



Fresenius Medical Care

SUPPLEMENTAL INFORMATION

As a foreign private issuer under the rules and regulations of the U.S. Securities and Exchange Commission, Fresenius Medical Care AG & Co. KGaA (hereinafter also referred to as FMC AG & Co. KGaA, the “Company”, “we” or “our”) is not presently subject to the SEC’s Proxy Rules. However, under the stipulations of the Pooling Agreement among us, Fresenius SE, our general partner and our independent directors, FMC AG & Co. KGaA has agreed to provide information to shareholders which is roughly comparable to that which would be provided by a U.S. corporation, except that it agreed to provide the following information as it would be provided by a foreign private issuer under the SEC’s rules:

(i) Security Ownership of Certain Beneficial Owners of Fresenius Medical Care AG & Co. KGaA; (ii) Trading markets; (iii) Directors and Senior Management; (iv) Compensation of our Management Board and our Supervisory Board; (v) Options to Purchase Our Securities, and (vi) material transactions between FMC AG & Co. KGaA and its subsidiaries and directors and officers of FMC AG & Co. KGaA, controlling persons of FMC AG & Co. KGaA, and relatives or spouses of such directors, officers and controlling persons. The above information contained in this letter has been derived from our Annual Report on Form 20-F for the year ended December 31, 2009 filed with the SEC (our “2009 20-F”). Our 2009 20-F is available on the web site maintained by the SEC at www.sec.gov and on our web site at www.fmc-ag.com.

(i) Security Ownership of Certain Beneficial Owners of Fresenius Medical Care AG & Co. KGaA and Fresenius SE

Security Ownership of Certain Beneficial Owners of Fresenius Medical Care

Our outstanding share capital consists of Ordinary shares and non-voting Preference shares that are issued only in bearer form. Accordingly, unless we receive information regarding acquisitions of our shares through a filing with the Securities and Exchange Commission or through the German statutory requirements referred to below, or except as described below with respect to our shares held in American Depository Receipt (“ADR”) form, we face difficulties precisely determining who our shareholders are at any specified time or how many shares any particular shareholder owns. Because we are a foreign private issuer under the rules of the Securities and Exchange Commission, our directors and officers are not required to report their ownership of our equity securities or their transactions in our equity securities pursuant to Section 16 of the Exchange Act. However, persons who become “beneficial owners” of more than 5% of our ordinary shares are required to report their beneficial ownership pursuant to Section 13(d) of the Exchange act. In addition, under the German Securities Trading Act (*Wertpapierhandelsgesetz*), persons who discharge managerial responsibilities within an issuer of shares are obliged to notify the issuer and the German Federal Financial Supervisory Authority of their own transactions in shares of the issuer in excess of €5,000 in any year. This obligation also applies to persons who are closely associated with the persons discharging managerial responsibility. Additionally, holders of voting securities of a German company listed on the Regulated Market (*Regulierter Markt*) of a German stock exchange or a corresponding trading segment of a stock exchange within the European Union are obligated to notify the company of the level of their holding whenever such holding reaches, exceeds or falls below certain thresholds, which have been set at 3%, 5%, 10%, 15%, 20%, 25%, 30%, 50% and 75% of a company's

outstanding voting rights. Such notification obligations will also apply to option agreements (excluding the 3% threshold).

We have been informed that as of December 31, 2009, Fresenius SE owned approximately 36.0% of our Ordinary shares. In August 2008, an indirect wholly-owned subsidiary of Fresenius SE issued €554.4 million aggregate principal amount of Mandatory Exchangeable Bonds due 2011 with each bond having a nominal value of €50,000 (the "FSE Bonds"). Fresenius SE may redeem the FSE Bonds at or prior to maturity solely by delivery of our Ordinary shares. The actual number of ordinary shares deliverable by Fresenius SE upon redemption of the FSE Bonds will depend upon the exchange ratio for the FSE Bonds at the time of exchange, subject to an adjusted minimum exchange price of €32.34 and an adjusted maximum exchange price of €38.16. Upon maturity of the FSE Bonds, Fresenius SE's holding of our Ordinary shares could decrease to between approximately 31% at the maximum exchange price and 30% at the minimum exchange price.

All of our ordinary shares have the same voting rights. However, as the sole shareholder of our general partner, Fresenius SE is barred from voting its ordinary shares on certain matters. See Item 16.G, "Corporate Governance – Supervisory Board," in our 2009 20-F.

Bank of New York Mellon, our ADR depository, informed us, that as of December 31, 2009, 18,538,422 Ordinary ADSs, each representing one Ordinary share, were held of record by 4,864 U.S. holders and there were 84,341 Preference ADSs, each representing one Preference share, held of record by 1 U.S. holder. For more information regarding ADRs and ADSs see Item 10.B, "Articles of Association – Description of American Depositary Receipts," AND Item 12.D, "Description of Securities Other than Equity Securities – American Depositary Shares" in our 2009 20-F.

Share Ownership by our Supervisory Board and our Management Board

As of December 31, 2009, no member of the Supervisory Board or the Management Board beneficially owned 1% or more of our outstanding Ordinary shares or our outstanding Preference shares. At December 31, 2009, Management Board members of the General Partner held options to acquire 2,041,121 ordinary shares of which options to purchase 995,321 ordinary shares were exercisable at a weighted average exercise price of €23.16 (\$33.36) (see part (iv), "Compensation of the Management Board and the Supervisory Board – Compensation of the Management Board"). Those options expire at various dates between 2011 and 2016.

Security Ownership of Certain Beneficial Owners of Fresenius SE

Fresenius SE's share capital consists of ordinary shares and non-voting preference shares. Both classes of shares are issued only in bearer form. Accordingly, Fresenius SE has difficulties precisely determining who its shareholders are at any specified time or how many shares any particular shareholder owns. However, under the German Securities Trading Act, holders of voting securities of a German company listed on the Regulated Market (*Regulierter Markt*) of a German stock exchange or a corresponding trading segment of a stock exchange within the European Union are obligated to notify the company of certain levels of holdings, as described above.

Based on the most recent information available, Else-Kröner-Fresenius Stiftung owns approximately 58% of the Fresenius SE Ordinary shares. See part (vi), "Material Transactions between FMC-AG & Co. KGaA and its Subsidiaries and Directors, Officers and Controlling Persons of FMC-AG & Co. KGaA –

Other interests," below. According to Allianz Lebensversicherungs-AG, they hold between 5%-10% of the Fresenius SE Ordinary shares.

(ii) Trading Markets for our Securities

The principal trading market for our ordinary shares and the preference shares is the Frankfurt Stock Exchange (FWB[®] Frankfurter Wertpapierbörse). All ordinary shares and preference shares have been issued in bearer form. Accordingly, we face difficulties determining precisely who our holders of ordinary and preference shares are or how many shares any particular shareholder owns, with the exception of the number of shares held in ADR form in the United States. For more information regarding ADRs see Item 10.B, "Articles of association – Description of American Depositary Receipts," and Item 12 D., "Description of Securities other than Equity Securities – American Depositary Shares" in our 2009 20-F. However, under the German Securities Trading Act, holders of voting securities of a German company listed on a stock exchange within the EU are obligated to notify the company of certain levels of holdings as described in part (i), "Security Ownership of Certain Beneficial Owners of Fresenius Medical Care AG & Co. KGaA," above. Additionally, persons discharging managerial responsibilities and affiliated persons are obliged to notify the supervising authority and the Company of trades in their shares in excess of €5,000 in any year. The ordinary shares of Fresenius Medical Care AG had been listed on the Frankfurt Stock Exchange since October 2, 1996, the preference shares since November 25, 1996. Trading in the ordinary shares and preference shares of FMC-AG & Co. KGaA on the Frankfurt Stock Exchange commenced on February 13, 2006.

Our shares are listed on the Regulated Market (Regulierter Markt) and on the Prime Standard of the Regulated Market. The Prime Standard is a sub-segment of the Regulated Market with additional post-admission obligations. Admission to the Prime Standard requires the fulfillment of the following transparency criteria: publication of quarterly reports; preparation of financial statements in accordance with international accounting standards (IFRS or U.S. GAAP); publication of a company calendar; convening of at least one analyst conference per year; and publication of ad-hoc messages (i.e., certain announcements of material developments and events) in English. Companies aiming to be listed in this segment have to apply for admission. Listing in the Prime Standard is a prerequisite for inclusion of shares in the selection indices of the Frankfurt Stock Exchange, such as the DAX[®], the index of 30 major German stocks.

Since October 1, 1996, ADSs each originally representing one-third of an Ordinary share and, commencing June 15, 2007, each representing one Ordinary share (the "Ordinary ADSs"), have been listed and traded on the New York Stock Exchange ("NYSE") under the symbol FMS. Since November 25, 1996, ADSs, each originally representing one-third of a Preference share and, commencing June 15, 2007, each representing one Preference share (the "Preference ADSs"), have been listed and traded on the NYSE under the symbol FMS/P. At December 31, 2009, there were 84,341 preference ADSs outstanding. Accordingly, while the preference ADSs remain listed on the New York Stock Exchange, the trading market for the preference ADSs is highly illiquid. In addition, in connection with the New York Stock Exchange listing of our ADSs upon consummation of our transformation and the related conversion offer, the New York Stock Exchange advised us that if the number of publicly held preference ADSs falls below 100,000, which has occurred, the preference ADSs could be delisted. The Depository for both the Ordinary ADSs and the Preference ADSs is Bank of New York Mellon (the "Depository").

Trading on the Frankfurt Stock Exchange

Deutsche Börse AG operates the Frankfurt Stock Exchange, which is the most significant of the six German stock exchanges. As of December 2009, the most recent figures available, the shares of more than 10,000 companies traded on the Regulated Market and the Regulated Unofficial Market of the Frankfurt Stock Exchange.

Trading on the floor of the Frankfurt Stock Exchange begins every business day at 9:00 a.m. and ends at 8:00 p.m., Central European Time ("CET"). In floor trading, lead brokers are responsible for price determination and quotation for the shares supported by them. The order book in which all buy and sell orders are compiled serves as their basis. Thereby, only one lead broker is in charge of each security. A performance measurement for price determination on the floor includes minimum requirements and therefore ensures

- permanent quotation during trading hours
- best price execution (in terms of spread and speed)
- full execution.

Our shares are traded on Xetra[®], the electronic trading system of the Deutsche Börse, in addition to being traded on the Frankfurt floor. The trading hours for Xetra are between 9:00 a.m. and 5:30 p.m. CET. Only brokers and banks that have been admitted to Xetra by the Frankfurt Stock Exchange have direct access to the system and may trade on it. Private investors can trade on Xetra through their banks and brokers.

Deutsche Börse AG publishes information for all traded securities on the Internet, <http://www.deutsche-boerse.com>.

Transactions on Xetra and the Frankfurt Stock Exchange settle on the second business day following the trade except for trades executed on Xetra International Markets, the European Blue Chip segment of Deutsche Börse AG, which settle on the third business day following a trade. The Frankfurt Stock Exchange can suspend a quotation if orderly trading is temporarily endangered or if a suspension is deemed to be necessary to protect the public.

The Hessian Stock Exchange Supervisory Authority (*Hessische Börsenaufsicht*) and the Trading Monitoring Unit of the Frankfurt Stock Exchange (*HÜST Handelssüberwachungsstelle*) both monitor trading on the Frankfurt Stock Exchange.

The Federal Financial Supervisory Authority (*Bundesanstalt für Finanzdienstleistungsaufsicht*), an independent federal authority, is responsible for the general supervision of securities trading pursuant to provisions of the German Securities Trading Act (*Wertpapierhandelsgesetz*) and other laws.

The table below sets forth for the periods indicated, the high and low closing sales prices in euro for the Ordinary shares and the Preference shares on the Frankfurt Stock Exchange, as reported by the Frankfurt Stock Exchange Xetra system. Since January 4, 1999, all shares on German stock exchanges trade in euro. All share prices have been adjusted to reflect our one-for-three share splits in June 2007.

As of February 19, 2010, the share prices for the Ordinary and Preference shares traded on the Frankfurt Stock Exchange were €37.28 and €29.70, respectively.

		Price per ordinary share (€)		Price per preference share (€)	
		High	Low	High	Low
2010	January	37.85	36.10	31.70	29.70
2009	December	37.70	35.90	31.90	30.50
	November	36.00	32.80	33.50	31.30
	October	33.90	31.90	33.00	30.90
	September	34.20	30.30	33.50	28.70
	August	32.80	30.00	33.00	29.90
2009	Fourth Quarter	37.71	31.86	33.46	30.50
	Third Quarter	34.20	30.03	34.00	28.72
	Second Quarter	32.19	27.64	30.00	25.24
	First Quarter	35.48	27.07	35.30	25.60
2008	Fourth Quarter	37.75	31.42	34.50	28.51
	Third Quarter	38.27	33.54	36.38	32.30
	Second Quarter	36.10	31.18	34.60	29.90
	First Quarter	39.10	29.73	37.60	28.31
2009	Annual	37.71	26.07	35.30	25.24
2008	Annual	39.10	29.73	37.60	28.31
2007	Annual	38.67	33.05	36.78	31.32
2006	Annual	36.30	27.50	33.83	25.03
2005	Annual	29.82	19.12	26.44	13.87

The average daily trading volume of the Ordinary shares and the Preference shares traded on the Frankfurt Stock Exchange during 2009 was 1,040,200 shares and 1,144 shares, respectively. The foregoing numbers are based on total yearly turnover statistics supplied by the Frankfurt Stock Exchange.

Trading on the New York Stock Exchange

As of February 19, 2010, the share prices for the Ordinary and Preference shares traded on the NYSE were \$50.79 and \$42.79, respectively.

The table below sets forth, for the periods indicated, the high and low closing sales prices for the Ordinary ADSs and the Preference ADSs on the NYSE:

		Price per ordinary ADS (\$)		Price per preference ADS (\$)	
		High	Low	High	Low
2010	January	54.60	50.40	45.60	42.70
2009	December	55.00	52.80	48.30	44.80
	November	54.30	48.50	49.60	45.70
	October	50.30	47.60	47.40	45.70
	September	50.30	43.40	49.20	45.00
	August	47.00	42.30	45.00	45.00
2009	Fourth Quarter	54.96	47.57	49.60	44.75
	Third Quarter	50.29	42.31	49.18	40.00
	Second Quarter	45.04	36.94	50.00	32.00
	First Quarter	47.67	35.66	43.00	35.00
2008	Fourth Quarter	52.22	39.84	50.00	28.87
	Third Quarter	59.01	50.49	54.00	40.00
	Second Quarter	56.25	49.53	48.00	45.00
	First Quarter	57.59	45.98	55.00	45.00
2009	Annual	54.96	35.66	50.00	32.00
2008	Annual	59.01	39.84	55.00	28.87
2007	Annual	56.70	43.69	53.50	40.00
2006	Annual	47.60	34.50	40.00	31.00
2005	Annual	35.22	25.09	31.20	18.16

Dividends

We generally pay annual dividends on both our preference shares and our ordinary shares in amounts that we determine on the basis of Fresenius Medical Care AG & Co. KGaA's prior year unconsolidated earnings as shown in the statutory financial statements that we prepare under German law on the basis of the accounting principles of the German Commercial Code (*Handelsgesetzbuch* or *HGB*), subject to authorization by a resolution to be passed at our general meeting of shareholders. Under our articles of association, the minimum dividend payable on the preference shares is €0.04 per share and, if we declare dividends, holders of our preference shares must receive €0.02 per share more than the dividend on an ordinary share. Under German law, we must, in all cases, pay the annual dividend declared on our preference shares before we pay dividends declared on our ordinary shares.

The general partner and our Supervisory Board propose dividends and the shareholders approve dividends for payment in respect of a fiscal year at the Annual General Meeting in the following year. Since all of our shares are in bearer form, we remit dividends to the depositary bank (*Depotbank*) on behalf of the shareholders.

Our 2006 Senior Credit Agreement and outstanding euro notes, as well as the senior subordinated indentures relating to our trust preferred securities, restrict our ability to pay dividends. See Item 5.B, “Operating and Financial Review and Prospects – Liquidity and Capital Resources” and the Notes to Consolidated Financial Statements in our 2009 20-F for further information.

The table below provides information regarding the annual dividend per share that we paid on our Preference shares and Ordinary shares. These payments were paid in the years shown for the results of operations in the year preceding the payment.

<u>Per Share Amount</u>	<u>2009</u>	<u>2008</u>	<u>2007</u>	<u>2006</u>	<u>2005</u>
Preference share	€ 0.60	€ 0.56	€ 0.49	€ 0.43	€ 0.39
Ordinary share	€ 0.58	€ 0.54	€ 0.47	€ 0.41	€ 0.37

We have announced that the general partner’s Management Board and our Supervisory Board have proposed dividends for 2009 payable in 2010 of €0.63 per preference share and €0.61 per ordinary share. These dividends are subject to approval by our shareholders at our Annual General Meeting to be held on May 11, 2010.

Except as described herein, holders of ADSs will be entitled to receive dividends on the ordinary shares and the preference shares represented by the respective ADSs. We will pay any cash dividends payable to such holders to the depositary in euros and, subject to certain exceptions, the depositary will convert the dividends into U.S. dollars. Fluctuations in the exchange rate between the U.S. dollar and the euro will affect the amount of dividends that ADS holders receive. Dividends paid on the preference shares and dividends paid to holders and beneficial holders of the ADSs will be subject to deduction of German withholding tax. You can find a discussion of German withholding tax in Item 10.E, “Taxation,” in our 2009 20-F.

Governance Matters

American Depositary Shares representing our Ordinary shares and our Preference shares are listed on the New York Stock Exchange (“NYSE”). However, because we are a “foreign private issuer,” as defined in the rules of the Securities and Exchange Commission, we are exempt from substantially all of the governance rules set forth in Section 303A of the NYSE’s Listed Companies Manual, other than the obligation to maintain an audit committee in accordance with Rule 10A-3 under the Securities Exchange Act of 1934, as amended, the obligation to notify the NYSE if any of our executive officers becomes aware of any material non-compliance with any applicable provisions of Section 303A, and the obligation to file annual and interim written affirmations, on forms mandated by the NYSE, relating to our compliance with applicable NYSE governance rules. Instead, the rules of both the SEC and the NYSE require that we disclose the significant ways in which our corporate practices differ from those applicable to U.S. domestic companies under NYSE listing standards.

As a German company FMC-AG & Co. KGaA follows German Corporate Governance practices. German corporate governance practices generally derive from the provisions of the German Stock Corporation Act (“AktG”) including capital market related laws, the German Codetermination Act (“MitBestG”) and the German Corporate Governance Code which was adopted in 2002 and revised periodically thereafter by the German government commission, most recently in June 2009. Our Articles of Association also include provisions affecting our corporate governance. German standards differ from the corporate governance listing standards applicable to U.S. domestic companies which have been adopted by the NYSE. You can review a summary of the most significant differences by going to “NYSE

Declaration” posted under “Corporate Governance” on the Investor Relations page of our web site www.fmc-ag.com. You can also review our most recent declaration of compliance with the German Corporate Governance Code at “Corporate Governance – Declaration of Compliance” on the Investor Relations page of our web site. Those discussions provides certain information regarding our organizational structure, management arrangements and governance, including information regarding the legal structure of a partnership limited by shares, or KGaA, management by our general partner, certain provisions of our Articles of Association and the role of our supervisory board in monitoring the management of our company by the general partner. It includes a brief, general summary of the principal differences between German and U.S. corporate governance practices, together with, as appropriate, a comparison to U.S. principles or practices.

(iii) Directors and Senior Management

General

As a partnership limited by shares, under the German Stock Corporation Act (*Aktiengesetz*), our corporate bodies are our general partner, our supervisory board and our general meeting of shareholders. Our sole general partner is Fresenius Medical Care Management AG (“Management AG”), a wholly-owned subsidiary of Fresenius SE. Management AG is required to devote itself exclusively to the management of Fresenius Medical Care AG & Co. KGaA.

For a detailed discussion of the legal and management structure of Fresenius Medical Care AG & Co. KGaA, including the more limited powers and functions of the supervisory board compared to those of the general partner, see Item 16.G, “Governance – The Legal Structure of Fresenius Medical Care AG & Co. KGaA,” in our 2009 20-F.

The general partner has a Supervisory Board and a Management Board. These two boards are separate and no individual may simultaneously be a member of both boards. A person may, however, serve on both the supervisory board of our general partner and on our supervisory board.

The General Partner’s Supervisory Board

The Supervisory Board of Management AG consists of six members who are elected by Fresenius SE as the sole shareholder of Management AG. Pursuant to pooling agreements for the benefit of the public holders of our ordinary shares and the holders of our preference shares, at least one-third (but no fewer than two) of the members of the general partner’s Supervisory Board are required to be independent directors as defined in the pooling agreements, i.e., persons with no substantial business or professional relationship with us, Fresenius SE, the general partner, or any affiliate of any of them.

Unless resolved otherwise by the general meeting of shareholders, the terms of each of the members of the Supervisory Board of Management AG will expire at the end of the general meeting of shareholders in which the shareholders discharge the Supervisory Board for the fourth fiscal year following the year in which the Management AG supervisory board member was elected by Fresenius SE, but not counting the fiscal year in which such member’s term begins. Members of the general partner’s Supervisory Board may be removed only by a resolution of Fresenius SE in its capacity as sole shareholder of the general partner. Neither our shareholders nor the separate supervisory board of FMC AG & Co. KGaA has any influence on the appointment of the Supervisory Board of the general partner.

The general partner's Supervisory Board ordinarily acts by simple majority vote and the Chairman has a tie-breaking vote in case of any deadlock. The principal function of the general partner's Supervisory Board is to appoint and to supervise the general partner's Management Board in its management of the Company, and to approve mid-term planning, dividend payments and matters which are not in the ordinary course of business and are of fundamental importance to us.

The table below provides the names of the members of the Supervisory Board of Management AG and their ages as of December 31, 2009.

<u>Name</u>	<u>Age as of December 31, 2009</u>
Dr. Ulf M. Schneider, Chairman ⁽¹⁾	44
Dr. Dieter Schenk, Vice Chairman ⁽⁵⁾	57
Dr. Gerd Krick ⁽¹⁾⁽²⁾	71
Dr. Walter L. Weisman ⁽¹⁾⁽²⁾⁽⁴⁾	74
Mr. John G. Kringel ⁽³⁾⁽⁴⁾⁽⁵⁾	70
Mr. William P. Johnston ⁽¹⁾⁽²⁾⁽⁴⁾⁽⁵⁾	65

(1) Members of the Human Resources Committee of the Supervisory Board of Management AG

(2) Members of the Audit and Corporate Governance Committee of FMC-AG & Co. KGaA

(3) Member of the Audit and Corporate Governance Committee of FMC-AG & Co. KGaA until March 2009

(4) Independent director for purposes of our pooling agreement

(5) Member of the Regulatory and Reimbursement Assessment Committee of the Supervisory Board of Management AG

DR. ULF M. SCHNEIDER has been Chairman of the Supervisory Board of Management AG from April 15, 2005. He was a member of the Fresenius Medical Care AG Supervisory Board from May 2004 and Chairman of its Supervisory Board until the effective date of the transformation when he resigned upon the Company's transformation to a KGaA. He was Chief Financial Officer of FMC-AG from November 2001 until May 2003. On March 7, 2003, Dr. Schneider announced his resignation from the FMC-AG Management Board to become Chairman of the Management Board of Fresenius AG (now Fresenius SE), effective May 28, 2003. Previously he was Group Finance Director for Gehe UK plc., a pharmaceutical wholesale and retail distributor, in Coventry, United Kingdom. He has held several senior executive and financial positions since 1989 with Gehe's majority shareholder, Franz Haniel & Cie. GmbH, Duisburg, a diversified German multinational company. Dr. Schneider is Chairman of the Supervisory Board of Fresenius Kabi AG, HELIOS Kliniken GmbH and Fresenius Medical Care Groupe France S.A.S., France. He was Chairman of the Supervisory Board of Eufets AG until May 31, 2009. Dr. Schneider is member of the Supervisory Boards of Fresenius Kabi Austria GmbH, Austria, Fresenius Kabi Espana S.A., Spain and Fresenius HemoCare Nederlands B.V., Netherlands. Dr. Schneider is Chairman of the Board of Directors of APP Pharmaceuticals, Inc., USA and was Chairman of the Board of Directors of Fresenius Kabi Pharmaceuticals Holding, Inc., USA until November 1, 2009. He remains a member of the Board of Directors of Fresenius Kabi Pharmaceuticals Holding, Inc., USA and is a member of the Board of Directors of FHC (Holdings), Ltd., Great Britain.

DR. DIETER SCHENK has been a member of the Supervisory Board of Management AG since April 8, 2005 and Vice Chairman of the Supervisory Board of Management AG since April 15, 2005 and was Vice Chairman of the Supervisory Board of FMC-AG from 1996 until the transformation of legal form to a KGaA. He is also Vice Chairman of the Supervisory Board of FMC-AG & Co. KGaA. He is an attorney and tax advisor and has been a partner in the law firm of Noerr LLP (formerly Nörr Stiefenhofer Lutz)

since 1986. Dr. Schenk is also Vice Chairman of the Supervisory Board of Fresenius SE and Chairman of the Advisory Board of Else-Kröner-Fresenius-Stiftung, which owns approximately 58% of the ordinary shares of Fresenius SE. He also serves as the Chairman of the Supervisory Board of Gabor Shoes AG and TOPTICA Photonics AG and as a Vice-Chairman of the Supervisory Board of Greiffenberger AG. In September 2008, Dr. Schenk resigned from his position as Chairman of the Supervisory Board of NSL Consulting AG.

DR. GERD KRICK has been a member of the Supervisory Board of Management AG since December 28, 2005 and was Chairman of the Supervisory Board of FMC-AG from January 1, 1998 until the transformation of legal form to a KGaA. He is also Chairman of the Supervisory Boards of FMC-AG & Co. KGaA and Fresenius SE. He was Chairman of the Fresenius AG Management Board from 1992 to May 2003 at which time he became chairman of its Supervisory Board. Prior to 1992, he was a Director of the Medical Systems Division of Fresenius AG and Vice-Chairman of the Fresenius AG Management Board. From September 1996 until December 1997, Dr. Krick was Chairman of the Management Board of FMC-AG. Dr. Krick was a member of the Advisory Board of HDI Haftpflichtverband der deutschen Industrie V.a.G until December 31, 2008. He is also the Chairman of the Supervisory Board of VAMED AG, Austria and was a member of the Supervisory Board of Allianz Private Krankenversicherungs-AG until April 16, 2008.

MR. JOHN G. KRINGEL has been a member of the Supervisory Board of Management AG since December 28, 2005 and was a member of the Supervisory Board of FMC-AG from October 20, 2004, when his appointment to fill a vacancy was approved by the local court, until the transformation of legal form to a KGaA. His election to the Supervisory Board was subsequently approved by the shareholders of FMC-AG at the Annual General Meeting held May 24, 2005. He is also a member of the Supervisory Board of FMC-AG & Co. KGaA. He has the following other mandates: Natures View, LLC, Alpenglow Development, LLC, Justice, LLC, River Walk, LLC. Formerly he was also an Advisory Board member of Visionary Medical Device Fund. Mr. Kringel spent 18 years with Abbott Laboratories prior to his retirement as Senior Vice President, Hospital Products, in 1998. Prior to Abbott Laboratories, he spent three years as Executive Vice President of American Optical Corporation, a subsidiary of Warner Lambert Co. and ten years in the U.S. Medical Division of Corning Glassworks.

DR. WALTER L. WEISMAN has been a member of the Supervisory Board of Management AG since December 28, 2005 and was a member of the Supervisory Board of FMC-AG from 1996 until the transformation of legal form to a KGaA. He is also a member of the Supervisory Board of FMC-AG & Co. KGaA. He is a private investor and a former Chairman, President and Chief Executive Officer of American Medical International, Inc., and is a member of the Board of Directors of Occidental Petroleum Corporation. He is Senior Trustee of the Board of Trustees for the California Institute of Technology, life trustee of the Board of Trustees of the Los Angeles County Museum of Art, and Chairman of the Board of Trustees of the Sundance Institute. Dr. Weisman was Vice-Chairman and Lead Director of Maguire Properties, Inc. until September 1, 2008 and was Vice-Chairman of the Board of Trustees of the Samuel H. Kress Foundation until November 1, 2008.

MR. WILLIAM P. JOHNSTON was elected to the Supervisory Board of Management AG on August 30, 2006. He has been a member of the Supervisory Board of FMC-AG & Co. KGaA since May 2006. In February 2008, Mr. Johnston was appointed as a member of the Board of Directors of HCR-Manor Care, Inc. He was the former Chairman of the Board of Directors of Renal Care Group, Inc. Mr. Johnston has been a Senior Advisor of The Carlyle Group since June 2006. He is also a member of the Board of Directors of The Hartford Mutual Funds, Inc., HCR-Manor Care, Inc., LifeCare Holdings, Inc. and Multiplan, Inc. Mr. Johnston is a member of the Board of Directors of Georgia O'Keeffe Museum.

The General Partner's Management Board

Each member of the Management Board of Management AG is appointed by the Supervisory Board of Management AG for a maximum term of five years and is eligible for reappointment thereafter. Their terms of office expire in the years listed below.

The table below provides names, positions and terms of office of the members of the Management Board of Management AG and their ages as of January 1, 2010.

Name	Age as of Jan. 1, 2010	Position	Year term expires
Dr. Ben J. Lipps	69	Chairman of the Management Board, Chief Executive Officer of FMC-AG & Co. KGaA	2012
Rice Powell	54	Deputy Chairman of the Management Board and Chief Executive Officer, Fresenius Medical Care North America	2014
Michael Brosnan	54	Chief Financial Officer of FMC-AG & Co. KGaA	2012
Roberto Fusté	58	Chief Executive Officer for Asia Pacific	2011
Dr. Emanuele Gatti	54	Chief Executive Officer for Europe, Middle East, Africa and Latin America and Chief Strategist for FMC-AG & Co. KGaA	2012
Dr. Rainer Runte	50	Chief Administrative Officer, General Counsel, Chief Compliance Officer and Labor Relations Director for Germany	2015
Kent Wanzek	50	Head of Global Manufacturing Operations	2012

DR. BEN J. LIPPS became Chairman and Chief Executive Officer of the Management Board of Management AG on December 21, 2005. He served as acting Chief Financial Officer from September 1, 2009 until December 31, 2009. He was Chairman and Chief Executive Officer of the Management Board of FMC-AG from May 1, 1999 until the transformation of legal form to a KGaA and was Vice Chairman of the Management Board until May 1999. He was Chief Executive Officer of Fresenius Medical Care North America until February 2004. He was President, Chief Executive Officer, Chief Operating Officer and a director of Fresenius USA from October 1989 through February 2004, and served in various capacities with Fresenius USA's predecessor from 1985 through 1989. He is a member of the management board of Fresenius SE. He has been active in the field of dialysis for more than 40 years. After earning his master's and doctoral degrees at the Massachusetts Institute of Technology in chemical engineering, Dr. Lipps led the research team that developed the first commercial hollow fiber artificial kidney at the end of the 1960s. Before joining the Fresenius Group in 1985, Dr. Lipps held several research management positions, among them with DOW Chemical.

RICE POWELL became Deputy Chairman of the Management Board and Chief Executive Officer of Fresenius Medical Care North America effective January 1, 2010. He was a member of the Management Board of FMC-AG from February 2004 until the transformation of legal form and was Co-Chief Executive Officer of Fresenius Medical Care North America and CEO of Renal Therapy Group (RTG) of Fresenius Medical Care North America. He has more than 30 years of experience in the healthcare

industry. From 1978 to 1996 he held various positions within Baxter International Inc. (USA), Biogen Inc. (USA) and Ergo Sciences Inc. (USA).

MICHAEL BROSNAN became a member of the Management Board of Management AG and Chief Financial Officer on January 1, 2010. For the past seven years, he has served as Chief Financial Officer and member of the Board of Directors of Fresenius Medical Care North America. Mr. Brosnan joined the Company in 1998 as Vice President of Finance and Administration for Spectra Renal Management, the Company's laboratory services organization. Since then, he has held several executive positions in North America. Prior to joining Fresenius Medical Care, Mr. Brosnan held senior financial positions at Polaroid Corporation and was an audit partner at KPMG.

DR. EMANUELE GATTI became a member of the Management Board of Management AG and Chief Executive Officer for Europe, Latin America, Middle East and Africa on December 21, 2005. He became Chief Strategist effective January 1, 2010. He held such positions in FMC-AG from May 1997 until the transformation of legal form. After completing his studies in bioengineering, Dr. Gatti lectured at several biomedical institutions. He continues to be involved in comprehensive research and development activities focusing on dialysis and blood purification, biomedical signal analysis, medical device safety and health care economics. Dr. Gatti has been with the company since 1989. Before being appointed to the Management Board in 1997, he was responsible for the Company's dialysis business in Southern Europe.

ROBERTO FUSTÉ became a member of the Management Board of Management AG and Chief Executive Officer for Asia Pacific on December 21, 2005. He held such positions in FMC-AG from January 1, 1999 until the transformation of legal form. After finishing his studies in economic sciences at the University of Valencia, he founded the company Nephrocontrol S.A. in 1983. In 1991, Nephrocontrol was acquired by the Fresenius Group, where Mr. Fusté has since worked. Before being appointed to the Management Board of FMC-AG in 1999, Mr. Fusté held several senior positions within the Company in Europe and the Asia Pacific region.

DR. RAINER RUNTE is the Company's Chief Administrative Officer (General Counsel, Chief Compliance Officer and Labor Relations Director for Germany). He has been a member of the Management Board of Management AG since December 2005. He became Chief Administrative Officer including, among other responsibilities, Labor Relations Director for Germany, effective January 1, 2010. He was a member of the Management Board responsible for Law, Compliance & Corporate Governance and Intellectual Property of FMC-AG from January 1, 2004 until the transformation of legal form to a KGaA. He has worked for the Fresenius group for 19 years. Previously he served as scientific assistant to the law department of the Johann Wolfgang Goethe University in Frankfurt and as an attorney in a law firm specialized in economic law. Dr. Runte took the position as Senior Vice President for Law of Fresenius Medical Care in 1997 and was appointed as deputy member of the Management Board in 2002.

KENT WANZEK became a member of the Management Board of Management AG effective January 1, 2010, with responsibility for Global Manufacturing Operations. Previously, Mr. Wanzek was in charge of North American Operations for the Renal Therapies Group at Fresenius Medical Care North America since 2004. Prior to joining the Company in 2003, Mr. Wanzek held several senior executive positions with companies in the health care industry, including Philips Medical Systems, Perkin-Elmer, Inc. and Baxter Healthcare Corporation.

The business address of all members of our Management Board and Supervisory Board is Else-Kröner-Strasse 1, 61352 Bad Homburg, Germany.

The Supervisory Board of FMC-AG & Co. KGaA

The Supervisory Board of FMC-AG & Co. KGaA consists of six members who are elected by the shareholders of FMC-AG & Co. KGaA in a general meeting. Fresenius SE, as the sole shareholder of Management AG, the general partner, is barred from voting for election of the Supervisory Board of FMC-AG & Co. KGaA but, nevertheless has and will retain significant influence over the membership of the FMC-AG & Co. KGaA Supervisory Board in the foreseeable future. See Item 16.G, “Governance – The Legal Structure of FMC-AG & Co. KGaA,” in our 2009 20-F.

The current Supervisory Board of FMC-AG & Co. KGaA consists of six persons, five of whom – Messrs. Schenk, Krick, Kringel, Weisman and Johnston – are also members of the Supervisory Board of our General Partner. For information regarding the names, ages, terms of office and business experience of those members of the Supervisory Board of FMC-AG & Co. KGaA, see “The General Partner’s Supervisory Board,” above. The sixth member of the Supervisory Board of FMC-AG & Co. KGaA is Prof. Dr. Bernd Fahrholz. Information regarding his age, term of office and business experience is as follows:

PROF. DR. BERND FAHRHOLZ, age 62, was a member of the Supervisory Board of Management AG from April 8, 2005 until August 30, 2006 and was a member of the Supervisory Board of FMC-AG from 1998 until the transformation of legal form to a KGaA and a member of the Supervisory Board of FMC-AG & Co. KGaA following the transformation. He is a member of our Audit and Corporate Governance Committee. He is partner in the law firm of Dewey & LeBoeuf, LLP, and from 2004 until September 30, 2005 was a partner in the law firm of Nörr Stiefenhofer Lutz (now Noerr LLP). He was a member of the Management Board of Dresdner Bank AG since 1998 and was Chairman from April 2000 until he resigned in March of 2003. He also served as the vice-chairman of the Management Board of Allianz AG and chairman of the Supervisory Board of Advance Holding AG until March 25, 2003. He served on the Supervisory Boards of BMW AG until May 13, 2004 and Heidelberg Cement AG until May 6, 2004. Prof. Dr. Fahrholz is Chairman of the Supervisory Board of SMARTRAC N.V.

The terms of office of the aforesaid members of the Supervisory Board of FMC-AG & Co. KGaA will expire at the end of the general meeting of shareholders of FMC-AG & Co. KGaA, in which the shareholders discharge the Supervisory Board for the fourth fiscal year following the year in which they were elected, but not counting the fiscal year in which such member’s term begins. Members of the FMC-AG & Co. KGaA Supervisory Board may be removed only by a resolution of the shareholders of FMC-AG & Co. KGaA with a majority of three quarters of the votes cast at such general meeting. Fresenius SE is barred from voting on such resolutions. The Supervisory Board of FMC-AG & Co. KGaA ordinarily acts by simple majority vote and the Chairman has a tie-breaking vote in case of any deadlock.

The principal function of the Supervisory Board of FMC-AG & Co. KGaA is to oversee the management of the Company but, in this function, the supervisory board of a partnership limited by shares has less power and scope for influence than the supervisory board of a stock corporation. The Supervisory Board of FMC-AG & Co. KGaA is not entitled to appoint the general partner or its executive bodies, nor may it subject the general partner’s management measures to its consent or issue rules of procedure for the general partner. Only the Supervisory Board of Management AG, elected solely by Fresenius SE, has the authority to appoint or remove members of the general partner’s Management Board. See Item 16.G, “Governance – The Legal Structure of FMC-AG & Co. KGaA,” in our 2009 20-F. Among other matters, the Supervisory Board of FMC-AG & Co. KGaA will, together with the general partner, fix the agenda for the annual general meeting and make recommendations with respect to approval of the company’s annual financial statements and dividend proposals. The Supervisory Board of FMC-AG & Co. KGaA will also

propose nominees for election as members of its Supervisory Board and propose the Company's auditors for approval by shareholders.

Board Practices

For information relating to the terms of office of the Management Board and the Supervisory Board of the general partner, Fresenius Medical Care Management AG, and of the Supervisory Board of FMC-AG & Co. KGaA, and the periods in which the members of those bodies have served in office, see item (iii), "Directors and Senior Management," above. For information regarding certain compensation payable to certain members of the general partner's management board after termination of employment, see Compensation of the Management Board and the Supervisory Board – Commitments to Members of Management for the Event of the Termination of their Employment" below. The functions usually performed by a remuneration committee, particularly evaluation and assessment of the compensation of the members of the general partner's Management Board, are performed by the Human Resources Committee of the general partner's Supervisory Board, the members of which are Dr. Ulf M. Schneider (Chairman), Dr. Gerd Krick, Mr. William P. Johnston and Dr. Walter L. Weisman. Determination of the compensation system and of the compensation to be granted is to be made by the full Supervisory Board of Management AG. In 2009, the Audit and Corporate Governance Committee of FMC-AG & Co. KGaA consisted of Dr. Gerd Krick, Prof. Dr. Bernd Fahrholz, Dr. Walter L. Weisman (Chairman), Mr. William P. Johnston and Mr. John Gerhard Kringel (until his resignation from the committee in March 2009), all of whom are independent directors for purposes of SEC Rule 10A-3. Our Supervisory Board has determined that each of Prof. Dr. Bernd Fahrholz, Dr. Walter L. Weisman and Mr. William P. Johnston qualifies as an independent audit committee financial expert in accordance with the provisions of Item 16A of Form 20-F. The primary function of the Audit and Corporate Governance Committee is to assist FMC-AG & Co. KGaA's supervisory board in fulfilling its oversight responsibilities, primarily through:

- overseeing management's conduct of our financial reporting process and the internal accounting and financial control systems and auditing of our financial statements;
- monitoring our internal controls risk program;
- monitoring our corporate governance performance according to the German corporate governance codex;
- monitoring the independence and performance of our outside auditors;
- providing an avenue of communication among the outside auditors, management and the Supervisory Board;
- reviewing the report of our general partner on relations with related parties and for reporting to the overall supervisory board thereon;
- recommending the appointment of our independent auditors to audit our German statutory financial statements (subject to the approval by our shareholders at our Annual General Meeting) and approval of their fees;
- retaining the services of our independent auditors to audit our U.S. GAAP financial statements and approval of their fees; and
- pre-approval of all audit and non-audit services performed by KPMG, our independent auditors.

In connection with the settlement of the shareholder proceedings contesting the resolutions of the Extraordinary General Meeting ("EGM") held August 30, 2005 that approved the transformation, the conversion of our preference shares into ordinary shares and related matters, we established a joint committee (the "Joint Committee") (*gemeinsamer Ausschuss*) of the supervisory boards of Management

AG and FMC-AG & Co. KGaA consisting of two members designated by each supervisory board to advise and decide on certain extraordinary management measures, including:

- transactions between us and Fresenius SE with a value in excess of 0.25% of our consolidated revenue, and
- acquisitions and sales of significant participations and parts of our business, the spin-off of significant parts of our business, initial public offerings of significant subsidiaries and similar matters. A matter is “significant” for purposes of this approval requirement if 40% of our consolidated revenues, our consolidated balance sheet total assets or consolidated profits, determined by reference to the arithmetic average of the said amounts shown in our audited consolidated accounts for the previous three fiscal years, are affected by the matter.

The supervisory board of our general partner, Management AG, is supported by a Regulatory and Reimbursement Assessment Committee (the “RRAC”) whose members are Mr. William P. Johnston (Chairman), Mr. John Gerhard Kringel and Dr. Dieter Schenk. The primary function of the RRAC is to assist and to represent the board in fulfilling its responsibilities, primarily through assessing the Company’s affairs in the area of its regulatory obligations and reimbursement structures for dialysis services. In the United States, these reimbursement regulations are mandated by the HHS and CMS for dialysis services. Similar regulatory agencies exist country by country in the International regions to address the conditions for payment of dialysis treatments.

(iv) Compensation of the Management Board and the Supervisory Board

Report of the Management Board of Management AG, our General Partner

The compensation report of Fresenius Medical Care AG & Co. KGaA summarizes the main elements of the compensation system for the members of the Management Board of Fresenius Medical Care Management AG as general partner of Fresenius Medical AG & Co. KGaA and in this connection notably explains the amounts and structure of the compensation paid to the Management Board. The compensation report is prepared on the basis of the recommendations made by the German Corporate Governance Code and also includes the disclosures as required pursuant to the applicable statutory regulations, notably in accordance with the German Commercial Code (*HGB*).

Compensation of the Management Board

The Supervisory Board of Fresenius Medical Care Management AG is responsible for determining the compensation of the Management Board. The Supervisory Board is assisted in this task by a personnel committee, the Human Resources Committee. In 2009, the Human Resources Committee was composed of Dr. Ulf M. Schneider, Dr. Gerd Krick, William P. Johnston and Dr. Walter Weisman.

The objective of the compensation system is to enable the members of the Management Board to participate reasonably in the sustainable development of the Company’s business with the compensation paid and to reward them based on their duties and performance as well as their success in managing the Company’s economic and financial position while giving due regard to the peer environment.

The compensation of the Management Board is, as a whole, performance-oriented and was composed of three elements in the fiscal year 2009:

- non-performance-related compensation (basic salary)
- performance-related compensation (variable bonus)
- components with long-term incentive effects (stock options and share-based compensation with cash settlement)

In addition, four members of the Management Board had pension commitments in the reporting period.

The individual components are designed on the basis of the following criteria:

In fiscal year 2009, each member of the general partner's Management Board received a non-performance-related basic salary paid in twelve monthly installments. Moreover, the members of the Management Board received additional benefits consisting mainly of insurance premiums, the private use of company cars, special payments such as foreign supplements, rent supplements and reimbursement of certain other charges and additional contributions to pension and health insurance.

Performance-related compensation will also be granted for fiscal year 2009 as a variable bonus. The amount of the bonus in each case depends on the achievement of individual and common targets:

The targets for the members of the Management Board are measured by reference to operating earnings (EBIT), net consolidated earnings (EAT) and its growth, as well as the development of cash flow, and achievement of the targets are in part subject to a comparison with the previous year's figures and can be derived in another part from the comparison of budgeted and actually achieved figures. Furthermore, targets are divided into Group level targets and those to be achieved in individual regions. Lastly, the various target parameters are weighted differently by their relative share in the aggregate amount of variable compensation depending on the respective (regional) areas of responsibility assumed by the members of the Management Board.

For 2009, all members of the Management Board were assessed on the basis of growth rates for Group-wide after-tax earnings (EAT growth). The floor relevant for variable compensation for Group-wide growth in EAT to be achieved was at least 6%, whereas the top relevant growth rate for this was set at 15% (cap). Besides, the members of the Management Board assuming Group functions and the members of the Management Board with regional responsibilities were evaluated in terms of the development of the respective cash flow within the Group or in the relevant regions during the period under review, with the targets subject to compensation being within a corridor of growth rates between 3% and 6% with reference to the respective cash flow. The growth rates achieved during the period under review in terms of regional operating earnings (regional EBIT) were moreover compensated for the respective Board members with regional responsibilities in each case within a target corridor between 13% and 19%.

As a rule, growth rates for after-tax earnings (EAT growth) for members of the Management Board with Group functions are compensated at a share of 80% in variable compensation and are thus weighted higher than for Board members having responsibility for regional earnings where the share is 60%. The achievement of the target for free cash flow is assessed at the uniform rate of 20% of variable compensation for all members of the Management Board; likewise, the valuation of operating earnings (EBIT margin) in the regions is weighted at 20% of the variable compensation component.

In 2009, the bonus component in principle consisted proportionately of cash payments (short-term) and a further share-based compensation component (long-term) to be paid by way of cash settlement based on the performance of the stock price of the ordinary shares of Fresenius Medical Care AG & Co. KGaA. Once the annual targets were or are achieved, the cash was or will be paid after the end of the respective fiscal year in which the target is achieved. The share-based compensation also to be granted yearly in these cases is subject to a several year vesting period, although a shorter period may apply in special cases (e.g. professional incapacity, entry into retirement). The amount of cash payment of this share-based compensation correspond to the share price of Fresenius Medical Care AG & Co. KGaA ordinary shares upon exercise after the several year vesting period, and is for that reason, attributed to the long-term incentive compensation components. The amount of the maximum achievable bonus for each of the members of the Management Board is capped.

In addition, a special bonus component applied in some cases for fiscal years 2006, 2007 and 2008 which was linked to the achievement of targets as measured only over this three-year period but whose payment to a certain extent is also subject to a vesting period of several years and consequently will take place up to 2012. This bonus component also included special components linked to the achievement of extraordinary financial targets related to special integration measures (e.g. in connection with the acquisition of Renal Care Group in the U.S.) and thus required the achievement of an extraordinary increase in earnings. The present report also reflects those payments based on this earlier bonus component but exercised and paid only in the year under review.

For fiscal years 2009 and 2008 the amount of cash payments of the management board of Fresenius Medical Care Management AG without long-term incentive components consisted of the following:

	Non-Performance Related Compensation				Performance Related Compensation		Cash Compensation (without long-term Incentive Components)	
	Salary		Other ¹⁾		Bonus		2009	2008
	2009	2008	2009	2008	2009	2008		
	in thousands		in thousands		in thousands		in thousands	
Dr. Ben Lipps	\$ 1,200	\$ 1,200	\$ 350	\$ 297	\$ 1,674	\$ 1,417	\$ 3,224	\$ 2,914
Roberto Fusté	558	515	258	270	724	290	1,540	1,075
Dr. Emanuele Gatti	767	809	155	95	1,021	968	1,943	1,872
Rice Powell	750	750	39	44	1,210	1,053	1,999	1,847
Lawrence A. Rosen	372	589	110	126	247	750	729	1,465
Dr. Rainer Runte	530	486	42	42	629	644	1,201	1,172
Mats Wahlstrom	850	850	39	46	1,627	1,244	2,516	2,140
Total	\$ 5,027	\$ 5,199	\$ 993	\$ 920	\$ 7,132	\$ 6,366	\$ 13,152	\$ 12,485

1) Includes, insurance premiums, private use of company cars, contributions to pension and health insurance and other benefits.

In addition to the aforementioned share-based compensation components with cash settlement, stock options under Stock Option Plan 2006 were granted as (further) components with long-term incentive effects in fiscal year 2009. The principles of Stock Option Plan 2006 are described in more detail in the Notes to Consolidated Financial Statements (see Note 15, "Stock Options - Fresenius Medical Care AG & Co. KGaA Stock Option Plan 2006") in our 2009 20-F.

As of January 1, 2009, the Company still had three additional Employee Participation Programs secured by conditional capital which entitled their participants to convertible bonds or stock options, and from which, however, in fiscal year 2009 no further options could be issued. In continuation with these successful employee participation programs of the past fiscal years, Fresenius Medical Care AG & Co. KGaA implemented Stock Option Plan 2006 approved by resolution of the general meeting on May 9, 2006 and amended by resolution of the general meeting of May 15, 2007 (reflecting the share split 1: 3).

During 2009, a total of 2,585,196 stock options were granted under this Stock Option Plan, of which 348,600 were granted to the members of the Management Board.

For fiscal years 2009 and 2008 the number and value of stock options issued and the value of other share-based compensation with cash settlement is shown individually in the following table.

	Components with Long-term Incentive Effect							
	Stock Options				Share-based Compensation with Cash Settlement		Total	
	2009	2008	2009	2008	2009	2008	2009	2008
	Number		in thousands		in thousands		in thousands	
Dr. Ben Lipps	99,600	99,600	\$ 1,086	\$ 1,537	\$ 475	\$ 626	\$ 1,561	\$ 2,163
Roberto Fusté	49,800	49,800	543	768	176	-	719	768
Dr. Emanuele Gatti	49,800	49,800	543	768	340	260	883	1,028
Rice Powell	49,800	49,800	543	768	337	348	880	1,116
Lawrence A. Rosen	-	49,800	-	768	-	307	-	1,075
Dr. Rainer Runte	49,800	49,800	543	768	209	253	752	1,021
Mats Wahlstrom	49,800	49,800	543	768	-	395	543	1,163
Total	348,600	398,400	\$ 3,801	\$ 6,145	\$ 1,537	\$ 2,189	\$ 5,338	\$ 8,334

The stated values of the stock options granted to the members of the Management Board in fiscal year 2009 correspond to their fair value at the time of being granted, namely a value of \$ 10.90 (€ 7.64) (2008 - \$ 15.43/€ 9.80) per stock option. The exercise price for the stock options granted is \$ 45.62 (€ 31.97) (2008 - \$ 55.88/€ 35.49).

At the end of the fiscal year 2009, the members of the Management Board held a total of 2,041,121 stock options (2008: 2,159,720 stock options).

The development and status of stock options of the members of the Management Board in fiscal year 2009 are shown in more detail in the following table:

	Dr. Ben Lipps	Roberto Fusté	Dr. Emanuele Gatti	Rice Powell	Lawrence A. Rosen	Dr. Rainer Runte	Mats Wahlstrom	Total
Options outstanding at January 1, 2009								
Number	818,411	291,276	276,276	177,177	227,604	207,753	161,223	2,159,720
Weighted average exercise price in \$	35.40	35.47	36.16	43.58	40.68	42.56	46.59	38.26
Options granted during the fiscal year								
Number	99,600	49,800	49,800	49,800	-	49,800	49,800	348,600
Weighted average exercise price in \$	45.62	45.62	45.62	45.62	-	45.62	45.62	45.62
Options exercised during the fiscal year								
Number	214,595	25,000	-	-	128,004	-	-	367,599
Weighted average exercise price in \$	22.07	22.78	-	-	33.44	-	-	26.07
Weighted average share price in \$	41.06	51.80	-	-	49.40	-	-	44.69
Options forfeited during the fiscal year								
Number	-	-	-	-	99,600	-	-	99,600
Weighted average exercise price in \$	-	-	-	-	49.99	-	-	49.99
Options outstanding at December 31, 2009								
Number	703,416	316,076	326,076	226,977	-	257,553	211,023	2,041,121
Weighted average exercise price in \$	40.97	38.15	37.67	44.13	-	43.23	46.46	41.20
Weighted average remaining contractual life in years	4.2	4.4	4.5	4.9	-	4.7	5.1	4.5
Range of exercise price in \$	20.85 - 51.13	16.45 - 51.13	16.45 - 51.13	16.45 - 51.13	-	20.69 - 51.13	29.19 - 51.13	16.45 - 51.13
Options exercisable at December 31, 2009								
Number	404,616	166,676	176,676	77,577	-	108,153	61,623	995,321
Weighted average exercise price in \$	35.27	28.70	28.37	35.35	-	35.71	41.10	33.36

Based on the targets achieved in fiscal year 2009, additional rights for share-based compensation with cash settlement totaling \$1,537,296 (2008: \$ 2,189,419) were earned, on the basis of which the number of share-based compensation rights is distributed. Since the actual distribution will not take place until March 2010, the specific number of shares of such share-based compensation rights will be determined by the Supervisory Board at that time by reference to the then current price of the ordinary shares of Fresenius Medical Care AG & Co. KGaA. Such number of shares will then serve as a basis and multiplier for calculating of the payment after the several year vesting period.

The amount of the total compensation of the Management Board of Fresenius Medical Care Management AG for fiscal years 2009 and 2008 is shown in the following table:

	Cash Compensation (without long-term Incentive components)				Total Compensation (including long- term Incentive Components)			
	2009		2008		2009		2008	
	in thousands		in thousands		in thousands		in thousands	
Dr. Ben Lipps	\$ 3,224	\$ 2,914	\$ 1,561	\$ 2,163	\$ 4,785	\$ 5,077		
Roberto Fusté	1,540	1,075	719	768	2,259	1,843		
Dr. Emanuele Gatti	1,943	1,872	883	1,028	2,826	2,900		
Rice Powell	1,999	1,847	880	1,116	2,879	2,963		
Lawrence A. Rosen	729	1,465	-	1,075	729	2,540		
Dr. Rainer Runte	1,201	1,172	752	1,021	1,953	2,193		
Mats Wahlstrom	2,516	2,140	543	1,163	3,059	3,303		
Total	\$ 13,152	\$ 12,485	\$ 5,338	\$ 8,334	\$ 18,490	\$ 20,819		

Compensation components with long-term incentive effects, i.e. stock options as well as share-based compensation with cash settlement, can be exercised only after the expiry of the specified vesting period. Their value is recognized over the vesting period as expense in the respective fiscal year of the vesting

period. Share-based compensation expenses attributable to fiscal years 2009 and 2008 are shown in the following table:

	Expense for Long-term Incentive Components with Equity Instruments		Expense for Long-term Incentive Components by Share-based Compensation with Cash Settlement		Total Expense for Share-based Compensation	
	2009	2008	2009	2008	2009	2008
	in thousands		in thousands		in thousands	
Dr. Ben Lipps	\$ 1,318	\$ 1,188	\$ 1,272	\$ 796	\$ 2,590	\$ 1,984
Roberto Fusté	659	594	-	-	659	594
Dr. Emanuele Gatti	659	594	424	265	1,083	859
Rice Powell	659	594	805	488	1,464	1,082
Lawrence A. Rosen	(279)	594	(501)	385	(780)	979
Dr. Rainer Runte	659	594	508	340	1,167	934
Mats Wahlstrom	1,606	594	1,633	558	3,239	1,152
Total	\$ 5,281	\$ 4,752	\$ 4,141	\$ 2,832	\$ 9,422	\$ 7,584

Non-performance-related compensation components and the basic structures of performance-related compensation components have been agreed with the individual members of the Management Board in their employment contracts/service agreements. Stock options are granted to members of the Management Board on an annual basis by the Supervisory Board.

Commitments to Members of the Management Board for the Event of the Termination of their Appointment

There are individual contractual pension commitments for the Management Board members Roberto Fusté, Dr. Emanuele Gatti, Dr. Rainer Runte and Lawrence A. Rosen (the latter having left the Company with effect from August 31, 2009). Under these commitments, Fresenius Medical Care as of December 31, 2009 has aggregate pension obligations of \$ 4,776,471 (at December 31, 2008: \$ 3,354,178). Additions to pension obligations in fiscal year 2009 amounted to \$ 983,407 (2008: \$ 422,394). Each of the pension commitments provides for a pension and survivor benefit, depending on the amount of the recipient's most recent basic salary, from age 65, or, in the case of termination because of professional or occupational incapacity, from the time of ending active work. The starting percentage of 30% increases with every year of service by 1.5 percentage points up to a maximum of 45%. 30% of the gross amount of any later income from an activity of the Management Board member is set off against the pension obligation. The acquired pro rata pension commitment of Mr. Lawrence A. Rosen became vested, after leaving the Company on August 31, 2009.

With the Chairman of the Management Board, Dr. Ben Lipps, there is an individual agreement instead of a pension provision, to the effect that, taking account of a non-compete covenant upon termination of his employment contract/service agreement with Fresenius Medical Care Management AG, he will be retained to render consulting services to the Company for a period of 10 years. The annual consideration for such services would amount to approximately 33% of the non-performance-linked compensation components paid to him in fiscal year 2009.

Under individual agreements, the Management Board members Dr. Emanuele Gatti and Rice Powell are entitled to benefits (severance payments, calculated on the basis of guaranteed simple annual income, based on the relevant basic salary) in the event that their employment with Fresenius Medical Care Management AG should end. Such severance payments will be reduced by one half of any additional compensation which the said Board members would be entitled to in connection with existing post-contractual non-compete covenants. The employment contracts of Board members contain no express provisions for the case of a change of control.

With Mr. Mats Wahlstrom, who resigned from the Management Board on December 31, 2009 it was agreed that all outstanding cash-settled share-based compensation related to the special bonus component from the years 2006 to 2008 became vested at the time of his resignation from the Board on December 31, 2009. It was agreed that he can exercise these rights at any date of his choice in February 2010. For the fiscal year Mr. Mats Wahlstrom is also entitled to receive payment for the agreed annual bonus component in accordance with the determinations of the Supervisory Board. It was further agreed with Mr. Mats Wahlstrom that he will render future services under a service contract with a U.S. subsidiary of the Fresenius Medical Care Group in the position of Senior Vice President of Fresenius Medical Care and will act as a senior advisor to the Chairman of the Management Board of Fresenius Medical Care Management AG for a period of five years. For this activity Mr. Mats Wahlstrom receives a separate contractual remuneration. It was also agreed that Mr. Wahlstrom shall remain entitled to all stock options granted while serving as a Board Member. The latter also applies in the case that Mr. Wahlstrom should resign from the Fresenius Medical Care Group.

Miscellaneous

In fiscal year 2009, no loans or advance payments of future compensation components were made to members of the Management Board of Fresenius Medical Care Management AG.

To the extent permitted by law, Fresenius Medical Care Management AG undertook to indemnify the members of the Management Board from claims against them arising out of their work for the Company and its affiliates, if such claims exceed their liability under German law. To secure such obligations, the Company has concluded Directors&Officers liability insurance with an appropriate excess. To the extent that adjustments are to be made with respect to the excess on the basis of the German Act on the Appropriateness of Executive Board Compensation (*VorstAG*), such adjustments shall be made no later than the expiry of the transitional period on June 30, 2010. The aforementioned indemnity applies for the time in which each member of the Management Board is in office and for claims in this connection after termination of membership on the Management Board in each case.

Former members of the Management Board did not receive any compensation in fiscal year 2009.

Adjustments to System of Compensation of Members of the Management Board

In view of the revised requirements for the system of compensation of the Management Board arising from the German Act on the Appropriateness of Executive Board Compensation (*VorstAG*) which took effect on August 5, 2009, which requirements are applicable to all directors' employment contracts/service agreements having been newly concluded or amended/adjusted in their provisions, the Supervisory Board of Fresenius Medical Care Management AG, in the context of the reorganization of responsibilities within the Management Board as of January 1, 2010, by resolution of December 8, 2009, resolved to apply an adjusted system of compensation of the members of the Management Board.

First of all, each member of the Management Board, as before, receives an annual fixed basic compensation to be paid out in twelve equal monthly installments, the amount of which is assessed differently depending on the member of the Management Board so as to reflect the particular individual tasks and responsibilities assumed by the various members of the Management Board.

In terms of the performance-related assessment of its variable compensation components, the new compensation model observes the principles described above under “Compensation of the Management Board”. This assessment includes the respective regional operating earnings (EBIT margin), growth in the net consolidated income (EAT growth) and the development of the Company-wide as well as regional cash flow before acquisitions (FCF). All figures are calculated from a comparison of budgeted figures with actually achieved figures.

Performance-related variable compensation is split into (i) a component which is paid out in cash after determination of the annual targets achieved (annual bonus), (ii) a share-based compensation component with cash settlement subject to a several years vesting period, and (iii) a further component with long-term incentive effects in the form of stock options. In determining the variable compensation, due care is exercised to ensure that the share of long-term incentive components accounts for at least 50% of the entire variable compensation. The achievement of the targets in terms of the aforementioned key ratios is assessed at 120% maximum and is subject to a fixed multiplier so as to provide for the possibility of limiting the variable compensation. As already in the past, the new compensation system contains a provision on capping the share-based compensation components in the event of extraordinary developments.

The amount of the basic compensation and the total compensation of the members of the Management Board was assessed giving particular regard to the relevant comparison values of other DAX companies and similar companies of comparable size and performance from the relevant industrial sector. In this regard, a conservative position below the respective mean value of comparative companies was chosen on average. In addition to this horizontal comparative view, due significance was also attached to the vertical (company-internal) comparative view. In this regard also the Company’s position is conservative relative to similar companies.

Overall, the selection of compensation-relevant ratios and their weighting within the compensation system was defined in such a way that, on the whole, a compensation structure is provided which is geared towards sustainable company development.

Compensation of the Supervisory Board of Fresenius Medical Care & Co KGaA and Supervisory Board of Management AG

Our supervisory board consists of six members, five of whom are also members of the supervisory board of Management AG, our general partner. Management AG has one additional supervisory board member who is not a member of our supervisory board. Each member of our supervisory board is paid an annual retainer fee of \$80,000. The Chairman is paid twice that amount and the Vice-Chairman 150% of that amount. Supervisory Board members are reimbursed for their reasonable travel and accommodation expenses, including value added tax, incurred with respect to their duties as Supervisory Board members. Supervisory board members who serve on committees receive an additional retainer of \$30,000 per year (\$50,000 per year in the case of committee chairs). In accordance with our by-laws, we pay 50% of the fees directly to the board member for the five supervisory board members who are also members of the Management AG board and 100% of the sixth (unaffiliated) member’s compensation directly to him. In addition, under the management agreement with our general partner, the general partner pays the

remaining 50% of the retainer fees of five members of our supervisory board and 100% of the fees payable to the general partner's sixth board member (who has no position with FMC-AG & Co. KGaA or its Supervisory Board). By agreement, we reimburse Management AG for 100% of all fees it incurs (including compensation paid to the general partner's supervisory board). The aggregate compensation reported does not include amounts paid as fees for services rendered by certain business or professional entities with which some of the Supervisory Board members are associated.

For the years 2009 and 2008 the compensation¹⁾ for the members of the supervisory boards were as follows:

	Fixed compensation for Supervisory Board at FMC Management AG		Fixed compensation for Supervisory Board at FMC-AG & Co. KGaA		Compensation for committee services at FMC Management AG		Compensation for committee services at FMC-AG & Co. KGaA		Total compensation	
	2009	2008	2009	2008	2009	2008 ⁴⁾	2009	2008	2009	2008
	in thousand		in thousand		in thousand		in thousand		in thousand	
Dr. Gerd Krick	\$ 40	\$ 40	\$ 120	\$ 120	\$ 40	\$ 20	\$ 30	\$ 30	\$ 230	\$ 210
Dr. Dieter Schenk	60	60	60	60	30	15	-	-	150	135
Dr. Ulf M. Schneider ²⁾	160	160	-	-	50	25	-	-	210	185
Dr. Walter L. Weisman	40	40	40	40	30	15	50	50	160	145
John Gerhard Kringel ⁵⁾	40	40	40	40	40	20	10	30	130	130
William P. Johnston	40	40	40	40	80	40	30	30	190	150
Prof. Dr. Bernd Fahrholz ³⁾	-	-	80	80	-	-	30	30	110	110
Total	\$ 380	\$ 380	\$ 380	\$ 380	\$ 270	\$ 135	\$ 150	\$ 170	\$ 1,180	\$ 1,065

1) Shown without VAT and withholding tax

2) Chairman of the supervisory board of FMC Management AG, but not member of the supervisory board of FMC-AG & Co. KGaA; fixed compensation paid by FMC Management AG

3) Member of the supervisory board of FMC-AG & Co. KGaA, but not member of the supervisory board of FMC Management AG; fixed compensation paid by FMC-AG & Co. KGaA

4) at FMC Management AG level committees have been established in Q3 2008 only; hence, the respective compensation for 2008 was paid on a pro rata basis

5) Member of Audit and Corporate Governance Committee of FMC-AG & Co. KGaA until Q2 2009

(v) Options to Purchase our Securities

Stock Option and Other Share Based Plans

Incentive plan

In 2009, Management Board members were eligible for performance-related compensation that depended upon achievement of individual and common targets. The targets are based upon operating earnings (EBIT), net consolidated earnings (EAT) and its growth, as well as the development of cash flow, and are in part developed by a comparison with the previous year's figures, budgeted figures and actually achieved figures. Targets are divided into Group level targets and those to be achieved in individual regions. For detailed information relating to targets and calculation of bonus payments, see part (iv), "Compensation of the Management Board and the Supervisory Board," above.

The bonus for fiscal year 2009 will, in principle, consist proportionately of a cash component and a share-based component which will be paid in cash. Upon meeting the annual targets, the cash component was or will be paid after the end of 2009. The share-based component is subject to a several year vesting period, although a shorter period may apply in special cases. The amount of cash payment relating to the share-based component will correspond to the share price of Fresenius Medical Care AG & Co. KGaA ordinary shares upon exercise after the several year vesting period. The amount of the maximum achievable bonus for each of the members of the Management Board is capped.

In 2006, Fresenius Medical Care Management AG adopted a performance related compensation plan for the members of its management board in the form of a variable bonus. A special bonus component (award) for some of the management board members consists in equal parts of cash payments and share-based compensation based on the development of the stock price of Fresenius Medical Care AG & Co. KGaA's ordinary shares. The amount of the award in each case depends on the achievement of certain performance targets. The targets are measured by reference to revenue growth, operating income, consolidated net income and cash flow development. These performance targets relate to a three-year period comprising the fiscal years 2007, 2008 and 2009 only. Annual targets have been achieved and the cash portion of the award has been paid after the end of the respective fiscal year. The share-based compensation portion has been granted but subject to a three-year vesting period. The amount of cash payment of the share-based compensation portion corresponds to the share price of Fresenius Medical Care AG & Co. KGaA's ordinary shares on exercise, i.e. at the end of the vesting period, and is also made in cash.

The share-based compensation incurred under these plans for years 2009, 2008 and 2007 was \$1,537, \$2,189 and \$4,595, respectively. Such share-based compensation paid to the members of the general partner's management board is included in the amounts shown in the table entitled "Components with Long-Term Incentive Effect" in part (iv), "Compensation of the Management Board and the Supervisory Board – Compensation of the Management Board," above.

Fresenius Medical Care AG & Co. KGaA Stock Option Plan 2006

On May 9, 2006, as amended on May 15, 2007 for a three-for-one share split (the "Share Split"), the Fresenius Medical Care AG & Co. KGaA Stock Option Plan 2006 (the "Amended 2006 Plan") was established by resolution of our annual general meeting with a conditional capital increase up to €15,000,000 subject to the issue of up to fifteen million no par value bearer ordinary shares with a nominal value of €1.00 each. Under the Amended 2006 Plan, up to fifteen million options can be issued, each of which can be exercised to obtain one ordinary share, with up to three million options designated for members of the Management Board of the General Partner, up to three million options designated for members of management boards of direct or indirect subsidiaries of the Company and up to nine million options designated for managerial staff members of the Company and such subsidiaries. With respect to participants who are members of the General Partner's Management Board, the general partner's Supervisory Board has sole authority to grant stock options and exercise other decision making powers under the Amended 2006 Plan (including decisions regarding certain adjustments and forfeitures). The General Partner's Management Board has such authority with respect to all other participants in the Amended 2006 Plan.

Options under the Amended 2006 Plan can be granted the last Monday in July and/or the first Monday in December. The exercise price of options granted under the Amended 2006 Plan shall be the average closing price on the Frankfurt Stock Exchange of our ordinary shares during the 30 calendar days immediately prior to each grant date. Options granted under the Amended 2006 Plan have a seven-year

term but can be exercised only after a three-year vesting period. The vesting of options granted is subject to achievement of performance targets, measured over a three-year period from the grant date. For each such year, the performance target is achieved if our adjusted basic income per ordinary share (“EPS”), as calculated in accordance with the Amended 2006 Plan, increases by at least 8% year over year during the vesting period, beginning with EPS for the year of grant as compared to EPS for the year preceding such grant. Calculation of EPS under the Amended 2006 Plan excludes, among other items, the costs of the transformation of our legal form to a KGaA and the conversion of preference shares into ordinary shares. For each grant, one-third of the options granted are forfeited for each year in which EPS does not meet or exceed the 8% target. The performance targets for 2009, 2008, and 2007 were met but the options that vested will not be exercisable until expiration of the full 3-year vesting period of each year’s grants. Vesting of the portion or portions of a grant for a year or years in which the performance target is met does not occur until completion of the entire three-year vesting period. Upon exercise of vested options, we have the right to reissue treasury shares or issue new shares.

During 2009, we awarded 2,585,196 options, including 348,600 to members of the Management Board of the General Partner, at a weighted average exercise price of \$46.22 (€32.08), a weighted average fair value of \$10.95 each and a total fair value of approximately \$28.3 million which will be amortized on a straight line basis over the three-year vesting period. For information regarding options granted to each member of the general partner’s management board, see part (iv), “Compensation of the Management Board and the Supervisory Board – Compensation of the Management Board,” above.

Options granted under the Amended 2006 Plan to U.S. participants are non-qualified stock options under the United States Internal Revenue Code of 1986, as amended. Options under the Amended 2006 Plan are not transferable by a participant or a participant’s heirs, and may not be pledged, assigned, or otherwise disposed of.

At December 31, 2009, we had awards outstanding under the terms of various prior stock-based compensation plans, including the 2001 plan. Under the 2001 plan, convertible bonds with a principal of up to €10,240,000 were issued to the members of the Management Board and other employees of the Company representing grants for up to 4 million non-voting Preference shares. Following the Share Split, the convertible bonds have a par value of €0.85 and bear interest at a rate of 5.5%. Except for the members of the Management Board, eligible employees were able to purchase the bonds by issuing a non-recourse note with terms corresponding to the terms of and secured by the bond. We have the right to offset our obligation on a bond against the employee’s obligation on the related note; therefore, the convertible bond obligations and employee note receivables represent stock options we issued and are not reflected in the consolidated financial statements. The options expire in ten years and one third of each grant can be exercised beginning after two, three or four years from the date of the grant. Bonds issued to Board members who did not issue a note to us are recognized as a liability on our balance sheet.

Upon issuance of the option, the employees had the right to choose options with or without a stock price target. The conversion price of options subject to a stock price target becomes the stock exchange quoted price of the shares upon the first time the stock exchange quoted price exceeds the initial value by at least 25%. The initial value (“Initial Value”) is the average price of the shares during the last 30 trading days prior to the date of grant. In the case of options not subject to a stock price target, the number of convertible bonds awarded to the eligible employee would be 15% less than if the employee elected options subject to the stock price target. The conversion price of the options without a stock price target is the Initial Value, as adjusted in accordance to the Share Split. Each option entitles the holder thereof, upon payment the respective conversion price, to acquire one share. Up to 20% of the total amount available for the issuance of awards under the 2001 plan could be issued each year through May 22, 2006. Effective May 2006, no further grants could be issued under the 2001 plan.

During 1998, we adopted two stock incentive plans ("FMC98 Plan 1" and "FMC98 Plan 2") for our key management and executive employees. These stock incentive plans were replaced by the 2001 plan and no options have been granted since 2001. Under these plans eligible employees had the right to acquire our shares. Options granted under these plans have a ten-year term, and one third of them vest on each of the second, third and fourth anniversaries of the award date. Each option can be exercised for one share.

At December 31, 2009, the Management Board members of the General Partner held 2,041,121 stock options for ordinary shares and employees of the Company held 9,852,942 stock options for ordinary shares with an average remaining contractual life of 5.01 years and 146,601 stock options for preference shares with an average remaining contractual life of 3.91 years with 146,601 exercisable preference options at a weighted average exercise price of \$26.43 and 4,589,390 exercisable ordinary options at a weighted average exercise price of \$36.40.

(vi) Material Transactions between FMC-AG & Co. KGaA and its Subsidiaries and Directors, Officers and Controlling Persons of FMC-AG & Co. KGaA

In connection with the formation of FMC-AG, and the combination of the dialysis businesses of Fresenius SE and W.R. Grace & Co. in the second half 1996, Fresenius SE and its affiliates and Fresenius Medical Care and its affiliates entered into several agreements for the purpose of giving effect to the merger and defining our ongoing relationship. Fresenius SE and W.R. Grace & Co. negotiated these agreements. The information below summarizes the material aspects of certain agreements, arrangements and transactions between Fresenius Medical Care and Fresenius SE and their affiliates. The following descriptions are not complete and are qualified in their entirety by reference to those agreements, which have been filed with the Securities and Exchange Commission and the New York Stock Exchange. We believe that the leases, the supply agreements and the service agreements are no less favorable to us and no more favorable to Fresenius SE than would have been obtained in arm's-length bargaining between independent parties. The trademark and other intellectual property agreements summarized below were negotiated by Fresenius SE and W.R. Grace & Co., and, taken independently, are not necessarily indicative of market terms.

Dr. Gerd Krick, Chairman of our Supervisory Board, is also a member of the Supervisory Board of our general partner and Chairman of the Supervisory Board of Fresenius SE. Dr. Dieter Schenk, Vice Chairman of the Supervisory Board of our general partner and of the Supervisory Board of FMC-AG & Co. KGaA, is also a member of the Supervisory Board of Fresenius SE, and Dr. Ulf M. Schneider, Chairman of the Supervisory Board of our general partner and a former member of the Supervisory Board of FMC-AG, is Chairman of the Management Board and CEO of Fresenius SE. Each of Mr. John G. Kringel, Dr. Walter L. Weisman and Dr. William P. Johnston is a member of both our Supervisory Board and our general Partner's Supervisory Board.

In the discussion below regarding our contractual and other relationships with Fresenius SE:

- the term "we (or us) and our affiliates" refers only to Fresenius Medical Care AG & Co. KGaA and its subsidiaries; and
- the term "Fresenius SE and its affiliates" refers only to Fresenius SE and affiliates of Fresenius SE other than Fresenius Medical Care AG & Co. KGaA and its subsidiaries.

Real Property Lease

We did not acquire the land and buildings in Germany that Fresenius Worldwide Dialysis used when we were formed in the second half of 1996. Fresenius SE or its affiliates have leased part of the real property to us, directly, and transferred the remainder of that real property to two limited partnerships. Fresenius SE is the sole limited partner of each partnership, and the sole shareholder of the general partner of each partnership. These limited partnerships, as landlords, have leased the properties to us and to our affiliates, as applicable, for use in our respective businesses. The aggregate annual rent payable by us under these leases is approximately €16.6 million, which was approximately \$23.1 million as of December 31, 2009, exclusive of maintenance and other costs, and is subject to escalation, based upon development of the German consumer-price-index determined by the Federal Statistical Office. The leases for manufacturing facilities have a ten-year term, followed by two successive optional renewal terms of ten years each at our election. In December 2006, the Company exercised its option to renew the lease for manufacturing facilities and the other leases were amended to extend their terms and add renewal options. The leases for the other facilities have a term of ten years. In December 2007, we amended the lease for the Schweinfurt, Germany facility, to add additional manufacturing capacity. Based upon an appraisal, we believe that the rents under the leases represent fair market value for such properties. For information with respect to our principal properties in Germany, see Item 4.D, "Property, plant and equipment," in our 2009 20-F.

Trademarks

Fresenius SE continues to own the name and mark "Fresenius" and its "F" logo. Fresenius SE and Fresenius Medical Care Deutschland GmbH, one of our German subsidiaries, have entered into agreements containing the following provisions. Fresenius SE has granted to our German subsidiary, for our benefit and that of our affiliates, an exclusive, worldwide, royalty-free, perpetual license to use "Fresenius Medical Care" in our company names, and to use the Fresenius marks, including some combination marks containing the Fresenius name that were used by Fresenius Worldwide Dialysis, and the Fresenius Medical Care name as a trade name, in all aspects of the renal business. Our German subsidiary, for our benefit and that of our affiliates, has also been granted a worldwide, royalty-free, perpetual license:

- to use the "Fresenius Medical Care" mark in the then current National Medical Care non-renal business if it is used as part of "Fresenius Medical Care" together with one or more descriptive words, such as "Fresenius Medical Care Home Care" or "Fresenius Medical Care Diagnostics";
- to use the "F" logo mark in the National Medical Care non-renal business, with the consent of Fresenius SE. That consent will not be unreasonably withheld if the mark using the logo includes one or more additional descriptive words or symbols; and
- to use "Fresenius Medical Care" as a trade name in the renal business

We and our affiliates have the right to use "Fresenius Medical Care" as a trade name in other medical businesses only with the consent of Fresenius SE. Fresenius SE may not unreasonably withhold its consent. In the U.S. and Canada, Fresenius SE will not use "Fresenius" or the "F" logo as a trademark or service mark, except that it is permitted to use "Fresenius" in combination with one or more additional words such as "Pharma Home Care" as a service mark in connection with its home care business and may use the "F" logo as a service mark with the consent of our principal German subsidiary. Our subsidiary will not unreasonably withhold its consent if the service mark includes one or more additional descriptive words or symbols. Similarly, in the U.S. and Canada, Fresenius SE has the right to use "Fresenius" as a trade name, but not as a mark, only in connection with its home care and other medical businesses other than the renal business and only in combination with one or more other descriptive words, provided that the name used by Fresenius SE is not confusingly similar to our marks and trade names. Fresenius SE's

ten-year covenant not to compete with us, granted in 1996, has expired, and Fresenius SE may use "Fresenius" in its corporate names if it is used in combination with one or more additional distinctive word or words, provided that the name used by Fresenius SE is not confusingly similar to the Fresenius Medical Care marks or corporate or trade names.

Other Intellectual Property

Some of the patents, patent applications, inventions, know-how and trade secrets that Fresenius Worldwide Dialysis used prior to our formation were also used by other divisions of Fresenius SE. For Biofine, the polyvinyl chloride-free packaging material, Fresenius SE has granted to our principal German subsidiary, for our benefit and for the benefit of our affiliates, an exclusive license for the renal business and a non-exclusive license for all other fields except other non-renal medical businesses. Our German subsidiary and Fresenius SE share equally any royalties from licenses of the Biofine intellectual property by either our German subsidiary or by Fresenius SE to third parties outside the renal business and the other non-renal medical businesses. In addition, Fresenius SE transferred to our German subsidiary the other patents, patent applications, inventions, know-how and trade secrets that were used predominantly in Fresenius SE's dialysis business. In certain cases Fresenius Worldwide Dialysis and the other Fresenius SE divisions as a whole each paid a significant part of the development costs for patents, patent applications, inventions, know-how and trade secrets that were used by both prior to the merger. Where our German subsidiary acquired those jointly funded patents, patent applications, inventions, know-how and trade secrets, our subsidiary licensed them back to Fresenius SE exclusively in the other non-renal medical businesses and non-exclusively in all other fields. Where Fresenius SE retained the jointly funded patents, patent applications, inventions, know-how and trade secrets, Fresenius SE licensed them to our German subsidiary exclusively in the renal business and non-exclusively in all other fields.

Supply Agreements and Arrangements

We produce most of our products in our own facilities. However, Fresenius Kabi AG, a subsidiary of Fresenius SE, manufactures some of our products for us, principally dialysis concentrates and other solutions. These facilities are located in Germany, Brazil, France and South Africa. Conversely, our facilities in Germany and Italy produce products for Fresenius Kabi AG.

Our local subsidiaries and those of Fresenius SE have entered into supply agreements for the purchase and sale of products from the above facilities. Prices under the supply agreements are determined by good-faith negotiation between the parties. During 2009, we sold products to Fresenius SE in the amount of \$13.6 million. In 2009, we made purchases from Fresenius SE in the amount of \$43.3 million.

The parties may modify existing or enter into additional supply agreements, arrangements and transactions. Any future modifications, agreements, arrangements and transactions will be negotiated between the parties and will be subject to the approval provisions of the pooling agreements and the regulatory provisions of German law regarding dominating enterprises.

In January and February 2008, Baxter Healthcare Corporation and/or its parent corporation, Baxter International, Inc., issued recalls and suspended production of its sodium heparin injection products in response to reports of adverse patient reactions. Heparin is a blood thinning drug that is widely and routinely used in the treatment of dialysis patients to prevent life-threatening blood clots. Prior to the recalls, FMCH purchased a majority of its heparin requirements from Baxter. As a result of the recalls, APP Pharmaceuticals, Inc. ("APP Inc."), is the only remaining U.S. supplier of FDA-approved heparin

used in dialysis. APP Inc. has substantially increased FMCH's acquisition costs for this product. On September 10, 2008, Fresenius Kabi AG, a wholly-owned subsidiary of Fresenius SE, acquired APP Inc. The acquisition has had no impact on the purchase price of heparin. FMCH currently purchases heparin supplied by APP Inc. through MedAssets, Inc. MedAssets Inc. is a publicly-traded U.S. corporation that provides inventory purchasing services to healthcare providers through a group purchasing organization (GPO) structure. A GPO is an organization that endeavors to manage supply and service costs for hospitals and health care providers by negotiating discounted prices with manufacturers, distributors and other vendors. Vendors discount their prices and pay administrative fees to GPOs because GPOs provide access to a large customer base, thus reducing vendors' sales and marketing costs and overhead. FMCH is one of many U.S. healthcare providers that participate in the MedAssets GPO. FMCH purchases pharmaceuticals and supplies used in its dialysis services business through the MedAssets GPO contract. During 2009, we acquired \$31.3 million of heparin from APP Inc. through the GPO.

During the third quarter of 2009, we acquired production lines from Fresenius SE for a purchase price of \$3.4 million, net of value added tax (VAT).

Services Agreement

We obtain administrative and other services from Fresenius SE headquarters and from other divisions and subsidiaries of Fresenius SE. These services relate to, among other things, administrative services, management information services, employee benefit administration, insurance, IT services, tax services and treasury services. For 2009, Fresenius SE and its affiliates charged us approximately \$68.2 million for these services. Conversely, we have provided certain services to other divisions and subsidiaries of Fresenius SE relating to research and development, central purchasing, patent administration and warehousing. For 2009 we charged approximately \$13.5 million to Fresenius SE and its subsidiaries for services we rendered to them.

We and Fresenius SE may modify existing or enter into additional services agreements, arrangements and transactions. Any such future modifications, agreements, arrangements and transactions will be negotiated between the parties and will be subject to the approval provisions of the pooling agreements and the regulations of German law regarding dominating enterprises.

Financing

We are party to an Amended and Restated Subordinated Loan Note with Fresenius SE under which we or our subsidiaries may request and receive one or more advances up to an aggregate amount of \$400 million during the period ending March 31, 2011. During 2009, we received advances between €1.3 million and €72.0 million which carried interest at rates between 1.05% and 2.05% per annum. On December 31, 2009, the Company had no advances outstanding due to Fresenius SE. On August 19, 2009, the Company borrowed \$2.2 million from the general partner at 1.335%, due August 19, 2010.

We were party to a German consolidated trade tax return with Fresenius SE and certain of its German subsidiaries for the fiscal years 1998-2001. During the second quarter of 2009, we reclassified an accounts payable relating to taxes payable by the Company in the amount of €77.7 million (\$110 million at June 30, 2009) to Fresenius SE to short-term borrowings from related parties. Of this amount, €5.7 million (\$8.3 million at December 31, 2009) was outstanding at December 31, 2009 and will be repaid in 2010 with an interest rate of 6%.

On November 7, 2008, we entered into a loan agreement with Fresenius SE under which we advanced Fresenius SE \$50 million at 6.45% interest. The loan was fully repaid on April 30, 2009.

Other Interests

Dr. Gerd Krick, chairman of the Supervisory Board of FMC-AG & Co. KGaA and member of the supervisory board of Management AG, was a member of the administration board of Dresdner Bank, Luxembourg, S.A., a subsidiary of Dresdner Bank AG. See "— Security Ownership of Certain Beneficial Owners of Fresenius SE." Dresdner Bank AG, through its New York and Cayman branches, was a documentation agent and was one of the joint lead arrangers and book managers under our senior credit agreement in effect prior to our current 2006 Senior Credit Agreement. Dr. Dieter Schenk, Vice Chairman of the Supervisory Boards of Management AG and of FMC-AG Co. KGaA and a member of the Supervisory Board of Fresenius SE, is a partner in the law firm of Noerr LLP (formerly Nörr Stiefenhofer Lutz Partnerschaft), which has provided legal services to Fresenius SE and Fresenius Medical Care. The portion of said legal services to Fresenius Medical Care for the year ended December 31, 2009, has been approved by our supervisory board, with Dr. Schenk abstaining from the vote. During 2009, Noerr LLP was paid approximately \$1.4 million for these services. Dr. Schenk is one of the executors of the estate of the late Mrs. Else Kröner. Else Kröner-Fresenius-Stiftung, a charitable foundation established under the will of the late Mrs. Kröner, owns the majority of the voting shares of Fresenius SE. Dr. Schenk is also the chairman of the advisory board of Else-Kröner-Fresenius-Stiftung. See part (i) above, "Security Ownership of Certain Beneficial Owners of Fresenius Medical Care AG & Co. KGaA and Fresenius SE — Security Ownership of Certain Beneficial Owners of Fresenius SE."

Under the articles of association of FMC AG & Co. KGaA, we are obligated to pay Fresenius SE a guaranteed return on its capital investment in our general partner. See Item 16.G, "Corporate Governance – The Legal Structure of FMC AG & Co. KGaA," in our 2009 20-F.

General Partner Reimbursement

Management AG, the Company's general partner, is a 100% wholly-owned subsidiary of Fresenius SE. The Company's Articles of Association provide that the General Partner shall be reimbursed for any and all expenses in connection with management of the Company's business, including compensation of the members of the General Partner's supervisory board and the General Partner's management board. The aggregate amount reimbursed to Management AG for 2009 was approximately \$7.8 million for its management services during 2009 including \$0.08 million as compensation for their exposure to risk as General Partner. The Company's Articles of Association fix this compensation as a guaranteed return of 4% of the amount of the General Partner's invested capital (€1.5 million). See Item 16.G, "Governance – The Legal Structure of FMC-AG & Co. KGaA," in our 2009 20-F.

(vii) Principal Accountant Fees and Services.

In the annual general meeting held on May 7, 2009, our shareholders approved the appointment of KPMG to serve as our independent auditors for the 2009 fiscal year. KPMG billed the following fees to us for professional services in each of the last two years:

<u>2009</u>	<u>2008</u>
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	(in thousands)	
Audit fees	\$ 9,838	\$ 10,405
Audit related fees	187	103
Tax fees	909	1,046
Total	<u>\$ 10,934</u>	<u>\$ 11,554</u>

"Audit Fees" are the aggregate fees billed by KPMG for the audit of our German statutory and U.S. GAAP consolidated and annual financial statements, reviews of interim financial statements and attestation services that are provided in connection with statutory and regulatory filings or engagements. Fees related to the audit of internal control are included in Audit Fees. "Audit-Related Fees" are fees charged by KPMG for assurance and related services that are reasonably related to the performance of the audit or review of our financial statements and are not reported under "Audit Fees." This category comprises fees billed for comfort letters, consultation on accounting issues, the audit of employee benefit plans and pension schemes, agreed-upon procedure engagements and other attestation services subject to regulatory requirements. "Tax Fees" are fees for professional services rendered by KPMG for tax compliance, tax advice on implications for actual or contemplated transactions, tax consulting associated with international transfer prices, and expatriate employee tax services.

Audit Committee's pre-approval policies and procedures

As a German company, we prepare statutory financial statements under German law on the basis of the accounting principles of the German Commercial Code (Handelsgesetzbuch or HGB). Our supervisory board engages our independent auditors to audit these financial statements, in consultation with our Audit and Governance Committee and subject to approval by our shareholders at our AGM in accordance with German law.

We also prepare financial statements in accordance with U.S. GAAP, which are included in registration statements and reports that we file with the Securities and Exchange Commission. Our Audit and Corporate Governance Committee engages our independent auditors to audit these financial statements in accordance with rule 10A-3 under the Exchange Act and Rule 303A.06 of the NYSE Governance Rules. See also the description in "Item 6C. Directors, Senior Management and Employees - Board Practices."

In 2003, Fresenius Medical Care AG's audit committee also adopted a policy requiring management to obtain the committee's approval before engaging our independent auditors to provide any audit or permitted non-audit services to us or our subsidiaries. Pursuant to this policy, which is designed to assure that such engagements do not impair the independence of our auditors, the Audit and Corporate Governance Committee pre-approves annually a catalog of specific audit and non-audit services in the categories Audit Services, Audit-Related Services, Tax Consulting Services, and Other Services that may be performed by our auditors as well as additional approval requirements based on fee amount.

The general partner's Chief Financial Officer reviews all individual management requests to engage our auditors as a service provider in accordance with this catalog and, if the requested services are permitted pursuant to the catalog and fee level, approves the request accordingly. We inform the Audit and Corporate Governance Committee about these approvals on an annual basis. Services that are not included in the catalog or exceed applicable fee level require pre-approval by the Audit and Corporate Governance Committee's chairman or full committee on a case-by-case basis. Neither the chairman of our Audit and Corporate Governance Committee nor the full committee is permitted to approve any

engagement of our auditors if the services to be performed either fall into a category of services that are not permitted by applicable law or the services would be inconsistent with maintaining the auditors' independence.

During 2010, the total fees paid to the Audit and Corporate Governance Committee members for services on the calendar were \$5.148 million.