

Delivery Hero SE – Annual General Meeting 2019

Agenda Item 5:

Resolution on the amendment of Authorized Capital/VII pursuant to § 4 (8) of the Articles of Association and corresponding amendments of § 4 (8) of the Articles of Association

Report of the Management Board on the authorizations of the Management Board to exclude subscription rights pursuant to § 203 (2) sentence 2 in conjunction with § 186 (4) sentence 2 of the AktG

Under item 5 of the agenda, the Management Board and the Supervisory Board propose that the Authorized Capital/VII be amended by way of cancellation and recreation. Due to the legally necessary recreation of the entire authorization, the Management Board also re-submits a complete report in accordance with § 203 (2) sentence 2 in conjunction with § 186 (4) sentence 2 AktG.

The Management Board and Supervisory Board are of the opinion that it is reasonable to continue to allow the Company to increase the share capital on short notice under exclusion of subscription rights in order to give the Company flexibility for further growth and any acquisition opportunities, which may arise.

It is therefore intended to resolve on a new Authorized Capital/VII, which, with the exception of the expanded option to exclude subscription rights under § 4 (8) lit. v) in terms of content largely corresponds to the previous Authorized Capital/VII. With the proposed Authorized Capital/VII, the Management Board of Delivery Hero SE will be able to, at any time, align the net equity base of Delivery Hero SE to the business requirements within the specified limits and will be able to act swiftly and flexibly in the interest of the Company. In order to be able to do so, the Company must always have the necessary financing instruments available, regardless of specific utilization plans. As decisions on the covering of capital needs are normally to be made on short notice, it is important for the Company not to depend on the intervals of the annual general meetings of shareholders and not to have to wait for extraordinary general meetings. The legislator has considered this requirement by way of the instrument of authorized capital. Common reasons for utilizing authorized capital include strengthening the equity capital base and financing the acquisition of shares.

By means of amending the Authorized Capital/VII, the Management Board is authorized to increase, with the approval of the Supervisory Board, the Company's share capital once or several times until 8 June 2022 by issuing up to 54.071.949 new registered shares against cash and/or contribution in kind by a total of up to EUR 54,071,949.00 (Authorized Capital/VII).

When utilizing the Authorized Capital/VII, shareholders are generally entitled to a subscription right. Pursuant to § 203 (1) sentence 1 in conjunction with § 186 (5) AktG, the new shares can also be taken over by one or several credit institutions that must undertake to offer them to the shareholders for subscription ("indirect subscription right"). In this context, the Management Board, with the approval of the Supervisory Board, shall be allowed to design the subscription right partly as an immediate subscription right and otherwise as an indirect subscription right.

The proposed authorization provides for the Management Board to be allowed to exclude the shareholders' subscription right, in whole or in part, in the below-described cases, in accordance with the legal provisions and with the approval of the Supervisory Board.

Exclusion of subscription rights for fractional amounts

The Management Board shall be authorized to exclude the shareholders' subscription right for fractional amounts with the approval of the Supervisory Board. Such exclusion of the subscription right shall enable a practicable subscription process and thus facilitate the technical implementation of a capital increase. The value of the fractional amounts is generally low, but the expense of issuing shares without excluding the subscription right for fractional amounts is usually much higher. With respect to fractional amounts, the costs associated with trading in subscription rights would be out of proportion to the shareholders' actual benefits. The new shares, which - as "free fractions" - are excluded from the shareholders' subscription right, will be used in the Company's best interest. The exclusion of the subscription right in these cases therefore serves the practicability and facilitates the execution of an issuance of new shares.

Exclusion of subscription rights in case of capital increases by way of contribution in kind

The Management Board shall also be authorized to exclude the shareholders' subscription right with the approval of the Supervisory Board in case of a capital increase against contributions in kind, in particular in connection with mergers of companies or the (also indirect) acquisition of companies, operations, parts of companies, participations or other assets or claims for the acquisition of assets including claims against the company or its group companies. This should enable Delivery Hero SE to quickly and flexibly offer shares in the Company in appropriate cases in order to fulfill claims arising from the preparation, execution, implementation or settlement of contractual or statutory acquisitions as well as mergers.

Delivery Hero SE has to be able to act quickly and flexibly in the interest of its shareholders, at any time. This includes acquiring, on short notice, companies, and operations, parts of companies, participations or other assets or claims for the acquisition of assets including claims against the company or its group companies in order to improve its competitive position. In return, it may be reasonable or even necessary to grant shares in order to preserve liquidity or to meet the sellers' expectations. The granting of shares instead of money may also make sense from the perspective of an optimal financing structure. This will not be disadvantageous to the Company, as the emission of shares against a contribution in kind requires for the value of such contribution in kind to be in due proportion to the value of the shares. When determining the valuation ratio, the Management Board must make sure to protect the interests of the Company and of its shareholders appropriately and to achieve an adequate issue price for the new shares. Moreover, the Company's listing on the stock exchange essentially gives every shareholder the opportunity to increase its participation quota by acquiring additional shares.

Exclusion of subscription rights in case of capital increases for cash pursuant to § 186 (3) sentence 4 AktG

In case of cash capital increases, the Management Board shall be authorized to exclude the subscription right pursuant to § 203 (1) sentences 1 and 2, § 186 (3) sentence 4 AktG with the approval of the Supervisory Board, if the par value of the new shares does not fall substantially

short of the stock exchange price of the already listed shares. It may be reasonable to use this option of excluding the subscription right if the Company wishes to take advantage of favorable market conditions quickly and flexibly and to cover, on very short notice, any capital requirements that may arise in this context. The two-week subscription period that is required when granting a subscription right to the shareholders (§ 203 (1) sentence 1 in conjunction with § 186 (1) sentence 2 AktG) does not allow for a comparable short-term reaction to current market conditions. Moreover, due to the volatility of the equity markets, conditions close to market-conditions can generally only be achieved if they do not bind the Company over a longer period. When granting a subscription right, § 203 (1) sentence 1 in conjunction with § 186 (2) AktG requires for the final subscription price to be published no later than three days before the expiry of the subscription period. This means that the granting of a subscription right is associated with a greater market risk – in particular the price change risk existing for several days – than an allocation without subscription rights. For a successful placement, therefore, appropriate safety discounts to the current stock exchange price are regularly required when granting subscription rights; this will normally result in less favorable conditions for the Company than a capital increase under exclusion of the subscription right. The exclusion of the subscription right allows for a placement close to the stock exchange price. Also, if a subscription right is granted, a complete placement is not easily guaranteed due to the uncertainty regarding the exercise of the subscription rights by the beneficiaries and a subsequent placement with third parties is normally associated with extra expenses.

The portion of the share capital attributable to the shares issued under such an exclusion subscription rights, must not exceed, in total, 10 % of the share capital either at the time of said authorization taking effect or at the time of said authorization being exercised. In this context, the legislator assumes it is possible and reasonable to expect the shareholders to maintain their participation quota by purchases on the market. In calculating this limit of 10 % of the share capital, the pro rata amount of the share capital attributable to shares sold during the term of the Authorized Capital/VII on the basis of an authorization to sell own shares pursuant to or in accordance with §§ 71 (1) no. 8 sentence 5, 186 (3) sentence 4 AktG under an exclusion of subscription rights shall be included. Moreover, the pro rata amount of the share capital attributable to the shares issued during the term of the Authorized Capital/VII on the basis of other authorizations to issue shares of the Company under exclusion of shareholders' subscription rights in direct or analogous application of § 186 (3) sentence 4 AktG shall also be included. Furthermore, the pro rata amount of the share capital attributable to the shares that can be or are to be issued to service bonds with conversion and/or option rights or with conversion and/or option obligations shall be credited if the bonds are issued during the term of the Authorized Capital/VII under exclusion of shareholders' subscription rights in corresponding application of § 186 (3) sentence 4 AktG. These deductions serve to protect the shareholders in order to keep the dilution of their participation as low as possible. The imputation model makes it possible that even if capital measures are combined with the issue of bonds and/or the sale of treasury shares, the participation quota of the shareholders is not diluted by more than 10 %. Furthermore, due to the issue price of the new shares being close to the stock exchange price and due to the limitation of the size of the capital increase without subscription rights, shareholders generally have the opportunity to maintain their participation quota by acquiring the required shares on approximately the same terms via the stock exchange. It is therefore ensured that, in accordance with the legal assessment of § 186 (3) sentence 4 AktG, the financial and investment interests are adequately safeguarded when the Authorized

Capital/VII is utilized under exclusion of subscription rights, while the Company is given further scope for action in the interest of all shareholders.

Exclusion of subscription rights for bonds and warrants

The Management Board shall also be authorized to exclude the shareholders' subscription right with the approval of the Supervisory Board, if and in so far as is necessary to grant the bearers or creditors of conversion and/or option rights, and/or the bearers or creditors of bonds carrying conversion and/or option obligations, which will be issued by the Company or by its affiliated companies, a subscription right to an extent they would be entitled to after the exercise of the conversion or option rights or after the fulfilment of a conversion or option obligation.

The background to this is as follows: In addition to the conversion or option price, the economic value of the aforementioned conversion and/or option rights or the bonds with conversion and/or option obligations also depends in particular on the value of the shares of the Company to which the conversion and/or option rights or conversion and/or option obligations relate. In order to ensure a successful placement of the relevant bonds or to avoid a corresponding price discount in the placement, it is therefore customary to include dilution protection provisions in the terms and conditions of the bonds which protect the beneficiaries against a loss in value of their conversion or option rights due to a dilution in the value of the shares to be subscribed; the inclusion of such anti-dilution provisions in the bond or option terms is accordingly also provided for in the authorization proposed under agenda item 6 to issue convertible bonds and/or bonds with warrants and/or profit-sharing rights with option and/or conversion rights (or a combination of these instruments). A subsequent share issue granting the shareholders' subscription rights would typically lead to such a dilution in value without protection against dilution. In that case, the aforementioned anti-dilution provisions in the terms and conditions of the bond regularly provide for a reduction of the conversion and/or option price, having the consequence that the funds received by the Company in case of a later conversion or exercise of the option or later fulfilment of a conversion or option obligation are reduced or that the number of shares to be issued by the Company is increased. As an alternative, based on which a reduction of the conversion and/or option price can be avoided, the anti-dilution provisions normally allow for those who are eligible for Bonds carrying conversion and/or option rights or conversion and/or option obligations to be granted a subscription right on new shares to an extent they would be entitled to after the exercise of their own conversion and/or option rights or after the fulfilment of their conversion and/or option obligations. They are thus treated as if they had already become shareholders by exercising their conversion or option rights or by fulfilling any conversion or option obligations prior to the Subscription Offer and to this extent have already become shareholders; they are thus compensated for the dilution in value - like all shareholders already involved - by the value of the subscription right. For the Company, this second alternative – namely the granting of dilution protection – has the advantage that the conversion and/or option price does not have to be reduced; it therefore serves to guarantee the greatest possible inflow of funds in the event of a subsequent conversion or exercise of an option or the subsequent fulfilment of any conversion or option obligation or reduces the number of shares to be issued in this case. This also benefits the shareholders involved, so that it also compensates for the restriction of their subscription rights. Their subscription right, as such, remains intact and is reduced merely proportionately to the extent to which a subscription right is granted not only to the participating shareholders, but also to the bearers of the conversion and/or option rights or of the Bonds carrying conversion and/or option obligations. This

authorization gives the Company the opportunity, in the event of a subscription rights issue, to choose between the two alternatives of granting dilution protection described above, taking into account the interests of the shareholders and the Company.

Exclusion of subscription rights for a long-term incentive program

The Management Board shall also be authorized to exclude the shareholders' subscription right with the approval of the Supervisory Board, in order to issue up to 3,900,000 shares, i.e. approximately 2.08 % of the share capital at the time of the convocation, to the Management Board and employees of the Company as well as to members of the management bodies and employees of companies affiliated with the Company in terms of §§ 15 et seq. AktG.

It is common national and international practice to offer performance incentives to the managers and employees of a company that strengthen the ties between the management, the employees and their company in the long run. The Management Board and Supervisory Board are convinced that a long-term incentive program is necessary to ensure that the Company remains attractive for qualified executives and employees in the future. Accordingly, the Company is to be given the opportunity to offer selected executives and employees a corresponding compensation component for the acquisition of shares. In this way, the attractiveness of the company in the competition for executives and employees is to be further increased. In particular, the possibility of acquiring shares as part of a long-term incentive program is intended to create a special performance incentive, the yardstick of which is the value of the Company as reflected in and to be increased in the price of the Company's shares. The interests of managers and employees - as well as the interests of shareholders - are therefore directed towards increasing the value of the company. This will also benefit the shareholders through the resulting positive effects on the stock exchange price of the share. The possibility of acquiring shares enables managers and employees to participate in this process.

It is true that virtual commitments or commitments to be fulfilled in cash are also conceivable as alternatives to incentivizing managers and employees, for which no exclusion of subscription rights is necessary. However, when shares are issued, the respective beneficiary actually becomes a shareholder and acquires the corresponding shareholder rights. This promotes the identification of the beneficiaries with the company, which is why the Management Board and the Supervisory Board consider a long-term participation program for executives and employees to be a sensible method of incentivizing the stockholders.

The previous Authorized Capital/VII already includes an authorization for the Management Board to exclude the subscription right for up to 900,000 shares as part of a long-term incentive program. In order to be able to sustainably pursue the purpose of such a program, which is to permanently bind qualified executives and employees to the Company, the authorization to exclude subscription rights is to be increased by a further 3,000,000 shares to a total of up to 3,900,000 shares. In view of the limitation to around 2.08 % of the share capital existing at the time of convening the Annual General Meeting, the accompanying dilution of shareholders is relatively low. The Management Board and Supervisory Board are convinced that the opportunity for executives and employees to receive shares in the Company as part of a long-term incentive program is particularly suitable for providing a sustainable incentive and thus contributing to an increase in the value of the Company in the interests of the Company and its shareholders.

In consideration of all the above circumstances, the Executive Board and the Supervisory Board therefore consider the possibility of excluding the subscription right for a total of up to 3,900,000 shares as part of a long-term incentive program - also taking into account the dilution effect to the detriment of the shareholders - to be objectively justified and appropriate.

Utilization of the authorization

At this time, there are no concrete plans to utilize the Authorized Capital/VII. Corresponding anticipatory resolutions including an option to exclude subscription rights are common both at the national and international level. The approval of the Supervisory Board is required for all cases of exclusion of subscription rights proposed here. In addition, the Management Board will in each case carefully examine whether the utilization of the Authorized Capital/VII is in the interest of the Company; in particular, it will also examine whether any exclusion of subscription rights is objectively justified in individual cases. The Management Board will report to the next Annual General Meeting on each utilization of the authorization.

The Management Board

Niklas Östberg
Chair of the
Management Board

Emmanuel Thomassin
Member of the
Management Board