This notice is a convenience translation. For the legally binding document, please refer to the original German version which is published on the Internet at https://www.bayer.de/de/gegenantraege-2019.aspx

Countermotion of Coordination gegen Bayer-Gefahren e.V., Postfach 150418, D-40081 Düsseldorf, dated February 26, 2019

Countermotion for the Annual Stockholders' Meeting of the BAYER Group on April 26, 2019

We hereby announce that we object to the proposals of the Board of Management and the Supervisory Board with regard to Item 2 of the Agenda and will call on the stockholders to vote for the following countermotion.

# Countermotion to Agenda Item 2: The actions of the members of the Board of Management shall not be ratified

The BAYER Group announced the elimination of 12,000 jobs at the end of November 2018. The company plans to cut more than one in 10 positions. No other German company announced such a massive workforce reduction last year. On a global level, this is the sixth-highest elimination of jobs by a company. The Board of Management holds responsibility for this disaster, which is connected with the MONSANTO deal. The actions of its members therefore must not be ratified.

During the acquisition process, Board of Management Chairman Werner Baumann promised: "Once the integration is complete, BAYER will create several thousand jobs in the United States." He made similar pledges for the European sites. Only 18 months later, that promise no longer applied. That's because just 11 days after the transaction closed, the first damages trial related to glyphosate began – ending in a judgment ordering the global player to pay damages of US\$78 million. BAYER's stock immediately collapsed, and didn't recover in the subsequent weeks. BLACKROCK and other major stockholders therefore put pressure on the company – and BAYER relented. The Board of Management announced the elimination of jobs and the divestment of parts of its business, and raised the prospect of stock buybacks.

The German daily newspaper *Die Welt* commented on these developments as follows: "The reason why this incident is so telling is that the attempt to reverse the share price disaster and once again appearse the investors is now being carried out at the expense of the employees in almost knee-jerk fashion."

Yet that's not enough, as further drastic measures loom. For example, the company is increasingly being urged to divest itself of its pharmaceutical activities. With good reason, Board of Management Chairman Werner Baumann did not want to guarantee to the Coordination against BAYER-Dangers at the 2018 Annual Stockholders' meeting that the stock corporation in its current form would continue to exist for the next 20 years, instead saying: "Binding commitments for a 20-year period would not be reliable in view of the rapid changes in the market environment."

The MONSANTO transaction has thus been catastrophic on balance. BAYER only focused on the numbers when acquiring the U.S. agricultural giant, and this in particular has proven fatal for the business. That's because glyphosate isn't just associated with billions in sales, but also with cancer, genetic engineering and endangerment of biodiversity. The Board of Management should have brought this to account, as became evident through the trials at the very latest. As the Board of Management did not do so, the actions of its members must not be ratified.

Pursuant to Sections 125 and 126 of the German Stock Corporation Act (AktG), we request that this countermotion and its statement of grounds be published. We ask that the stockholders transfer their voting rights to the Coordination against BAYER-Dangers.

On behalf of the Executive Committee of the Coordination against BAYER-Dangers

#### **Bayer Aktiengesellschaft**

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Frankfurt, March 12th, 2019

#### "Bayer AGM on 26.4.2019: Counter motion according to § 126 (1), AktG

Ladies and gentlemen,

As a private shareholder of Bayer Aktiengesellschaft I hereby submit the following countermotion to the agenda of the Annual General Meeting on April 26, 2019 pursuant to § 126 AktG:

#### **Item 2: Discharge of the Management Board Members:**

It is proposed that the members of the Management Board who held office in 2018 should not be discharged for their acts in the financial year 2018.

#### Reasons:

After the June 2018 finalization of the Monsanto deal that took more than two years, Bayer has within three months become the biggest and fastest value destroyer in DAX history. It is therefore astonishing that the Management Board recommends its own discharge for the disaster year 2018! While the € 30 - 40 billion share price loss that so badly hurts all shareholders does not justify the discharge, there are also other significant negative developments:

- The misjudged extent of the cartel-imposed sales of attractive crop science assets to BASF, which reduced the originally estimated synergy potential of the Monsanto deal by some 20% or EUR 300 million p.a.
- The incorrect assessment of the now dramatically increased legal risks of glyphosate related lawsuits, evidenced by the number of litigation cases that now increased almost exponentially to already 11,300 suits and that require already in the 2018 accounts contingency reserves of 300 million EUR.
- The impossibility of the ability to form the clearly necessary picture of the serious legal risks, only admitted in August 2018, due to the prohibition imposed by the US Department of Justice on Monsanto.

Here the Management Board, obviously due to misjudged deal closing pressure, accepted a risk that has already shown a bad outcome and is incompatible with the 'Business Judgment Rule'; equally the Supervisory Board appears to not have adequately fulfilled such duties as set out in §116 AktG, as it dealt with the obvious omission of the Management Board (in December 2018 (six months after the close of the transaction) based on an understandably unqualified expert opinion (Supervisory Board report p.14).

For the assessment of the performance of the Management Board, the almost complete failure to deliver the key objectives presented by Mr. Baumann in May 2016 for the Monsanto acquisition (that was rejected by his predecessor Dekkers), the following is also significant:

- The 'Focusing on an attractive industry' appears today considerably less profitable due to the cartel-imposed disposal of important individual business parts and the obligation to provide competitors with information on innovations, apart from the at least 20% decline in synergy effects and the serious legal problems.
- The then projected 'growth in earnings per Bayer share' is now apparently lower and should happen a lot later than when the acquisition was presented in 2016.
- 'Successful integration of takeovers': The ability to integrate was not confirmed by the recently acquired Merck USA Consumer Health division. Restructuring and value corrections hit the result for 2018 (after EUR 300 million in 2017) with EUR 2.8 billion = 20% of the purchase price! Although the Schering activities acquired earlier have been integrated quite smoothly, they have continued to produce small contributions in terms of earnings, research and products.
- And then the so-called 'higher valuation through integration of seeds and crop protection': So far, the Monsanto acquisition has resulted in an impressive market underperformance. Bayer shares fell in 2018 a full 38%; since the acquisition announcement on May 22, 2016, 23% have been lost until the end of 2018. The comparison with relevant benchmarks with DAX 30, EuroStoxx 50 and the chemicals peer group in chemistry is equally sad.

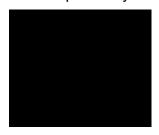
Apart from the deficits directly related to Monsanto, there were further negative items in 2018:

the substantial profitability declines and billions of euros of value adjustments in the existing core business areas of pharma and consumer health, which point to an overburdening or lack of attention by the management board as a result of too much involvement with the Monsanto deal. Mr. Baumann's mere comment today is: 'It was not possible to fully exploit the growth potential of these core areas'.

Given the significant mistakes outlined above, one questions the justification of the 28 % rise of Mr. Baumann's short term variable compensation to 1.7

million Euro for 2018; this being a secret of the Supervisory Board that will hopefully be lifted at the AGM.

It is hereby left open to propose a further Countermotion related to the Discharge of the Supervisory Board for its acts in 2018 after the Supervisory Board Chairman's presentation at the AGM and to request a 'Special Audit' for the detailed questions arising from the individual issues of the Monsanto deal after the deliberations of the Management and Supervisory Boards at the AGM."



Countermotion of Coordination gegen Bayer-Gefahren e.V. Postfach 150418, D-40081 Düsseldorf, dated March 28, 2019

#### Countermotion for the BAYER Annual Stockholders' Meeting on April 26, 2019

We hereby announce that we object to the proposals of the Board of Management and the Supervisory Board with regard to Item 3 of the Agenda and will call on the other stockholders to vote for the following countermotion.

#### **Countermotion to Item 3:**

#### The actions of the members of the Supervisory Board shall not be ratified

From 1955 until the legislative regulation of the approval procedure in 1978, BAYER tested pharmaceuticals in children's homes and youth psychiatric facilities. Following the market launch of these active ingredients, BAYER sold these products on a large scale to asylums and institutions for nontested, nonmedicinal indications.

Medications needed only be declared ("angemeldet") until 1961 and registered ("registriert") until 1978. The approval procedure we know today has only been in place since 1978. BAYER took advantage of this situation in two ways: prior to declaration/registration, the company benefited from the compliant assistance of the personnel in the psychiatric facilities. Their willingness to test medications on children receiving treatment in the homes on the company's behalf considerably reduced the costs of the procedures. Following declaration/ registration, the facilities were used as sales markets for the pharmaceuticals. In this way the children placed in these facilities served as guinea pigs and contributed to BAYER's millions in sales in this segment.

BAYER used what in some cases were completely unspecific and arbitrary symptoms as an indication for medication without any trial documentation whatsoever. Behaviors on the part of the children such as "lamentation," "moderate irritability" and "anxiety," which today are regarded as normal disgruntlement, back then necessitated massive use of pharmaceuticals in the opinion of the company and physicians.

One example of this practice is the BAYER product MEGAPHEN, which physicians tested in 1956 in the pediatric psychology department of the Schleswig state hospital. The

MEGAPHEN ingredient chlorpromazine has a moderating effect. The goal here was to ensure calm classrooms and enable easier school instruction. After studies had confirmed the sedative effects, BAYER spent decades selling the product partly to asylums. A combination treatment based on MEGAPHEN was thus also offered in "asylum packaging." The BAYER Group pursued a similar approach with the neuroleptic product AOLEPT, which was introduced to the market in 1965. The company marketed this pharmaceutical for a broad range of symptoms that for the most part did not have any medical indications at all. AOLEPT was mandatorily administered to a total of 141 children and young people in the Schleswig state hospital. Here the physicians recorded what in some cases were serious side effects such as muscle cramping in the eyes, back and mimic musculature.

Neither the children nor their guardians had given their consent to the tests at the time. Furthermore, the physicians at the time often subjected completely healthy adolescents to the procedure and usually also did not conduct a preliminary health examination. "This is ethically problematic research. I'd even go as far as to say it's ethically impermissible research," the Kiel-based medical ethicist therefore says.

The sale of BAYER products for nonmedical, pedagogical indications is no less questionable, and "months- or even years-long medication of children in homes or facilities with more or less untested psychotherapeutic drugs raises the possibility of subsequent health damage" (

2019: "Neuroleptics for children 'facilitate cohabitation," in Psychosoziale Umschau 2/19).

The company's Board of Management is obligated to clarify these incidents with those affected by the drug tests and long-term medication and to guarantee them appropriate compensation. So far the company has not reacted to contact attempts by formerly institutionalized children on whom medical experiments were carried out. The Supervisory Board has tolerated this without intervening; its actions therefore should not be ratified.

We request notification of this countermotion pursuant to Sections 125, 126 of the German Stock Corporation Act (AktG). The stockholders are asked to transfer their voting rights to the Coordination against BAYER-Dangers.

On behalf of the Executive Committee of the Coordination against BAYER-Dangers



Kressbronn, April 4, 2019

#### **Bayer Aktiengesellschaft**

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## BAYER AGM on April 26, 2019 Countermotion pursuant to Section 126 Paragraph 1 of the German Stock Corporation Act (AktG)

Ladies and gentlemen,

I hereby propose the following motions on the Agenda of the ordinary Stockholders' Meeting on April 26, 2019, pursuant to Section 126 AktG:

#### <u>Item 2: Ratification of the actions of the members of the Board of Management</u>

In connection with the Monsanto acquisition, the Board of Management purchased a "package"

the content/risks of which, by its own admission, it did not fully know, saddled itself with a steadily increasing number of litigations harboring obvious, enormous financial risks,

acquired a product in glyphosate that is exposed to the latent risk of loss of registration in various countries/regions with potentially catastrophic effects on sales.

and was willing to accept lasting damage to the company's reputation.

The company paid US\$63 billion for this. Billions of euros in stockholder assets were lost.

The request to that the actions of the members of the Board of Management be ratified must be rejected.

#### Reasoning

Monsanto's reputation has occupied the global public for many years due to its business practices and glyphosate. The WHO classified glyphosate as probably carcinogenic in 2015. A look at Monsanto's homepage with numerous press releases illustrates the heated discussion that has surrounded this product for a long time.

By the Board of Management's own admission, it was blocked from accessing detailed internal information from Monsanto; the Board of Management has also admitted that it could not undertake a full assessment of the trial risks prior to closing the acquisition.

At the beginning of the millennium and still to this day, Bayer has had traumatic experiences with Lipobay. At the "peak" of these events, Mr. Baumann worked for Bayer in the United States from 1996 until 2002. Furthermore, Bayer for a long time has been confronted with billions in additional damage claims in the United States. Lipobay continues to impact Bayer to this day, 20 years later.

He must therefore have intimate knowledge of the U.S. legal system, particularly as regards product litigation matters, the associated risks and the resulting potential damage amounts.

Against this background, Mr. Baumann and the Board of Management should have known that their actions were incompatible with the duty of care of a prudent and conscientious company director.

The Board of Management was not sufficiently well informed and therefore could not reasonably assume it was acting in the best interests of the company based on adequate information.

Today there is also contradictory information concerning the exact date and number of lawsuits involving Monsanto prior to the closing in 2018.

Yet without very detailed clarification as to exactly when, exactly how many and exactly which lawsuits were pending in connection with glyphosate, it must be assumed based on currently available information that the Board of Management, and particularly its Chairman Mr. Baumann, violated their duty of care obligation pursuant to Section 93 AktG when undertaking the Monsanto acquisition.

The reasoning must be made accessible/notified. It amounts to less than 5,000 characters overall.

#### Item 3: Ratification of the actions of the members of the Supervisory Board

"At its meetings in September, November and December, the Supervisory Board discussed in detail the litigations related to glyphosate" (Report of the Supervisory Board, p. 13 of the Annual Report). With regard to "compliance with audit obligations and duty of care responsibilities in regard to the glyphosate business when the Monsanto transaction was prepared and implemented," the Supervisory Board refers to a comprehensive expert report by a prominent law firm.

The fact that the Supervisory Board has only dealt <u>in detail</u> with the issue of "glyphosate litigations" subsequent to the closing and the time point when the expert report was produced show that the Supervisory Board grossly violated its duty of care obligation by not sufficiently monitoring the Monsanto transaction.

Indeed, it today must be assumed that an expert opinion whose contents are unknown and that should be disclosed in view of the serious nature of this issue, and

that was not commissioned until the damage had been done serves only one purpose: to exculpate the Supervisory Board.

Mr. Wenning's role is especially questionable. Only he could prematurely push Mr. Dekkers – who, as is generally known, did not want this transaction – out of his function as Chairman of the Board of Management so as to pave the way for Mr. Baumann to undertake his ill-fated activities driven by missionary zeal.

Mr. Wenning, the former Chairman of the Board of Management and current Chairman of the Supervisory Board, and Mr. Achleitner, who has been a member of the Supervisory Board since 2002, had first-hand experience of the Lipobay disaster and all legal processes in the United States.

With this intimate knowledge and many years of terrible experiences in this connection, they should under no circumstances have approved this deal before all legal questions had been fully clarified.

The actions of the members of the Supervisory Board therefore should not be ratified.

The reasoning must be made accessible/notified. It amounts to less than 5,000 characters overall.

Annex: safe deposit receipt concerning stockholdings

### Countermotion of Coordination gegen Bayer-Gefahren e.V. Postfach 150418, D-40081 Düsseldorf, dated April 10, 2019

#### Countermotion

for the BAYER Annual Stockholders' Meeting on April 26, 2019

We hereby announce that we object to the proposals of the Board of Management and the Supervisory Board with regard to Item 1 of the Agenda and intend to call on the other stockholders to vote for the following countermotion.

## **Countermotion to Item 1: Distribution of the Balance Sheet Profit**

We request that the dividend be reduced to 10 cents per share. The freed-up monies should be used as follows:

- > for the preservation and creation of safe and environmentally friendly jobs and for the payment of socially just wages;
- > for a fund to adequately compensate damages that have occurred to people, animals and the environment as a result of the company's business activities;
- > for the comprehensive ecological and social reorganization of the enterprise without double standards;
- > for the payment of reparations to the victims and descendants of the victims of the company IG FARBEN, which was co-founded by BAYER and committed heinous crimes during the period of fascism.

We would like to state that we would certainly be willing to request that no dividend be paid at all in order to fund the aforementioned efforts if this were legally possible. Unfortunately, that is not the case.

Pursuant to Sections 125 and 126 of the German Stock Corporation Act (AktG), we request that this countermotion and its statement of grounds be published.

On behalf of the Executive Committee of the Coordination against BAYER-Dangers

Bayer Aktiengesellschaft Gebäude Q 26 (Rechtsabteilung) Kaiser-Wilhelm-Allee 20 51373 Leverkusen

April 10, 2019

## Countermotion for the Annual Stockholders' Meeting of the BAYER Group on April 26, 2019

I hereby announce that I object to the proposals of the Board of Management and the Supervisory Board with regard to Item 2 of the Agenda and will call on the stockholders to vote for the following countermotion.

#### **Countermotion to Item 2:**

#### The actions of the members of the Board of Management are not ratified

BAYER acquired MONSANTO even though the U.S.-based company greatly harms people, animals and the environment with its pollutant emissions. This testifies to an irresponsible corporate policy. The actions of the members of the Board of Management therefore must not be ratified.

According to the Annual Report, BAYER's carbon dioxide emissions increased by more than 50 percent – from 3.63 million to 5.45 million metric tons – in 2018 as a result of the acquisition. "In connection with the acquisition of MONSANTO, BAYER has taken over sites for seed production and for the extraction of raw materials for the manufacture of intermediates for crop protection products, which involves energy-intensive treatment and downstream processing," the company wrote in that publication. BAYER's energy efficiency has suffered as a result. While BAYER had been able to reduce energy usage per unit of external sales in recent years, this trend has now reversed. This indicator climbed to 278, compared with 204.93 in 2017 and 208.62 in 2016. With regard to self-generated electricity, the increased use of climate-damaging liquid fuels as a source of energy gives rise to particular concerns. Consumption increased by a factor of 15, growing from 230 to 3,491 terajoules.

The increase in emissions of volatile substances (from 870 to 1,410 metric tons) and carbon dioxide (from 610 metric tons in 2017 to 4,360 metric tons) is also due to a MONSANTO effect. According to the Annual Report, this increase is "largely attributable to the inclusion of the vehicle fleet of the acquired agriculture business." BAYER also created more particulate matter, because seed production and the "processing of raw materials for the manufacture of intermediates for crop protection products" caused not just CO2 emissions, but also particulate emissions to soar.

BAYER also discharged far more pollutants into water in 2018 than in 2017. In addition to MONSANTO, the company attributed this to "more precise methods of data acquisition at the site in Kansas City" and "production adjustments at the site in Dormagen." The figure for phosphorous climbed from 40 to 180 metric tons, for nitrogen from 400 to 450 metric tons, for total organic carbon (TOC) from 390 to 620 metric tons and for heavy metals from 1.9 to 3.4 metric tons.

Yet management wasn't interested in any of this when considering the acquisition of MONSANTO. Those responsible were interested in very different numbers: the business data. The Board of Management knowingly accepted the devastating impact of the deal on the company's environmental balance. The actions of its members therefore must not be ratified.

Pursuant to Sections 125 and 126 of the German Stock Corporation Act (AktG), I request that this countermotion and its statement of grounds be published.

Sincerely,

With regard to the composition of the Supervisory Board, the Board of Management makes the following statement pursuant to Section 127, Sentence 4 German Stock Corporation Act (AktG) in conjunction with Section 96, Sentence 2 AktG:

At least 30 percent of the members must be women and at least 30 percent must be men. In principle, this minimum quota must be fulfilled by the Supervisory Board as a whole. However, the stockholder representatives have rejected overall fulfillment of this quota on the basis of a majority resolution presented to the Chairman of the Supervisory Board. The minimum quota for this election therefore has to be fulfilled separately by the stockholders' and employees' representatives and comprises three women and three men for each group of representatives. The stockholders' representatives on the Supervisory Board currently comprise three women and seven men; therefore, the minimum quota is currently fulfilled by the stockholders' representatives.

Countermotion of Coordination gegen Bayer-Gefahren e.V. Postfach 150418, D-40081 Düsseldorf, dated March 28, 2019

#### Countermotion

for the BAYER Annual Stockholders' Meeting on April 26, 2019

We hereby announce that we object to the proposals of the Board of Management and the Supervisory Board with regard to Item 4 of the Agenda and intend to call on the other stockholders to vote for the following countermotion.

#### Countermotion to Item 4: Supervisory Board election

We hereby propose that the following candidate be elected as a member of the Supervisory Board with effect from the end of the ordinary Annual Stockholders' Meeting 2019:

Christiane Schnura, Dipl.Soz.Päd. Voluntary founding member of the Coordination against BAYER-Dangers

This membership is proposed for the term until the end of the Stockholders' Meeting that resolves on the ratification of her actions in respect of fiscal 2023.

Pursuant to Sections 125 and 126 of the German Stock Corporation Act (AktG), we request that this countermotion and its statement of grounds be published.

On behalf of the Executive Committee of the Coordination against BAYER-Dangers

From: To:

HV Gegenantraege

**Subject:** Annual Stockholders' Meeting on April 26, 2019 **Date:** Wednesday, April 10, 2019 5:49:37 p.m.

Annual Stockholders' Meeting on April 26, 2019

Ladies and gentlemen,

With regard to the aforementioned Annual Stockholders' Meeting, I would like to submit the following countermotions:

Ratification of the actions of the Board of Management

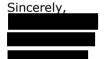
The actions of the Board of Management should not be ratified.

The Board of Management of Bayer AG undertook the acquisition of Monsanto without regard for the legal, social and moral consequences. Due to the more than 15,000 pending litigations with more expected, the value of Bayer's stock has declined by more than half. Although the company promised prior to the acquisition that several thousand jobs would be created, 15,000 positions will now instead be eliminated. Both the stockholders and the employees are worried about their company.

Ratification of the actions of the Supervisory Board

The actions of the Supervisory Board should not be ratified.

The actions of a Supervisory Board that advocates and supports such a risky acquisition and thus drives a global company straight into the wall can and must not be ratified. It, too, is responsible for the drop in the share price and the massive loss of jobs.



Enclosed please find verification that I am a stockholder of Bayer AG.



### Countermotions by the Association of Ethical Shareholders Germany,

P. O. Box 30 03 07, 50773 Cologne,

for the Annual Stockholders' Meeting of Bayer AG on April 26, 2019

### With regard to agenda item 2: Ratification of the actions of the members of the Board of Management

The Association of Ethical Shareholders Germany requests that the actions of the members of the Board of Management not be ratified.

#### Reason:

The Board of Management of Bayer AG pursues an environmentally damaging and inhumane business model that does not contribute to implementing the Sustainable Development Goals (SDGs) of the U.N. Bayer itself claims its products contribute to the achievement of SDG 2, ending hunger and promoting sustainable farming, and SDG 3 (healthy living for everyone). The argument: the growing world population can only be fed by means of pesticides and genetic engineering. Yet Bayer's industrial farming model has devastating consequences for people and the environment.

#### Bayer jeopardizes food sovereignty

The acquisition of Monsanto doesn't just impact Bayer's employees and stock performance. The goal is to make millions of smallholder farmers around the world dependent on Bayer's high-performance and genetically modified seed. Bayer also puts pressure on countries to statutorily restrict the use of farmers' seed, facilitate the introduction of license fees and approve the untested cultivation of new genetically modified plants, for example. In this way, Bayer increasingly decides what grows in the world's fields.

And while Bayer has publicly announced that it will respect the rejection of genetic engineering in Europe, it ignores protests against the cultivation of genetically modified organisms (GMOs) elsewhere and works to deregulate new genetic engineering techniques worldwide.

#### Pesticides jeopardize health

In countries of the southern hemisphere, Bayer's pesticides are sprayed on monoculture plantations by plane – what makes this possible is that the plants have been genetically modified in such a way that the poison doesn't bother them. Those living in villages adjacent to the plantations come into direct contact with the pesticides. This results in a massive increase in cancer, deformities in children and miscarriages.

#### Bayer's double standards

Whenever the E.U. bans Bayer's products due to their high toxicity, Bayer usually simply shifts them to poorer countries in which the company can exert more influence on regulatory authorities. Bayer has even announced that it intends to increase sales of its pesticides in North and Latin America – including products that were long ago banned in the E.U. Here as well, this is possible because the company sells genetically modified plants to farmers in a package with the pesticides to which they are resistant. Bayer has further expanded its range here through the integration of what were previously Monsanto products.

Another example is Brazil: The number of active substances that are sold in Brazil but were long ago banned in the E.U. has increased rather than decreased. In 2016 this applied to eight substances, and by 2019 the figure had increased to 12 active substances that are sold in Brazil but prohibited according to the E.U. pesticides database.

#### Insect mortality

Bayer's agricultural model accelerates species extinction and is damaging to insects that are essential for the continuation of all life. Monocultures leave no room for natural habitats, while nitrogen from the pesticides enters the soil and prevents the growth of plants that many insects depend on.

#### Thiacloprid: fertility-impairing substance not recalled

In addition to glyphosate from Monsanto, another pesticide from the neonicotinoid family is currently drawing criticism for its fertility-impairing effect. Instead of voluntarily withdrawing from the market pesticides such as thiacloprid as a precautionary measure to protect unborn life, Bayer places more importance on profit. The applicable E.U. Regulation 1107/2009 states: "An active substance [...] shall only be approved if [...] it is not or has not to be classified, in accordance with the provisions of Regulation (EC) No. 1272/2008, as toxic for reproduction category 1A or 1B, unless the exposure of humans to that active substance [...] is [...] negligible [...]". The active substance thiacloprid, which is produced by Bayer, is classified in the E.U. as toxic for reproduction category 1B and as carcinogenic category 2. According to statistics compiled by the German Federal Office of Food Safety and Consumer Protection, more than 500 thiacloprid residues have been identified in food each year since 2009, as well as several residues above the permissible maximum threshold each year. In other words, there can be no talk of "negligible exposure of humans."

### With regard to agenda item 3: Ratification of the actions of the members of the Supervisory Board

The Association of Ethical Shareholders Germany requests that the actions of the members of the Supervisory Board not be ratified.

#### Reason:

The Supervisory Board of Bayer AG is not sufficiently fulfilling its responsibility to instruct and oversee the Board of Management, implement more effective climate protection measures and transparently comply with duty of care responsibilities with regard to human rights. The measures implemented to date are not sufficient to make an effective contribution to achieving the goals of the Paris Climate Agreement, the U.N. Sustainability Agenda 2030, the U.N. Global Compact and the National Action Plan for Business and Human Rights of the German Federal government, to which Bayer AG has committed itself.

#### Catastrophic climate record

In the current Annual Report, Bayer itself openly admits a negative consequence of the Monsanto acquisition: "Because we are reporting emissions data for the acquired agricultural business for the first time, all emissions of the Bayer Group are considerably higher year on year." (Page 79, Annual Report 2018.) Greenhouse gas emissions alone have risen by 50 percent, from 3.63 million metric tons to 5.45 million metric tons of CO<sub>2</sub>. It remains a mystery how the company plans to achieve its own existing climate goals without selling Monsanto again. Yet even without Monsanto, the CO<sub>2</sub> reductions so far and planned measures are not sufficient to effectively curb Bayer's CO<sub>2</sub> emissions. While other companies at least formulate the target of becoming CO<sub>2</sub>-neutral, Bayer has distanced itself from substantial contributions to the 1.5 degree goal of the Paris Climate Agreement.

#### Lack of transparency with regard to human rights duty of care responsibilities

To satisfy its human rights duty of care responsibilities with regard to the company's own supply chains, Bayer commissioned a total of 749 supplier audits in 2018. Yet no substantial information about the results can be found in the Annual Report. "Serious violations or several major findings in sustainability performance" were found for 17 suppliers. It is not disclosed whether this involved serious human rights violations, inhumane working conditions or massive environmental pollution, nor are the names of the affected suppliers revealed. Bayer only ended the supplier relationship in one case, but did not disclose the reasons for this. The Supervisory Board must urgently demand more transparency, as it is impossible for stockholders and the public to assess Bayer AG's compliance with its duty of care with regard to human rights.

#### **Bayer Aktiengesellschaft**

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Frankfurt, April 11, 2019

### "BAYER AGM on April 26, 2019 Further countermotion pursuant to Section 126 Paragraph 1 of the German Stock Corporation Act (AktG)

Ladies and gentlemen,

As a private stockholder of Bayer Aktiengesellschaft, I hereby propose the following motion on the Agenda of the ordinary Annual Stockholders' Meeting on April 26, 2019, pursuant to Section 126 AktG:

#### <u>Item 3: Ratification of the actions of the members of the Supervisory Board</u>

It is requested that the ratification of the actions of the members of the Supervisory Board in office in 2018 be rejected for the year 2018.

#### Reason:

The reasons given in the statement released by Bayer's management on April 1, 2019, in response to my countermotion that the actions of the members of the Board of Management in 2018 not be ratified are substantively and materially incomprehensible as regards Mr. Baumann's short-term variable compensation. It is evident that the Supervisory Board has problems dealing properly with the much too complex compensation model.

The motion to reject the ratification of the Board of Management's actions was therefore also intended to prompt management to propose by next year's Annual Stockholders' Meeting at the latest a much simpler compensation model that is comprehensible for all stakeholders and with which only truly positive achievements by the Board of Management can be appropriately rewarded.

#### In detail:

The short-term Management Board compensation ("annual bonus") is composed (for Mr. Baumann as well) of three elements:

#### I. 1/3 sales growth & EBITDA margin before special items of the segments

- Bayer even confirms in the response to the countermotion that the operating result was worse than in 2017.
- Five of the six target values were not achieved in the Pharmaceuticals, Consumer Health and Animal Health businesses.
- The targets were achieved at Crop Science, but only after they had been adjusted over the course of the year.

#### II. 1/3 core EPS

- Bayer lists the increase in core EPS as the main reason for the 25% rise in Mr. Baumann's short-term compensation:
  - However, core EBIT / core net income / core EPS declined in absolute terms compared with 2017.
  - The fact that the degree of target achievement purportedly rose despite an absolute decline in the figures is primarily due to the significantly lowered target value (lowered from €6.72 to €5.74). Bayer's management attributes this to the Monsanto transaction and the capital increase of June 2018.

It remains unclear why and when exactly the target value was lowered.

#### III. 1/3 qualitative personal targets / Group targets

- The following personal targets applied for Mr. Baumann: acquisition and integration of Monsanto, strengthening of the Bayer brand, quality control, integration of new Board of Management members.
- The Supervisory Board's discretionary assessment of Mr. Baumann's performance in 2018 as regards the achievement of the aforementioned personal targets was clearly far too positive.

In view of the decline in operating profit, the weakening of the Bayer brand as a result of Monsanto and particularly the flawed assessment of the significant antitrust and litigation risks associated with the acquisition of Monsanto, it is at least questionable whether a 25% increase in the short-term bonus is consistent with the exercise of due discretion pursuant to Section 87 Paragraph 1 AktG in combination with Section 116 AktG."

I hereby request confirmation of the receipt of this letter and the immediate publication of the countermotion along with the reason for it. The reason for the countermotion does not exceed 5,000 characters, and the legal requirements to make it available are thus met pursuant to Section 126 Paragraph 2 Sentence 2 AktG. In view of your international stockholder base, the advisable English translation of this letter will be sent to you in a timely manner for publication on your website.

Sincerely,



Safe deposit receipt is already in your possession

Bayer Aktiengesellschaft Gebäude Q 26 (Rechtsabteilung) Kaiser-Wilhelm-Allee 20 51373 Leverkusen

April 11, 2019

## Countermotion for the Annual Stockholders' Meeting of the BAYER Group on April 26, 2019

I hereby announce that I object to the proposals of the Board of Management and the Supervisory Board with regard to Item 3 of the Agenda and will call on the stockholders to vote for the following countermotion.

#### **Countermotion to Item 3:**

#### The actions of the members of the Supervisory Board shall not be ratified

The BAYER Group continues to market contraceptives that are dangerous to health and is defending itself to the best possible extent against claims for damages. The Supervisory Board condones this irresponsible business policy. The actions of its members therefore must not be ratified.

New 3rd and 4th generation combination contraceptive pills containing the active ingredients drospirenone, dienogest, desogestrel and gestodene have a much higher risk potential than older products from the second generation. Although BAYER has done everything in its power to refrain from compensating the many thousand victims (including hundreds of fatalities), the company has since had to pay US\$2.1 billion to 17,500 plaintiffs in the United States. Further litigations are pending there, in Canada and in Israel. In Europe, affected women are suing the company in France, Austria, Italy, Switzerland and Germany. The litigation in Germany recently proceeded to a regional court of higher instance. BAYER anticipates further payments and has already taken accounting measures. The company nonetheless refuses to apologize and continues to market the products. Cynically, BAYER is even among the sponsors of the "Thrombosis Action Group" whose goal is to draw attention to the risks of thromboembolism.

Other countries are already reacting: in France, health insurers now are no longer assuming the costs of third and fourth generation pills. In the United Kingdom, the Benelux countries, Denmark and Norway, the health authorities are warning of the increased risks. And there is also activity in Germany: the "Techniker Krankenkasse" health insurer published a pill report in October 2015 in which it advises against taking 3rd and 4th generation birth control pills.

Nonetheless, the marketing activities of the producer BAYER and BAYER subsidiary JENAPHARM continue to be directed especially toward girls and young women. The product is primarily advertised with promises such as "weight loss" and "effective against acne". Yet the increased risks are not mentioned. Drospirenone-based products such as Yasmin®, Yasminelle® and Yaz® for a long time were the world's best-selling birth control pills and were once among BAYER's top-selling products. For 11 years, however, warnings about increased risks were not contained in the pack inserts for pills from the Yasmin group.

The situation is now similar for products such as Valette® with the active ingredient dienogest. It seems that the pharmaceutical industry is once again shying away from the responsible approach of producing warning information so as not to jeopardize profits. That's because in December 2018 already, Germany's Federal Institute for Drugs and Medical Devices (BfArM) sent a so-called red-hand letter to all physicians that contained a clear warning of an increased risk stemming from combination pills with the ingredient dienogest. On the internet site of BAYER's subsidiary JENAPHARM, the pack insert still does not contain a warning. Instead, the information reads that the risk of venous thromboembolism is currently UNKNOWN. In Germany alone, some 53 deaths and 1,463 thromboembolic incidents have been reported to the BfArM. Experts believe the true numbers are actually much higher because a causal relationship often is not presumed. Women who have suffered damage have to deal with the consequences for the rest of their lives. Family planning and career desires have often been destroyed at a single blow.

Yet BAYER still refuses to accept responsibility for its birth control pills in Germany and Europe, and conducts irresponsible marketing for many medicinal products. The company also freely admits that it wants to leave the dangerous birth control pills on the market "for as long as the revenues exceed the compensation payments". It is a cynical and fatal position. In other words, BAYER will stop at nothing as long as its financial statements are good. As the Supervisory Board gives cover to these business practices, I ask that the actions of its members not be ratified.

Pursuant to Sections 125 and 126 of the German Stock Corporation Act (AktG), I request that this countermotion and its statement of grounds be published.

Sincerely,