

2.6 Takeover law disclosures pursuant to Sections 289a (1), 315a (1) HGB and explanatory report⁵⁹

The disclosures required according to Sections 289a (1), 315a (1) HGB are listed and explained below.

Composition of issued capital

With respect to the composition of the issued capital, please refer to section Equity of the Notes.

Restrictions relating to voting rights or the transfer of shares

At the end of the reporting year, ZALANDO SE had 4,558,107 treasury shares that do not grant rights in accordance with Section 71b AktG.

Shareholdings that exceed 10% of the voting rights

At the end of fiscal year 2022, Baillie Gifford & Co and Anders Holch Povlsen each held an indirect shareholding in ZALANDO SE that exceeded the threshold of 10% of voting rights. Information on the amount of the above-mentioned shareholdings in the company can be found in [1.4 The Zalando share – 2022 in review](#).

Statutory regulations and provisions of the articles of association concerning the appointment and removal from office of Management Board members, and concerning modifications to the articles of association

According to Article 9 (1), Article 39 (2) and Article 46 of the SE Regulation, Sections 84 and 85 AktG and Article 7 (4) of the Articles of Association, the Supervisory Board appoints the members of the Management Board for a maximum term of five years. Re-appointments are permissible. The Supervisory Board is authorized to revoke the appointment of a Management Board member for an important reason (for details, see Article 9 (1), Article 39 (2) of the SE Regulation, Section 84 AktG). According to Article 7 (1) of the Articles of Association, the Management Board consists of one or more members. The number of members of the Management Board is determined by the Supervisory Board.

The general meeting passes resolutions to amend the Articles of Association. According to Article 20 (2) of the Articles of Association, amendments to the Articles of Association require a two-thirds' majority of the valid votes cast or, if at least one-half of the share capital is represented, a simple majority of the valid votes cast unless this conflicts with mandatory legal provisions.

⁵⁹ Takeover law disclosures pursuant to Sections 289a (1), 315a (1) HGB are part of the combined management report and also form part of the corporate governance statement with the declaration of conformity.

According to Article 12 (5) of the Articles of Association, the Supervisory Board is entitled to make changes to the Articles of Association that pertain to the wording only. Pursuant to Article 4 (3) of the Articles of Association, the Supervisory Board is authorized to adjust the wording of the Articles of Association to reflect the implementation of the increase of the registered share capital from authorized capital or after the term of the authorization has expired.

Authority of the Management Board to issue shares or acquire treasury shares

After partial exercise of a corresponding authorization granted by the annual general meeting on June 23, 2020 based on resolutions of the Management Board and the Supervisory Board on June 13, 2022, our Management Board is authorized to increase the registered share capital of the company until June 22, 2025, with the consent of the Supervisory Board, once or several times, by up to a total of EUR 99,254,719 by issuing up to 99,254,719 new no-par value bearer shares against contributions in cash and/or in kind (Authorized Capital 2020). The shareholders are, in principle, entitled to subscription rights. The Management Board is authorized to exclude the subscription right of the shareholders with the consent of the Supervisory Board in the cases described in the authorization. The total shares issued under the authorization with the exclusion of subscription rights must not exceed 20% of the registered share capital, either at the time the authorization becomes effective or at the time it is exercised. The aforesaid 20% limit includes (i) treasury shares sold with the exclusion of subscription rights, and (ii) shares to be issued to service bonds with conversion and/or option rights or obligations, insofar as the bonds were issued with the exclusion of shareholders' subscription rights on the basis of the authorization by the annual general meeting of June 23, 2020. The Management Board is authorized, with the consent of the Supervisory Board, to determine any further details of the capital increase, the further content of the rights arising from the shares and the conditions of the share issue. The new shares participate in profits from the start of the fiscal year in which they are issued. To the extent legally permissible, however, the Management Board may, subject to the consent of the Supervisory Board determine that the new shares shall bear dividend rights from the beginning of an already past fiscal year for which no resolution of the general meeting regarding the appropriation of the net profit had been passed at the time when they were issued.

The share capital of ZALANDO SE is conditionally increased by up to EUR 2,445,140 by issuing up to 2,445,140 new no-par value bearer shares (Conditional Capital 2013). The Conditional Capital 2013 may be used only to fulfill the subscription rights that have been granted to the members of our Management Board in connection with the Stock Option Program 2013 in accordance with the resolution of the annual general meeting of December 18, 2013, as amended by the annual general meetings of June 3, 2014, July 11, 2014, and of June 23, 2020. The conditional capital increase will be implemented only to the extent that such subscription rights have been issued in accordance with the Stock Option Program 2013, the holders of the subscription rights exercise their rights and Zalando does not deliver treasury shares to satisfy the subscription rights. The Supervisory Board is exclusively competent regarding the granting and settlement of subscription rights to the members of our Management Board.

The share capital of the ZALANDO SE is conditionally increased by up to EUR 3,297,193.00 by issuance of up to 3,297,193 new no-par value bearer shares (Conditional Capital 2014). The Conditional Capital 2014 may only be used to fulfil the subscription rights which have been granted to our employees of the company as well as members of the management bodies and employees of companies affiliated with the company in the meaning of Sections 15 et seq. AktG in connection with the Stock Option Program 2014 in accordance with the resolution of the annual general meeting of the company on June 3, 2014, as amended by the company's annual general meeting of July 11, 2014, of June 23, 2020 and of May 18, 2022. The conditional capital increase will only be implemented to the extent that such subscription rights have been issued in accordance with the Stock Option Program 2014 as resolved by the annual general meeting on June 3, 2014, as amended by the Company's annual general meeting of July 11, 2014, of June 23, 2020 and of May 18, 2022, the holders of the subscription rights exercise their rights and the company does not deliver treasury shares to satisfy the subscription rights.

The share capital of ZALANDO SE is conditionally increased by up to EUR 3,089,010.00 against contribution in cash and in kind by the issuance of up to 3,089,010 new no-par value bearer shares with a pro-rata share in the share capital of EUR 1.00 to fulfil subscription rights for shares of the company (Conditional Capital 2016). The Conditional Capital 2016 may only be used to fulfil the subscription rights which have been granted once or several times – partly as a component of stock appreciation rights – in accordance with the resolution of the annual general meeting of the company of May 31, 2016, as amended by resolution of our annual general meeting of May 18, 2022. The new shares shall be subscribed either against a cash payment in the amount of the lowest issue price in the meaning of Section 9 (1) AktG or against the contribution of the participants' remuneration entitlements under the stock appreciation rights granted to them, which are granted in accordance with the authorization of the annual general meeting of May 31, 2016, as amended by resolution of our annual general meeting of May 18, 2022. The conditional capital increase will be implemented only to the extent that subscription rights or stock appreciation rights with subscription rights have been issued in accordance with the resolution of the annual general meeting of May 31, 2016, as amended by resolution of the company's annual general meeting of May 18, 2022, the holders of subscription rights exercise their rights and the company grants no treasury shares or cash payments for the satisfaction of the subscription rights. The subscription shares will be issued at the lowest issue price of EUR 1.00.

ZALANDO SE's share capital is conditionally increased by up to EUR 1,522,269.00 by the issuance of up to 1,522,269 new bearer shares with no par value (Conditional Capital 2019). The Conditional Capital 2019 exclusively serves the purpose to service subscription rights granted to members of the company's Management Board in connection with the Long Term Incentive 2018 in accordance with the resolution of our annual general meeting on May 22, 2019 under agenda item 7, as amended by resolution of our annual general meeting of May 18, 2022. The conditional capital increase will be implemented only to the extent that the holders of the granted subscription rights exercise their right to subscribe for shares of the company and the company grants no treasury shares or cash payments to fulfil the subscription rights. The new shares under the conditional capital will be issued for the minimum issue amount pursuant to Section 9 para. 1 AktG.

The share capital is conditionally increased by up to EUR 75,199,787 by issuing up to 75,199,787 new no-par value bearer shares (Conditional Capital 2020). The exclusive purpose of the conditional capital increase is to grant shares to the holders/creditors of convertible bonds and/or bonds with warrants or a combination of all of these instruments issued until June 22, 2025, by the company or any subordinate group company of the company pursuant to the authorization on which a resolution was passed by the annual general meeting on June 23, 2020, under agenda item 11 lit. b) and that grant a conversion or option right to new no-par value bearer shares of the company or provide for a conversion or option obligation or an option entitling the issuer to deliver shares to the extent that they are issued against cash contributions. The new shares are issued in each case at a conversion price or option price to be stipulated pursuant to the authorization resolution specified above. The conditional capital increase is carried out only to the extent to which use is made of conversion or option rights or conversion or option obligations are fulfilled or an option entitling the issuer to deliver shares is exercised and no other forms of fulfillment of delivery are used. The Management Board is authorized, with the consent of the Supervisory Board, to determine the further details of the implementation of conditional capital increases.

The new shares from the Conditional Capital 2013, the Conditional Capital 2014, the Conditional Capital 2016, the Conditional Capital 2019 and the Conditional Capital 2020, participate in the profits from the beginning of the fiscal year in which they are issued; notwithstanding this, the new shares participate in the profits from the beginning of the fiscal year preceding the fiscal year in which such new shares are created if the general meeting has not yet adopted a resolution on the appropriation of the distributable profit of the fiscal year preceding the fiscal year in which such new shares are created.

The Management Board is authorized until June 22, 2025, by resolution of the annual general meeting of June 23, 2020, to acquire treasury shares for any permissible purpose totaling up to 10% of its registered capital as of the date of the resolution or as of the date on which the authorization is exercised if the latter value is lower. Shares acquired may not at any time amount to more than 10% of the total share capital when taken together with other treasury shares held by the company or allocable to the company in accordance with Section 71a et seq. AktG. In addition to this, the Management Board is authorized until June 22, 2025, to use derivatives to acquire treasury shares. All shares that are acquired using derivatives are limited to shares that pertain to at most 5% of the share capital existing as of the date of the resolution of the general meeting or, if the amount is lower, share capital existing at the time this authorization is exercised.

We refer to the resolutions proposed by the Management Board and the Supervisory Board in items 8 and 9 of our annual general meeting agenda for June 23, 2020, which was published in the Federal Gazette on May 15, 2020, with regard to details of the authorization to acquire treasury shares.

Company compensation agreements that have been entered into with Management Board members or employees in the event of a takeover bid

The Stock Option Program SOP 2013, the Long-Term Incentive LTI 2018, the Long-Term Incentive LTI 2019 and the Long-Term Incentive LTI 2021 and the Long-Term Incentive 2021/2022 allow for a replacement of option rights held by the Management Board in the case of a change of control. The Supervisory Board and the Management Board are both entitled to request the cancellation of the vested outstanding options in exchange for payment by the company. LTI 2018, LTI 2019, LTI 2021 and LTI 2021/2022 options not yet vested at the time of a change in control may be replaced at the discretion of the Supervisory Board by an economically equivalent new program.

Significant company agreements subject to a change of control due to a takeover bid

The material agreements that are subject to the condition of a change of control involve the revolving credit facility, the convertible bonds and various reverse factoring agreements. In the event of a change of control, these agreements provide the right to terminate the agreement and accelerate repayment or, for factors, the right to terminate the agreement or renegotiate the contractual terms. In the event of a change of control, each bondholder is entitled to call all or any of its bonds that have not yet been converted or redeemed. If a bondholder cancels the bonds, we must repay the bonds on the control acquisition date.