisory Board are held when required, yet at least twice per calendar half-year. Moreover, the Supervisory Board is to be convened if this is requested by an individual Supervisory Board member or the Executive Board by stating the objective and the reasons. In this case, the meeting must take place within two weeks after convening.
- 4.2 The meetings of the Supervisory Board are convened in writing by the



Chairman giving 14 days' notice. When calculating the notice period, the day on which the invitation is sent and the day of the meeting itself are not included. The invitation must state the place of the meeting and the agenda, indicating the items to be resolved upon. Any preparatory documents shall be given to the Supervisory Board members as early as possible. The Chairman can authorize the Executive Board to invite to the meeting on his or her behalf.

- 4.3 In urgent cases, the Chairman can shorten the deadline and convene the meeting verbally, by telephone, telegraph, telex, telefax or e-mail. Section 4.2 sentence 3 applies accordingly.
- 4.4 The Chairman informs the Executive Board that a meeting has been convened. The members of the Executive Board take part in the meetings of the Supervisory Board unless the Chairman of the Supervisory Board does not decide otherwise in individual cases.
- 4.5 The Chairman may cancel or postpone a convened meeting for material reasons.
- 4.6 Topics communicated by the members of the Supervisory Board to the Chairman before the agenda is dispatched must be added to the agenda.
- 4.7 The Chairman chairs the meetings of the Supervisory Board. He determines the order in which to discuss the agenda items as well as the type of voting procedures to be used and the order in which agenda items are to be voted on.
- 4.8 No specific invitation is required for the constitutive meeting of the Supervisory Board. An agenda is only required if apart from the election of the Chairman and the Vice Chairman, further resolutions are to be adopted.

§ 5 Resolutions

- 5.1 Resolutions of the Supervisory Board are generally adopted at meetings. The Supervisory Board constitutes a quorum when at least half of its members take part in the resolution. A member who abstains from voting shall be considered a participant for the purpose of determining a quorum. Attendance via telephone or video conference is effective.
- 5.2 Members absent from the meeting may participate in the adoption of resolutions by having their written and signed ballot submitted by another member. Votes cast by telefax are equivalent to the casting of a written ballots if the original telefax is signed.
- 5.3 Resolutions by the Supervisory Board require a simple majority of votes cast unless another majority is required by law or the Articles of Association. Abstentions are deemed as votes not cast. If a vote results in a tie, each member is entitled to request a second vote on the same topic. If this vote also results in a tie, the vote of the Chairman decides. A member is excluded from voting on a resolution if the resolution concerns the execution of a legal



transaction with him/her or the initiation or settlement of a legal dispute between him and the company or if there is another conflict of interest in the specific case

- 5.4 If the Supervisory Board adopts resolutions on topics that are not announced or not announced in time with the agenda, then the resolution is adopted if the Supervisory Board members present do not object to the resolution and the Supervisory Board members absent do not file an objection with the Chairman within two weeks after having received the minutes of the Supervisory Board meeting at which the resolution was adopted. The minutes must explicitly refer to the resolution not announced or not announced in time. At the latest, the resolution comes into effect when the minutes of the Supervisory Board meeting in which the resolution was adopted have been approved pursuant to section 5.7 without any member having objected.
- 5.5 If requested by two members, the Chairman can postpone a proposed resolution by a maximum of four weeks if the same number of shareholder representatives and employee representatives do not participate in the resolution or another material reason for the postponement exists.
- 5.6 Outside meetings, resolutions are permitted by ballots submitted in writing, by telegraph, telephone, telex or telefax or by telecommunication (including e-mail) if the Chairman, or if he is prevented from performing his duties, the Vice Chairman, so commands for special reasons and no member objects to this within the suitable deadline set by the Chairman or if he is not able to perform his duties, by the Vice Chairman. In these cases, the adopted resolutions are to be documented in writing retrospectively.
- 5.7 Minutes must be prepared regarding the resolutions and meetings. The Chairman appoints the keeper of the minutes. He or she does not have to be a member of either the Supervisory Board or the Executive Board, provided that no member of the Supervisory Board objects. The Chairman must sign the minutes and convey them to every member of the Supervisory Board. The minutes are considered approved if no member of the Supervisory Board who participated in the adoption of the resolution objects to the Chairman in writing within one month of the minutes' dispatch.
- 5.8 The resolutions adopted by the Supervisory Board can be recorded in writing during the meeting, signed by the Chairman, and included in the minutes. As far as resolutions are recorded in writing during the meeting, the minutes can only be objected during the meeting.

§ 6 Confidentiality obligation

- 6.1 The members of the Supervisory Board are bound to secrecy in respect of any confidential information or secrets of the company, in particular, business and trade secrets, they have become aware of by their work in the Supervisory Board. The confidentiality obligation also encompasses the casting of votes, the course of the debate, the statements, as well as personal statements by individual members of the Supervisory Board. The



confidentiality obligation also applies after a Supervisory Board member's term of office has ended. On the request of the Supervisory Board's Chairman, all confidential information must be returned to the company when membership in the Supervisory Board ends.

- 6.2 If a member of the Supervisory Board wishes to pass information on to third parties and it is not excluded with certainty that such information is confidential or relate to business secrets, he or she must inform the Chairman in advance and give him the opportunity to comment.

§ 7 Conflicts of interest

- 7.1 Every member of the Supervisory Board is bound by the company's interest. The members may not pursue personal interests by their decisions or take advantage of business opportunities which the company is entitled to.
- 7.2 Every member of the Supervisory Board must disclose to the Supervisory Board any conflicts of interest, particularly those that could result from advising or holding a board position at or maintaining some other personal relationship to customers, suppliers, creditors or other business associates. Significant and not just temporary conflicts of interest by a member of the Supervisory Board shall lead to the termination of the mandate. Persons who simultaneously hold a board or consulting position at a major competitor of Merck KGaA, Darmstadt, Germany or could potentially incur a conflict of interest due to another activity shall not to be proposed as candidates for the Supervisory Board.
- 7.3 Consultancy and other service and work agreements between a Supervisory Board member and the company require the approval of the Supervisory Board.

§ 8 Committees

To fulfill parts of its consulting and supervisory duties, the Supervisory Board may form committees amongst its members consisting of at least three members of the Supervisory Board.

§ 9 Audit Committee

- 9.1. The Supervisory Board establishes an Audit Committee. The Audit Committee shall consist of three Supervisory Board members elected on the proposal of the shareholder representatives and three elected on the proposal of the employee representatives. The Chairman of the Audit Committee is elected on the proposal of the shareholder representatives. The members should have expertise in the areas of accounting and auditing and must not be former members of the company's Executive Board.
- 9.2 The Chairman of the Supervisory Board shall not be the Chairman of the Audit Committee.



- 9.3 The Audit Committee is generally responsible for accounting and auditing matters. It prepares the negotiations and resolutions of the Supervisory Board on the approval of the annual financial statements, the consolidated financial statements, resolutions related to these topics, as well as the adoption of the proposal on the election of the auditor to the Annual General Meeting. For this purpose, the Audit Committee shall convene a meeting prior the Supervisory Board's meeting at which the approval of the financial statements will be resolved.
- 9.4 As part of the preparation of the proposal for the appointment of the auditor, the Audit Committee ascertains the independence of the auditor, is involved in assigning the mandate to the auditor, determining focus areas of the audit and in the auditor's fee agreement. The Audit Committee also monitors the accounting process, the effectiveness of the internal control system, the risk management system, the internal auditing system, as well as the compliance.

§ 10 Self-assessment

The Supervisory Board regularly assesses the efficiency of its work.

§ 11 Joint meeting with the Board of Partners of E. Merck KG, Darmstadt, Germany

The members of the Board of Partners of E. Merck KG, Darmstadt, Germany and of the Supervisory Board can be convened to a joint meeting if the chairmen of the both boards so decide. The Chairman of the Supervisory Board chairs this meeting. At the meeting, both boards may only adopt binding resolutions subject to the proviso that each board decides separately on the topic of the resolution.

The Supervisory Board resolved on the above Rules of Procedure at its meeting on February 26, 2021.

