Lufthansa Annual General Meeting 2021

Report of the Executive Board to the Annual General Meeting on agenda item 6 pursuant to Section 221(4) sentence 2 AktG in conjunction with Section 186(4) sentence 2 AktG

The issuance of convertible bonds, option bonds, profit participation rights and/or participating bonds (or combinations of these instruments) (hereinafter referred to as "Bonds") provides the Company with the opportunity, in addition to the traditional options of raising debt and equity, to use attractive financing alternatives on the capital market, depending on the market situation. In particular, the authorisation to issue profit-related or profit-oriented instruments such as profit participation rights and participating bonds extends the Company's existing options for strengthening its financial position by issuing such financing instruments and thereby ensuring the conditions for future business development. For this reason, the creation of a new authorisation to issue further Bonds is proposed to the Annual General Meeting. In total, an issue of bonds with a total nominal value of up to EUR 1,500,000,000.00, which grant rights for the acquisition of up to 59,774,282 no-par value registered shares in the Company, should be provided for.

The issue of Bonds enables the taking out of debt capital on favourable terms, which can be classified as equity or equity capital equivalent depending on the respective conditions, both for rating purposes and for balance sheet purposes. The conversion or option premiums generated and the equity classification benefit the Company's capital base and thus enable it to use attractive financing options. The other options provided for, in addition to the granting of conversion and/or option rights, of establishing conversion or option obligations and the right of the Company to deliver shares or to provide for combinations of these instruments, extend the scope for structuring these financing instruments. The authorisation also gives the Company the necessary flexibility to place the Bonds itself or via Group companies. In addition to EUR, Bonds may also be issued in other legal currencies of OECD countries, with or without a maturity limit.

As a general rule, the shareholders are to be granted a subscription right. In order to facilitate settlement, it should also be possible to make use of the option to issue the Bonds to credit institutions or companies within the meaning of Section 186(5) sentence 1 AktG with the obligation to offer them to shareholders for subscription in accordance with their subscription rights. However, under the following conditions, it shall be possible to exclude the subscription right.

First, the Executive Board is to be authorised, with the approval of the Supervisory Board, to exclude the shareholders' subscription right if the issue of the Bonds is made against cash payment at a price that does not fall significantly below the market price of these Bonds. This gives the Company the opportunity to take advantage of favourable market situations very quickly and at short notice, and to achieve better conditions for the determination of interest rate, option or conversion price and issue price of the Bonds by stipulating conditions that are close to the market. A stipulation of terms and conditions that are close to the market and a smooth placement would not be possible if the subscription right had to be observed. Section 186 para. 2 German Stock Corporation Act allows for a publication of the subscription price (and, thus, the terms and conditions of the Bonds) until the third-last day of the subscription period. However, given the volatility of the stock markets which can often be observed, there is a market risk over several days, leading to safety discounts in the setting of bond conditions and thus leading to terms that are not close to market conditions. In addition, if a subscription right exists, successful placement with third parties is at risk or additional expenses are incurred due to the uncertainty about its exercise. Finally, when granting subscription rights, the Company is unable to react to changes in market conditions on short notice because of the duration of the subscription period, but is exposed to declining stock prices during the subscription period which may lead to the Company procuring capital on unfavourable terms.

Pursuant to Section 221(4) sentence 2 AktG, the provision in Section 186(3) sentence 4 German Stock Corporation Act applies accordingly to this case of an exclusion of the subscription right in its entirety. According to the content of the resolution, the limit stipulated in this provision for the exclusion of the subscription right of 10 percent of the registered share capital has to be complied with. The volume of the conditional capital, which in this case is to be made available at most to secure the option rights or conversion rights or obligations, may not exceed 10% of the share capital existing when the authorisation to exclude subscription rights in accordance with Section 186(3) sentence 4 AktG becomes effective. A corresponding requirement in the authorisation resolution also ensures that the 10% limit is not exceeded even in the event of a capital reduction, since according to the authorisation to exclude subscription rights 10% of the share capital expressly must not be exceeded, neither on the effective date nor – if this value is lower – at the time of the exercise of the present authorisation. In this context, treasury shares which are disposed of subject to the application, mutatis mutandis, of Section 186(3) sentence 4 AktG, as well as those shares which are issued from authorised capital subject to an exclusion of subscription rights pursuant to Section 186(3) sentence 4 AktG are to be credited to and thus reduce this amount accordingly, if the disposal or issuance takes place during the term of this authorisation until the issue of the Bonds with option and/or conversion rights or obligations subject to an exclusion of subscription rights pursuant to Section 186(3) sentence 4 AktG.

Section 186(3) sentence 4 AktG further stipulates that the issue price may not be significantly lower than the market price. This provision is intended to ensure that no significant economic dilution of the value of the shares occurs. Whether such a dilution effect occurs in the issue of convertible bonds, option bonds, participating bonds or combinations of these instruments without a subscription right can be determined by calculating the hypothetical market value of these bonds in accordance with recognised, in particular financial mathematical, methods and comparing it with the issue price. If, after due consideration, this issue price is only marginally lower than the hypothetical stock market price at the time of issue of the convertible, option or participating bonds or combinations of these instruments, a subscription right exclusion is permitted under the rationale and purpose of Section 186(3) sentence 4 AktG since the difference is insignificant. The resolution therefore provides that, before issuing the Bonds, the Executive Board must come to the conclusion that the intended issue price does not lead to a significant dilution of the value of the shares. This would reduce the calculated market value of a subscription right to almost zero, meaning that the exclusion of subscription rights does not create a significant economic disadvantage for shareholders.

All this ensures that the exclusion of the subscription right does not lead to a significant dilution of the value of the shares. In addition, shareholders have the option of maintaining their share in the Company's share capital at any time, even after exercising conversion or option rights, by buying additional shares via the stock exchange. On the other hand, the Company's authorisation to exclude subscription rights enables market-related conditions to be determined, maximum security with regard to placement with third parties and the exploitation at short-notice of favourable market situations.

Furthermore, the subscription right of the shareholders may be excluded by the Executive Board with the approval of the Supervisory Board if the Bonds are issued against benefits or contributions in kind, in particular in the context of mergers of undertakings or for the acquisition (also indirectly) of undertakings, businesses, parts of undertakings, interests in undertakings or other assets or claims to the acquisition of assets, including claims against the Company or its Group companies, and if this is in the interest of the Company. The prerequisite is that the value of the contribution in kind is in reasonable proportion to the value of the Bond. For this purpose, the theoretical market value determined in accordance with recognised methods is decisive.

The issue of Bonds against benefits in kind without subscription rights is intended to enable the Executive Board, inter alia, to use the Bonds as an acquisition currency in appropriate individual cases by transferring such financing instruments for an acquisition of performances in kind in the context of mergers of undertakings or for the acquisition (also indirectly) of undertakings, businesses, parts of undertakings, interests in undertakings or other assets or claims to the acquisition of assets, including claims against the Company or its Group companies. Business expansion through the acquisition of an undertaking or an interest therein typically requires quick decisions. With the proposed authorisation, the Executive Board can react quickly and flexibly to advantageous offers or other opportunities on the national or international market and exploit opportunities for expansion by acquiring undertakings or an interest therein against issuance of Bonds in the interests of the Company and its shareholders.

The Executive Board is also authorised, with the approval of the Supervisory Board, to exclude fractional amounts from subscription rights. Such fractional amounts can be the result of the amount of the relevant volume of the issue and the need to fix a practically feasible subscription ratio. In such cases, the exclusion of the subscription right facilitates the settlement of the issue. The free fractions excluded from shareholders' subscription rights are realised either by sale via the stock exchange or otherwise in the best possible manner for the Company.

To the extent that profit participation rights or participating bonds are to be issued without conversion rights, option rights or a conversion or option obligation, the Executive Board is authorised, with the approval of the Supervisory Board, to exclude the shareholders' subscription right if these participation rights or participating bonds are similar to obligatory relationships, i.e. they confer no membership rights in the Company, no participation in the liquidation proceeds and the amount of interest is not calculated on the basis of the amount of the net income, balance sheet profits or dividend. It is also necessary that the interest rate and the issue price of the profit participation rights or participating bonds correspond to the current market conditions for comparable borrowings at the time of issue. If the above conditions are met, the exclusion of the subscription right does not result in any disadvantages for the shareholders, since the profit participation rights and/or participating bonds do not constitute membership rights and do not grant any share of the liquidation proceeds or the profits of the Company. Although it is permissible that the interest rate is made dependent on a net income, balance sheet profits or a dividend being achieved, a provision according to which a higher net income, higher balance sheet profits or a higher dividend would lead to a higher interest rate is inadmissible. Accordingly, the issue of the profit participation rights and/or participating bonds does not alter or dilute the voting rights or the participation of the shareholders in the Company and its profits. Furthermore, there is no significant subscription rights value, due to the fair market conditions of issue which are mandatory in this case of subscription right exclusion.

Finally, the Executive Board is to be given the opportunity, with the approval of the Supervisory Board, to exclude the shareholders' subscription right in order to grant the holders of conversion or option rights to no-par value shares of the Company or to the creditors of corresponding conversion or option obligations a subscription right to compensate for dilutions such as they would be entitled to after exercising the conversion or option rights or after fulfilling the conversion or option obligations or the right of the Company to deliver shares. This offers the possibility of preventing the option or conversion price for the holders of existing conversion or option rights from having to be reduced in accordance with the respective conditions in the event of the authorisation being utilised.

In order to increase flexibility, the relevant terms and conditions of the Bond may provide that the Company does not grant shares of the Company to a person entitled to conversion or an option, but pays the equivalent in cash. The authorisation is also intended to allow for a combination of these forms of fulfilment. The terms of the Bonds may also provide that the Bonds carrying option rights or conversion rights or obligations are converted at the election of the Company into existing shares of the Company instead of into new shares from conditional capital, or that the option right may be fulfilled by the delivery of such existing shares. The terms of the Bonds may also provide for the right of the Company to grant to the holders or creditors, in whole or in part, no-par value shares in the Company in lieu of the amount due in cash upon the maturity of the Bond carrying option rights or conversion rights or obligations (including in case of maturity due to termination).

The conversion or option price to be determined in each case may not be less than 80% of the Company's share price on the Xetra trading system on the Frankfurt Stock Exchange (or a comparable successor system). For this purpose, the average closing price on the ten trading days prior to the date of the decision by the Executive Board regarding the issue of the respective Bonds is decisive, unless subscription rights trading takes place, in which case the days of subscription rights trading are decisive, with the exception of the two last stock exchange trading days of subscription rights trading. Where Bonds carry a conversion/option obligation or the Company's right to deliver shares, the conversion/option price must be at least equal to the minimum price specified above or equal to the average volume-weighted price of the Company's share on at least three trading days on the Xetra trading system on the Frankfurt Stock Exchange (or a comparable successor system) immediately prior to the determination of the con-version/option price in accordance with the respective conditions. This also applies if this average price is below the abovementioned minimum price (80%).

Under the authorisation, the total number of shares issued subject to an exclusion of the subscription right may not exceed 10% of the registered share capital, neither on the effective date nor, if this value is lower, at the time of the exercise of the present authorisation. The following is to be credited against this limit: (i) such shares which are issued or disposed of during the term of this authorisation under another authorisation subject to the exclusion of subscription rights, or (ii) which are to be issued on the basis of convertible bonds or option bonds issued during the term of this authorisation on the basis of the utilisation of another authorisation subject to the exclusion of subscription rights.

In order to ensure the Company's operating licences under air traffic law in accordance with the German Aviation Compliance Documentation Act (LuftNaSiG), the respective conditions have to provide that, when the conversion or option right is exercised, the convertible bond or the option certificate must be transferred to a domestic credit institution and the holder or creditor of the convertible bond or option right receives a cash payment based on the stock exchange price instead of shares of the Company. This provision is necessary to enable the Company to comply with air traffic regulations. The air traffic treaties concluded by the Federal Republic of Germany typically provide, in various terms, that upon request of the other signatory it must be proven that substantial holdings (normally understood to mean a majority interest) and actual control of a company designated by a signatory state are in the hands of nationals from that party to the treaty. In order to avoid a situation where conversion or exercise of options poses a risk to the Company's operation licences under air traffic law, it is necessary that when the conversion or option rights are exercised, the Company is allowed to make a cash payment instead of delivering shares or that the new shares are acquired by a third party through exercise of the conversion or option rights subject to an obligation to resell them at a price not significantly lower than the stock exchange price.

Frankfurt, March 2021
The Executive Board

Carsten Spohr
Chief Executive Officer

Christina Foerster
Member of the Executive Board
Chief Customer Officer

Harry Hohmeister
Member of the Executive Board
Chief Commercial Officer

Dr. Detlef Kayser
Member of the Executive Board
Chief Operations Officer

Dr. Michael Niggemann
Member of the Executive Board
Chief HR & Legal Officer

Remco Jan Steenbergen
Member of the Executive Board
Chief Financial Officer