

FRESENIUS MEDICAL CARE CORP

Form F-4/A

May 20, 2005

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**As filed with the Securities and Exchange Commission on May 20, 2005**

**Registration No. 333-124759**

**SECURITIES AND EXCHANGE COMMISSION  
Washington, D.C. 20549**

**Amendment No. 1 to  
Form F-4  
REGISTRATION STATEMENT UNDER THE SECURITIES ACT OF 1933**

**Fresenius Medical Care Aktiengesellschaft**  
*(Exact Name of Registrant as Specified in Its Charter)*  
**Fresenius Medical Care Corporation**  
*(Translation of Registrant's Name into English)*

**Germany**  
*(Jurisdiction of  
incorporation or organization)*

**3841**  
*(Primary Standard Industrial  
Classification Code Number)*

**Not applicable**  
*(I.R.S. Employer  
Identification Number)*

**Else-Kröner-Strasse 1  
61352 Bad Homburg v.d.H., Germany  
Telephone: 011-49-6172-609-0**  
*(Address, Including Zip Code, and Telephone Number,  
Including Area Code, of Registrant's Principal Executive Offices)*

**Dr. Ben J. Lipps  
Fresenius Medical Care Holdings, Inc.  
95 Hayden Avenue  
Lexington, MA 02420  
617-402-9000**  
*(Name, Address, Including Zip Code, and Telephone Number,  
Including Area Code, of Agent For Service)*

**Copy to:  
Charles F. Niemeth, Esq.  
Baker & McKenzie LLP  
805 Third Avenue  
New York, New York 10022  
(212) 751-5700**

**Approximate date of commencement of proposed sale to the public:** As soon as practicable after this Registration Statement becomes effective.

If this Form is filed to register additional securities for an offering pursuant to Rule 462(b) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering.

If this Form is a post-effective amendment filed pursuant to Rule 462(d) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering.

**The Registrant hereby amends this Registration Statement on such date or dates as may be necessary to delay its effective date until the Registrant shall file a further amendment which specifically states that this Registration Statement shall thereafter become effective in accordance with Section 8(a) of the Securities Act of 1933, or until this Registration Statement shall become effective on such date as the Commission, acting pursuant to said Section 8(a), may determine.**

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The information in this information statement/ prospectus is not complete and may be changed. We may not sell these securities until the registration statement filed with the Securities and Exchange Commission is effective. This information statement/ prospectus is not an offer to sell these securities and it is not soliciting an offer to buy these securities in any state or jurisdiction where the offer or sale is not permitted.

**SUBJECT TO COMPLETION, DATED MAY 20, 2005**

**INVITATION TO THE EXTRAORDINARY GENERAL MEETING**

**ISIN: DE 0005785802 // Securities Identification Numbers 578 580**

**ISIN: DE 0005785836 // Securities Identification Numbers 578 583**

**ISIN: DE 000A0DRW61 // Securities Identification Numbers A0DRW6**

**ISIN: US 3580291066 // American Depositary Receipts Numbers 879 529**

**ISIN: US 3580292056 // American Depositary Receipts Numbers 903 780**

We are pleased to invite our shareholders to attend an extraordinary general meeting of the shareholders of Fresenius Medical Care Aktiengesellschaft ( Fresenius Medical Care AG or the Company ) on \_\_\_\_\_, \_\_\_\_\_, 2005. The meeting will begin promptly at \_\_\_\_\_ a.m. local time at \_\_\_\_\_. The purpose of this meeting is to submit to the consideration and approval of our ordinary shareholders the proposals stated in the Agenda below.

**AGENDA**

1. The conversion of our outstanding preference shares into ordinary shares;
2. The conversion of interests held and related adjustments under our employee participation programs;
3. The creation of authorized capital; and
4. The transformation of the Company's legal form from a stock corporation (*Aktiengesellschaft*) under German law into a partnership limited by shares under German law, a *Kommanditgesellschaft auf Aktien* ( KGaA ) to be called Fresenius Medical Care AG & Co. KGaA ( Fresenius Medical Care KGaA ), with Fresenius Medical Care Management AG ( Management AG ), a subsidiary of Fresenius AG, as the sole general partner.

The following documents are available for the inspection of our shareholders at the offices of the Company, Else-Kröner-Strasse 1, 61352 Bad Homburg, Germany:

The conversion report of our management board on the conversion of our preference shares into ordinary shares;

The report of our management board on the reasons for the exclusion of the pre-emptive right in connection with the creation of authorized capital; and

The transformation report of our management board setting forth the reasons for the transformation.

Copies of the English translation of the conversion report and the transformation report have been furnished to the Securities and Exchange Commission under cover of a Report on Form 6-K and may be obtained as described below under Where You Can Find More Information. On request, each shareholder will be provided with a copy of each of the above documents free of charge. These reports will also be available for inspection at the extraordinary general meeting.

**NEITHER THE SECURITIES AND EXCHANGE COMMISSION NOR ANY STATE SECURITIES COMMISSION HAS APPROVED OR DISAPPROVED THE SECURITIES TO BE ISSUED UNDER THIS INFORMATION STATEMENT/ PROSPECTUS OR DETERMINED IF THIS INFORMATION STATEMENT/ PROSPECTUS IS ACCURATE OR COMPLETE. ANY REPRESENTATION TO THE CONTRARY IS A CRIMINAL OFFENSE.**

This information statement/ prospectus is dated \_\_\_\_\_, 2005, and is first being mailed to \_\_\_\_\_ shareholders on or about \_\_\_\_\_, 2005.

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Shareholders who hold American Depositary Shares evidenced by American Depositary Receipts are being furnished, together with this information statement/ prospectus, a request for voting instructions directed to the depositary for the American Depositary Shares. Holders of ordinary American Depositary Shares who wish to have their shares voted at the extraordinary general meeting should complete such request and return it to the depositary in accordance with the instructions accompanying the request on or before the date specified therein. The depositary will try, as far as is practical, subject to the provisions of and governing our ordinary shares, to vote or to have its agents vote the shares or other deposited securities as instructed. The depositary will only vote or attempt to vote as holders instruct. The depositary will not itself exercise any voting discretion. Neither the depositary nor its agents are responsible for any failure to carry out any voting instructions, for the manner in which any vote is cast or for the effect of any vote.

Shareholders (other than holders of American Depositary Shares) who deposit their shares during normal business hours no later than \_\_\_\_\_, 2005 with the Company, a notary public in the Federal Republic of Germany, a securities clearing and depository bank, or Dresdner Bank AG and its branches, and keep their shares deposited through the close of the extraordinary general meeting will be entitled to attend the meeting. In case of deposit with a German notary public or a securities clearing and depository bank, you must submit the certificate to be issued by them to the cash office of the Company no later than on the first business day after the deadline for deposit, i.e. by \_\_\_\_\_, 2005. Shares will be deemed properly deposited if, with the consent of the depositary, the shares are blocked in favor of such depositary at a credit institution until the close of the meeting.

A shareholder may also exercise his or her voting right and/or his or her right of attendance at the extraordinary general meeting by engaging a party to act as his or her proxy, such as the depositary bank, an association of shareholders or another person of his or her choice. As a special service, ordinary shareholders (other than holders of American Depositary Shares), can authorize a proxy who will be appointed by the Company before the meeting. Shareholders who would like to authorize the proxy announced by the Company must obtain an entrance card for the extraordinary general meeting. An entrance card will be issued upon deposit of shares in accordance with the above procedures. Proxies must be transmitted in text form. The necessary documents and information will be distributed to shareholders together with the entrance card.

Each ordinary share will be entitled to one (1) vote at the extraordinary general meeting. Preference shareholders are invited to attend but are not entitled to vote at the extraordinary general meeting.

Counter proposals to a proposal of the management board and supervisory board on a particular item on the agenda may be made to:

Fresenius Medical Care AG  
Attention: Investor Relations  
Else-Kröner-Strasse 1  
61352 Bad Homburg v.d.H., Germany  
Telefax: ++49-6172-609-2301  
e-mail: [ir-fms@fmc-ag.de](mailto:ir-fms@fmc-ag.de)

Counter proposals received no later than two weeks before the date of the extraordinary general meeting at this address will be made accessible to other shareholders on our website at [www.fmc-ag.com](http://www.fmc-ag.com) as soon as practicable after receipt. Counter proposals that are sent to any address other than the address set forth above will not be considered.

Hof a.d. Saale, \_\_\_\_\_ 2005

The Management Board

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**PROPOSED FORM OF INVITATION TO A SEPARATE MEETING  
UNDER CONSIDERATION BY FRESENIUS MEDICAL CARE AG  
ISIN: DE 0005785836 // Securities Identification Numbers 578 583  
ISIN: US 3580292056 // American Depositary Receipts Numbers 903 780**

We are pleased to invite our preference shareholders to attend a separate meeting of the preference shareholders of Fresenius Medical Care Aktiengesellschaft ( Fresenius Medical Care AG or the Company ) on \_\_\_\_\_, 2005. The meeting will begin promptly after the extraordinary general meeting, which begins at \_\_\_\_\_ a.m. local time at \_\_\_\_\_. The purpose of the separate meeting is to submit to the consideration and approval of our preference shareholders the proposals stated in the Agenda below.

**AGENDA**

1. The conversion of our outstanding preference shares into ordinary shares; and
2. The conversion of interests held and related adjustments under the employee participation programs.

The conversion report of our management board on the conversion of our preference shares into ordinary shares is available for the inspection of our preference shareholders at the offices of the Company, Else-Kröner-Strasse 1, 61352 Bad Homburg, Germany. On request, each preference shareholder will be provided with a copy of this report free of charge. The conversion report will also be available for inspection at the separate meeting.

A report of our management board on the reasons for the exclusion of the pre-emptive right in connection with the creation of authorized capital and a transformation report of our management board setting forth the reasons for the proposed transformation of the Company from a stock corporation (*Aktiengesellschaft*) into a partnership limited by shares, a *Kommanditgesellschaft auf Aktien* ( KGaA ) to be called Fresenius Medical Care AG & Co. KGaA, will also be available for inspection at the extraordinary general meeting that precedes the separate meeting. These matters will be voted on only by our ordinary shareholders. Copies of the English translation of the conversion report and the transformation report have been furnished to the Securities and Exchange Commission under cover of a Report on Form 6-K and may be obtained as described below under **Where You Can Find More Information**.

Shareholders who hold preference American Depositary Shares evidenced by American Depositary Receipts are being furnished, together with this information statement/ prospectus, a request for voting instructions directed to the depositary for the American Depositary Shares. Holders of preference American Depositary Shares who wish to have their shares voted at the separate meeting should complete such request and return it to the depositary in accordance with the instructions accompanying the request on or before the date specified therein. The depositary will try, as far as is practical, subject to the provisions of and governing our preference shares, to vote or to have its agents vote the shares or other deposited securities as instructed. The depositary will only vote or attempt to vote as holders instruct. The depositary will not itself exercise any voting discretion. Neither the depositary nor its agents are responsible for any failure to carry out any voting instructions, for the manner in which any vote is cast or for the effect of any vote.

Preference shareholders (other than holders of American Depositary Shares) who deposit their shares during normal business hours no later than \_\_\_\_\_, 2005 with the Company, a notary public in the Federal Republic of Germany, a securities clearing and depository bank,

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or Dresdner Bank AG and its branches, and keep their shares deposited through the close of the separate meeting will be entitled to attend the meeting. In case of deposit with a German notary public or a securities clearing and depository bank, you must submit the certificate to be issued by them to the cash office of the Company no later than on the first business day after the deadline for deposit, i.e. by \_\_\_\_\_, 2005. Shares will be deemed properly deposited if, with the consent of the depository, the shares are blocked in favor of such depository at a credit institution until the close of the meeting.

A preference shareholder may also exercise his or her voting right and/or his or her right of attendance at the separate meeting by engaging a party to act as his or her proxy, such as the depository bank, an association of shareholders or another person of his or her choice. As a special service, preference shareholders (other than holders of American Depositary Shares), can authorize a proxy who will be appointed by the Company before the separate meeting. Shareholders who would like to authorize the proxy announced by the Company must obtain an entrance card for the extraordinary general meeting. An entrance card will be issued upon deposit of shares in accordance with the above procedures. Proxies must be transmitted in text form. The necessary documents and information will be distributed to shareholders together with the entrance card.

Each preference share will be entitled to one (1) vote at the separate meeting.

Counter proposals to a proposal of the management board and supervisory board on a particular item on the agenda may be made to:

Fresenius Medical Care AG  
Attention: Investor Relations  
Else-Kröner-Strasse 1  
61352 Bad Homburg v.d.H., Germany  
Telefax: ++ 49-6172-609-2301  
e-mail: [ir-fms@fmc-ag.de](mailto:ir-fms@fmc-ag.de)

Counter proposals received no later than two weeks before the date of the extraordinary general meeting at this address will be made accessible to other shareholders on our website at [www.fmc-ag.com](http://www.fmc-ag.com) as soon as practicable after receipt. Counter proposals that are sent to any address other than the address set forth above will not be considered.

**We are presently evaluating the necessity of a separate meeting of our preference shareholders to consider the matters described above and, notwithstanding the issuance of this invitation, we have not made a final determination whether we will hold the separate meeting. The separate meeting convened pursuant to this invitation may be cancelled by us, in our sole discretion, at any time prior to commencement of such meeting.**

Hof a.d. Saale, 2005

The Management Board

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**WHERE YOU CAN FIND MORE INFORMATION**

We file annual reports on Form 20-F and furnish periodic reports on Form 6-K to the United States Securities and Exchange Commission (the "SEC"). You may read and copy any of these reports at the SEC's public reference room at 450 Fifth Street N.W., Washington, D.C., 20549, U.S.A., and its public reference rooms in New York, New York, U.S.A. and Chicago, Illinois, U.S.A. Please call the SEC at 1-800-SEC-0330 for further information on the public reference rooms. The reports may also be obtained from the website maintained by the SEC at <http://www.sec.gov>, which contains reports and other information regarding registrants that file electronically with the SEC. The New York Stock Exchange currently lists American Depositary Shares representing our ordinary shares and American Depositary Shares representing our preference shares. Our periodic reports, registration statements and other information that we file with the SEC are also available for inspection and copying at the offices of the New York Stock Exchange, 20 Broad Street, New York, New York 10005, U.S.A. Our SEC filings are also available to the public from commercial document retrieval services.

We prepare annual and quarterly reports, which are then distributed to our shareholders. Our annual reports contain financial statements examined and reported upon, with opinions expressed by, our independent auditors. The consolidated financial statements of Fresenius Medical Care AG included in these annual reports are prepared in conformity with U.S. generally accepted accounting principles. Our annual and quarterly reports to our shareholders are posted on our website at [www.fmc-ag.com](http://www.fmc-ag.com). In furnishing our web site address in this information statement/prospectus, however, we do not intend to



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incorporate any information on our website into this information statement/ prospectus, and you should not consider any information on our website to be part of this information statement/ prospectus.

We will also furnish JP Morgan Chase Bank, N.A., the depository for our American Depositary Receipts, with all notices of general meetings of shareholders and other reports and communications that are made generally to our shareholders. The depository, to the extent permitted by law, will arrange for the transmittal to the registered holders of American Depositary Receipts of all notices, reports and communications, together with the governing instruments affecting our shares and any amendments thereto. Such documents will also be available for inspection by registered holders of American Depositary Receipts at the principal office of the depository, presently located at 4 New York Plaza, New York, New York, 10004, U.S.A.

This information statement/ prospectus is a part of a registration statement on Form F-4 that we are filing with the SEC to register the ordinary shares and the preference shares of Fresenius Medical Care KGaA and constitutes a prospectus in addition to being an information statement for the meetings. As allowed by SEC rules, this information statement/ prospectus does not contain all the information included in the registration statement or the exhibits to the registration statement.

The SEC allows us to incorporate by reference information into this information statement/ prospectus, which means that we can disclose important information to you by referring you to another document filed separately with the SEC. The information incorporated by reference is deemed to be part of this information statement/ prospectus, except for any information superseded by information in, or incorporated by reference in, this information statement/ prospectus. This information statement/ prospectus incorporates by reference the documents set forth below that we have previously filed with or furnished to the SEC. These documents contain important information about our company and its finances.

<b>SEC Filings (File No. 001-14444)</b>	<b>Period/Filing Date</b>
Annual Report on Form 20-F	Fiscal Year ended December 31, 2004 (filed with the SEC March 1, 2005)
Form 6-K Report	January 2005 (furnished to the SEC January 14, 2005)
Form 6-K Report	January 2005 (furnished to the SEC January 25, 2005)
Form 6-K Report	April 2005 (furnished to the SEC April 6, 2005)
Form 6-K Report	April 2005 (furnished to the SEC April 12, 2005)
Form 6-K Report	April 2005 (furnished to the SEC April 21, 2005)
Form 6-K Report	May 2005 (furnished to the SEC May 4, 2005 announcing the definitive merger agreement with Renal Care Group, Inc.)

We may also incorporate by reference some of the reports on Form 6-K that we furnish to the SEC between the date of this information statement/ prospectus and the date of the meetings.

If you are a shareholder, we may have sent you some of the documents incorporated by reference, but you can obtain any of them through us or the SEC. Documents incorporated by reference are available from us without charge, excluding all exhibits unless we have specifically incorporated by reference an exhibit in this information statement/ prospectus. **Shareholders may obtain documents incorporated by reference in this information statement/ prospectus by requesting them in writing or by telephone from the appropriate party at the following address:**

**In North America**

Fresenius Medical Care North America  
 95 Hayden Avenue  
 Lexington, MA 02420  
 Attn: Heinz Schmidt  
 Toll Free: 800-662-1237

**Elsewhere**

Fresenius Medical Care AG  
 Investor Relations  
 Else-Kröner-Strasse 1  
 61352 Bad Homburg v.d.H., Germany  
 Attn: Oliver Maier

Banks & Brokers:

++ 49 6172 609-2661

Banks & Brokers:

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IF YOU WOULD LIKE TO REQUEST DOCUMENTS, INCLUDING ANY DOCUMENTS WE MAY SUBSEQUENTLY FILE WITH THE SEC BEFORE THE SHAREHOLDER MEETINGS, PLEASE DO SO BY , 2005 SO THAT YOU WILL RECEIVE THEM BEFORE THE SHAREHOLDER MEETINGS.

This information statement/ prospectus does not constitute an offer to sell, or a solicitation of an offer to purchase, the securities offered by this information statement/ prospectus, or the solicitation of a proxy, in any jurisdiction to or from any person to whom or from whom it is unlawful to make such offer, solicitation of an offer or proxy solicitation in such jurisdiction. Neither the delivery of this information statement/ prospectus nor any distribution of securities pursuant to this information statement/ prospectus will, under any circumstances, create any implication that there has been no change in the information set forth or incorporated into this information statement/ prospectus by reference or in our affairs since the date of this information statement/ prospectus.

You should rely only on the information contained or incorporated by reference in this information statement/ prospectus to vote on the matters presented to you for your approval. We have not authorized anyone to provide you with information that is different from what is contained in this information statement/ prospectus. This information statement/ prospectus is dated , 2005. You should not assume that the information contained in this information statement/ prospectus is accurate as of any date other than this date, and neither the mailing of the information statement/ prospectus to shareholders nor the issuance of securities will create any implication to the contrary.

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**SUMMARY**

**The Company**

Fresenius Medical Care AG is a stock corporation (*Aktiengesellschaft*) organized under the laws of Germany. It was incorporated on August 5, 1996. Fresenius Medical Care AG is registered with the commercial register of the local court (*Amtsgericht*) of Hof an der Saale, Germany, under HRB 2460. Our registered office (*Sitz*) is Hof an der Saale, Germany. Our business address is Else-Kröner-Strasse 1, 61352 Bad Homburg v.d.H., Germany, telephone ++49-6172-609-0.

We are the world's largest kidney dialysis company engaged in both providing dialysis care and manufacturing dialysis products, based on publicly reported revenues and patients treated. We provide dialysis treatment to over 125,900 patients in 1,630 clinics worldwide located in 26 countries. In the U.S. we also perform clinical laboratory testing and provide inpatient dialysis services, therapeutic apheresis, hemoperfusion and other services under contract to hospitals. We also develop and manufacture a complete range of equipment, systems and disposable products, which we sell to customers in over 100 countries. We use the insight we gain when treating patients in developing new and improved products. We believe that our size, our activities in both dialysis care and dialysis products and our concentration in specific geographic areas allow us to operate more cost-effectively than many of our competitors. For the year ended December 31, 2004, we had net revenues of \$6.2 billion, an increase of 13% over 2003 revenues. We derived 68% of our revenues in 2004 from our North America operations and 32% from our International operations.

In this information statement/prospectus, (1) the Company refers to both Fresenius Medical Care AG prior to the transformation and Fresenius Medical Care KGaA after the transformation; (2) we and our refers either to the Company or the Company and its subsidiaries on a consolidated basis both before and after the transformation, as the context requires; and (3) Management AG refers to a newly formed entity that will serve as the general partner of Fresenius Medical Care KGaA and that is wholly owned by Fresenius AG.

**Recent Developments**

On May 3, 2005, we entered into a definitive merger agreement with Renal Care Group, Inc. (RCG) to acquire RCG for an all cash purchase price of approximately \$3.5 billion. At December 31, 2004, RCG provided dialysis and ancillary services to over 29,700 patients through 418 outpatient dialysis centers in 33 states, in addition to providing acute dialysis services to more than 200 hospitals. Completion of the acquisition is subject to governmental approvals (including termination or expiration of the waiting period under the Hart-Scott Rodino Antitrust Improvements Act of 1976, as amended), third-party consents, and approval by RCG's stockholders. We expect to complete the acquisition during the second half of 2005 but we cannot offer any assurance that the acquisition will be completed during this time or that it will be completed at all.

In connection with the proposed acquisition, we have entered into a commitment letter pursuant to which Bank of America, N.A. and Deutsche Bank AG New York Branch have agreed, subject to certain conditions, to underwrite an aggregate of \$5.0 billion in principal amount of term and revolving loans to be syndicated to other financial institutions. See Recent Developments Acquisition of Renal Care Group, Inc. and New Senior Credit Facility.

On May 9, 2005, the closing price per share in euro for our ordinary shares was 63.37 and the closing price per share in euro for our preference shares was 50.00, as reported by the Frankfurt Stock Exchange Xetra system. On the same date, the closing price per American Depositary Share, or ADS, for ADSs representing our ordinary shares was \$27.38, as reported by the New York Stock Exchange, and the closing price per ADS for ADSs representing our preference shares was \$21.00, as reported by the New York Stock Exchange. Three ordinary ADSs represent one ordinary share, and three preference ADSs represent one preference share.

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**The Meetings**

All of our shareholders are invited to attend an extraordinary general meeting at \_\_\_\_\_ on \_\_\_\_\_, 2005 at which our ordinary shareholders will be entitled to vote on proposals relating to the conversion of our outstanding preference shares into ordinary shares, the creation of authorized capital and the transformation of the Company's legal form from a stock corporation to a partnership limited by shares under German law, a KGaA, to be called Fresenius Medical Care AG & Co. KGaA, with Fresenius Medical Care Management AG, a subsidiary of Fresenius AG, as the sole general partner.

Each ordinary share will be entitled to one (1) vote at the extraordinary general meeting. The vote required to approve each proposal is 75% of the ordinary shares present at the meeting. Fresenius AG, which holds approximately 50.8% of our outstanding ordinary shares, intends to vote in favor of each of the proposals. Each of the members of our supervisory board and our management board, none of whom beneficially owns more than 1% of our outstanding ordinary shares, also intends to vote any shares they hold in favor of each of the proposals.

We are presently evaluating the necessity of a separate meeting of our preference shareholders to vote on proposals relating to the conversion, and we have not made a final determination whether we will call such a meeting. If we determine to call a separate meeting, we will issue an invitation in substantially the form of the invitation that appears on the page following the invitation to the extraordinary general meeting included in this information statement/prospectus. Any such meeting would be held on the same day as, and immediately following, our extraordinary general meeting. Each preference share would be entitled to one (1) vote at any such separate meeting, if held. The vote required to approve each proposal would be 75% of the preference shares present at the meeting, if held. If the separate meeting is held, each of the members of our supervisory board and our management board, none of whom beneficially owns more than 1% of our outstanding preference shares, intends to vote any shares they hold in favor of each of the proposals. Any separate meeting, if called, may be cancelled by us at any time in our sole discretion. If we do not hold a separate meeting of our preference shareholders, we may nevertheless determine to complete the conversion and the transformation. Alternatively, we may determine to complete only the transformation.

For more information regarding the proposals and the meetings, see [The Meetings](#).

**The Conversion and Transformation**

If the transformation of legal form is approved, the Company's legal form will be changed from an AG, which is a German stock corporation, to a KGaA, which is a German partnership limited by shares. The Company as a KGaA will be the same legal entity under German law, rather than a successor to the stock corporation. Fresenius Medical Care Management AG, a subsidiary of Fresenius AG, will be the general partner of the Company. We intend that the general partner will have substantially the same provisions in its articles of association concerning the relationship between the management board and the supervisory board of the general partner and substantially the same rules of procedure for the general partner's executive bodies as are currently in effect for Fresenius Medical Care AG. In this information statement/prospectus, we refer to this transformation of our legal form as the transformation. For more information, see [The Meetings](#), [The Conversion and Transformation Proposals](#), [The Conversion and Transformation Structure of the Conversion and Transformation](#) and [The Legal Structure of Fresenius Medical Care KGaA](#).

We intend to offer our preference shareholders the opportunity to convert their preference shares into ordinary shares on a one-to-one basis pursuant to a conversion offer to be conducted after the shareholder meetings. The right to convert preference shares into ordinary shares will be available only during a specific period. The details of the conversion process will be determined by the management board with the approval of the supervisory board, and announced with the conversion period. Preference shareholders who decide to convert their shares will be required to pay a premium of 12.25 per preference share and will lose their preferential dividend rights. In this information statement/prospectus, we refer to this conversion of our preference shares into ordinary shares as the conversion.

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We believe that the conversion and transformation will increase our financial and operative flexibility by increasing the number of publicly held ordinary shares (which we refer to as our free float), which we expect will increase the liquidity of our ordinary shares and strengthen our position on the DAX, the index of 30 major German stocks, while still maintaining our existing corporate governance. We also believe that our increased liquidity will allow us to attract equity financing so that we may pursue our long-term growth objectives and strategies, which will help us maintain and improve our position as a leading global integrated provider of dialysis products and services.

### **Description of the Securities**

After the conversion and the transformation, holders of our ordinary shares and ADSs representing our ordinary shares will continue to have substantially similar rights, but will experience a dilution of their voting rights due to the increase in the number of outstanding ordinary shares. Preference shareholders who choose to convert their shares into ordinary shares will no longer have preference rights. Preference shareholders who do not choose to convert their shares will retain their preference rights but may suffer financial disadvantages due to the overall reduced liquidity of their preference shares. **We cannot assure holders of preference ADSs that we will be able to maintain an American Depositary Receipt facility or a New York Stock Exchange Listing for the preference shares after the conversion and the transformation.** For more information, see Description of the Shares of Fresenius Medical Care KGaA, Descriptions of American Depositary Receipts, Description of the Proposed Pooling Arrangements, Effects on and Comparison of Shareholder Rights and Stock Exchange Listing and Trading.

### **Certain Tax Consequences**

Neither we nor our shareholders will recognize gain or loss as a result of the transformation under either German or United States federal tax law. For more information, see Certain Tax Consequences.

### **Interests of Certain Persons in the Conversion and Transformation**

Currently, Fresenius AG owns approximately 50.8% of our ordinary shares and, therefore, controls the management of the Company. Fresenius AG also consolidates the Company in its financial statements. In connection with the transformation, Fresenius Medical Care Management AG, a wholly-owned subsidiary of Fresenius AG, will assume the management of the Company through its position as general partner. Therefore, Fresenius AG will continue to control the Company and consolidate the Company in its financial statements after the transformation, notwithstanding the likely loss of its majority ownership of our ordinary shares due to the increased number of outstanding ordinary shares expected as a result of the conversion.

The members of our management board will become the members of the management board of the general partner, and will enter into service contracts and compensation arrangements on the same terms after the transformation as are currently in effect. Most or all of the members of our supervisory board will become the members of the general partner's supervisory board and (other than Dr. Ulf M. Schneider), will also become the members of the supervisory board of the Company in its KGaA form after the transformation. For more information, see Interests of Certain Persons in the Conversion and Transformation.

### **Stock Exchange Listing and Trading**

The ordinary shares issued in connection with the conversion of our preference shares into ordinary shares will, together with the other ordinary and preference shares of the Company in its new legal form as a KGaA, be admitted to the Frankfurt Stock Exchange on the official market. The conversion and transformation will not affect the Company's listing section, Prime Standard. The Company will continue to be included in the electronic trading system Xetra and, if the relevant criteria are fulfilled, on the German Index DAX.

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We intend to apply to list ADSs representing ordinary shares and preference shares in Fresenius Medical Care KGaA on the New York Stock Exchange. However, a U.S. trading market for the preference ADSs may cease to be available if the preference ADSs are not eligible for New York Stock Exchange listing due to a substantial decrease in the number of outstanding preference shares, if the depositary resigns as depositary for the preference shares and we are unable to designate a replacement depositary, or if we otherwise terminate the preference share deposit agreement. **We cannot assure holders of preference ADSs that we will be able to maintain an American Depositary Receipt facility for our preference shares or that preference ADSs will continue to be eligible for listing on the New York Stock Exchange after the conversion and transformation.** For more information, see Stock Exchange Listing and Trading.

**Appraisal Rights**

The holders of preference shares and ordinary shares do not have any appraisal rights in connection with the transformation under German law. The German Stock Corporation Act provides expressly that no offer of compensation to shareholders is required in connection with a transformation from a stock corporation (AG) to a partnership limited by shares (KGaA). Under German law, in principle, an action may be brought to set aside a resolution of the shareholders' general meeting based on a violation of law or the articles of association. Any such action must be commenced within one month after adoption of the resolution.

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**RISK FACTORS**

*You should carefully consider the risk factors set forth below, as well as the other information contained in this information statement/prospectus, any supplement to this information statement/prospectus and the documents incorporated by reference in this information statement/prospectus. Additional risks and uncertainties not currently known to us or that we currently deem to be immaterial may also materially and adversely affect our business operations.*

**Risks Relating to Litigation and Regulatory Matters in the U.S.**

***If we do not comply with the many governmental regulations applicable to our business or with the corporate integrity agreement between us and the U.S. government, we could be excluded from government health care reimbursement programs or our authority to conduct business could be terminated, either of which would result in a material decrease in our revenue.***

Our operations in both our provider business and our products business are subject to extensive governmental regulation in virtually every country in which we operate. The applicable regulations, which differ from country to country, relate in general to the safety and efficacy of medical products and supplies, the operation of manufacturing facilities, laboratories and dialysis clinics, the rate of, and accurate reporting and billing for, government and third-party reimbursement, and compensation of medical directors and other financial arrangements with physicians and other referral sources. We are also subject to other laws of general applicability, including antitrust laws.

Fresenius Medical Care Holdings, Inc. ( FMCH ), our North American subsidiary, is party to a corporate integrity agreement with the U.S. government. This agreement requires that FMCH staff and maintain a comprehensive compliance program, including a written code of conduct, training programs, regulatory compliance policies and procedures, annual audits and periodic reporting to the government. The corporate integrity agreement permits the U.S. government to exclude FMCH and its subsidiaries from participation in U.S. federal health care programs if there is a material breach of the agreement that FMCH does not cure within thirty days after FMCH receives written notice of the breach. We derive approximately 38% of our consolidated revenue from U.S. federal health care benefit programs. Consequently, if FMCH commits a material breach of the corporate integrity agreement that results in the exclusion of FMCH or its subsidiaries from continued participation in those programs, it would significantly decrease our revenue and have a material adverse effect on our business, financial condition and results of operations.

While we rely upon our management structure, regulatory and legal resources, and the effective operation of our compliance program to direct, manage and monitor these activities, if employees, deliberately or inadvertently, fail to adhere to these regulations, then our authority to conduct business could be terminated or our operations could be significantly curtailed. Any such terminations or reductions could materially reduce our revenues with a resulting adverse impact on our business, financial condition and results of operations.

In October 2004, FMCH and its Spectra Renal Management subsidiary received subpoenas from the U.S. Department of Justice, Eastern District of New York, in connection with a civil and criminal investigation, which requires production of a broad range of documents relating to our operations, with specific attention to documents relating to laboratory testing for parathyroid hormone ( PTH ) levels and vitamin D therapies. We are cooperating with the government s requests for information. While we believe that we have complied with applicable laws relating to PTH testing and use of vitamin D therapies, an adverse determination in this investigation could have a material adverse effect on our business, financial condition, and results of operations.

On April 1, 2005, FMCH was served with a subpoena from the office of the United States Attorney for the Eastern District of Missouri in connection with a joint civil and criminal investigation of our company. The subpoena requires production of a broad range of documents relating to the Company s operations, including documents related to, among other things, clinical quality programs, business

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development activities, medical director compensation and physician relations, joint ventures and our anemia management program. The subpoena covers the period from December 1, 1996 through the present. We are unable to predict whether proceedings might be initiated against us, when the investigation might be concluded or what the impact of this joint investigation might be.

***A reduction in U.S. government reimbursement for dialysis care could materially decrease our revenues and operating profit.***

For the twelve months ended December 31, 2004, approximately 38% of our consolidated revenues resulted from Medicare and Medicaid reimbursement. Legislative changes may affect the reimbursement rates for the services we provide, as well as the scope of Medicare and Medicaid coverage. A decrease in Medicare or Medicaid reimbursement rates or covered services could have a material adverse effect on our business, financial condition and results of operations. In December 2003, the Medicare Prescription Drug Modernization and Improvement Act was enacted. For information regarding the effects of this legislation on reimbursement rates, see Business Overview Regulatory and Legal Matters Reimbursement in our Annual Report on Form 20-F for the year ended December 31, 2004 (our 2004 Form 20-F ), which has been incorporated by reference into this information statement/ prospectus.

***A change in reimbursement for or utilization of EPO could materially reduce our revenue and operating profit.***

Reimbursement and revenue from the administration of erythropoietin, or EPO, accounted for approximately 23% of dialysis care revenue in our North America segment for the year ended December 31, 2004. EPO is produced by a single source manufacturer, Amgen Inc. Our current contract with Amgen covers the period from January 1, 2004 to December 31, 2005. A reduction in reimbursement for EPO, a significant change in utilization of EPO, a reduction of the current overfill amount in EPO vials, an interruption of supply or our inability to obtain satisfactory purchase terms for EPO after our current contract expires could reduce our revenues from, or increase our costs in connection with, the administration of EPO, which could materially adversely affect our business, financial condition and results of operations. In July 2004, the Centers for Medicare and Medicaid Services ( CMS ) proposed certain changes with respect to its EPO reimbursement and utilization guidelines. Business Overview Regulatory and Legal Matters Reimbursement in our 2004 Form 20-F.

***Creditors of W.R. Grace & Co. Conn. have asserted claims against us.***

We were formed in 1996 as a result of a series of transactions with W.R. Grace & Co. that we refer to as the merger. At the time of the merger, W.R. Grace & Co.-Conn. had, and continues to have, significant liabilities arising out of product-liability related litigation (including asbestos), pre-merger tax claims and other claims unrelated to its dialysis business. In connection with the merger, W.R. Grace & Co.-Conn. and other Grace entities agreed to indemnify Fresenius Medical Care AG and its subsidiaries against all liabilities of W.R. Grace & Co., whether relating to events occurring before or after the merger, other than liabilities arising from or relating to the operations of National Medical Care, a subsidiary of W.R. Grace & Co. which became our subsidiary in the merger. W.R. Grace & Co. and certain of its subsidiaries filed for reorganization under Chapter 11 of the U.S. Bankruptcy Code (the Grace Chapter 11 Proceedings ) on April 2, 2001.

Pre-merger tax claims or tax claims that would arise if events were to violate the tax-free nature of the merger could ultimately be our obligation. In particular, W.R. Grace & Co. has disclosed in its filings with the SEC that: its tax returns for the 1993 to 1996 tax years are under audit by the Internal Revenue Service (the Service ); W.R. Grace & Co. has received the Service s examination report on tax periods 1993 to 1996; that during those years W.R. Grace & Co. deducted approximately \$122 million in interest attributable to corporate owned life insurance ( COLI ) policy loans; that W.R. Grace & Co. has paid \$21 million of tax and interest related to COLI deductions taken in tax years prior to 1993; that a U.S. District Court ruling has denied interest deductions of a taxpayer in a similar situation. In October 2004, W.R. Grace & Co. obtained bankruptcy court approval to settle its COLI claims with the Service.

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In January 2005, W.R. Grace and Co., FMCH and Sealed Air Corporation executed a settlement agreement with respect to the Service's COLI related claims and other tax claims. On April 14, 2005, W.R. Grace & Co. paid the Service approximately \$90 million in connection with taxes owed for the tax periods 1993 to 1996 pursuant to a bankruptcy court order directing W.R. Grace & Co. to make such payment. Subject to certain representations made by W.R. Grace & Co., the Company and Fresenius AG, W.R. Grace & Co. and certain of its affiliates agreed to indemnify us against this and other pre-merger and merger-related tax liabilities.

Prior to and after the commencement of the Grace Chapter 11 Proceedings, class action complaints were filed against W.R. Grace & Co. and FMCH by plaintiffs claiming to be creditors of W.R. Grace & Co.-Conn., and by the asbestos creditors' committees on behalf of the W.R. Grace & Co. bankruptcy estate in the Grace Chapter 11 Proceedings, alleging among other things that the merger was a fraudulent conveyance, violated the uniform fraudulent transfer act and constituted a conspiracy. All such cases have been stayed and transferred to or are pending before the U.S. District Court as part of the Grace Chapter 11 Proceedings.

In 2003, we reached an agreement with the asbestos creditors' committees and W.R. Grace & Co. in the Grace Chapter 11 Proceedings to settle these fraudulent conveyance and tax claims. The settlement agreement has been approved by the U.S. District Court. The proposed settlement is subject to confirmation of a final plan of reorganization of W.R. Grace & Co. that meets the requirements of the settlement agreement or is otherwise satisfactory to us. If the proposed settlement with the asbestos creditors' committees and W.R. Grace & Co. is not confirmed in such a final plan of reorganization, the claims could be reinstated. If the claims are reinstated and the merger is determined to be a fraudulent transfer and if material damages are proved by the plaintiffs and we are not able to collect, in whole or in part, on the indemnity from any of our indemnitors, a judgment could have a material adverse effect on our business, financial condition and results of operations. We recorded a pre-tax accrual of \$172 million at December 31, 2001 to reflect our estimated exposure for liabilities and expenses related to the Grace Chapter 11 Proceedings. See Note 6 to our consolidated financial statements in our 2004 Form 20-F. For additional information concerning the Grace Chapter 11 Proceedings and the settlement agreement see "Legal Proceedings" in our 2004 Form 20-F.

***As health maintenance organizations and other managed care plans grow, amounts paid for our services and products by non-governmental payors could decrease.***

We obtain a significant portion of our revenues from reimbursement provided by non-governmental third-party payors. Although non-governmental payors generally pay at higher reimbursement rates than governmental payors, managed care plans generally negotiate lower reimbursement rates than indemnity insurance plans. Some managed care plans and indemnity plans also utilize a capitated fee structure or limit reimbursement for ancillary services.

As the managed care industry continues to consolidate, there could be increased pressure to reduce the amounts paid for our services and products. These trends may be accelerated if future changes to the U.S. Medicare ESRD program require private payors to assume a greater percentage of the total cost of care given to dialysis patients over the term of their illness, or if managed care plans otherwise significantly increase their enrollment of renal patients.

If managed care plans reduce reimbursements, our revenues could decrease, and our financial condition and results of operations could be materially adversely affected.

***Proposals for health care reform could decrease our revenues and operating profit.***

Proposals to modify the current health care system in the U.S. to improve access to health care and control its costs are continually being considered by the federal and certain state governments. See "Regulatory and Legal Matters - Reimbursement - U.S." in our 2004 Form 20-F for a discussion of the Medicare Prescription Drug Modernization and Improvement Act of 2003 and proposed changes to CMS's EPO Reimbursement guidelines. We anticipate that the U.S. Congress and state legislatures will continue

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to review and assess alternative health care reforms, and we cannot predict whether these reform proposals will be adopted, when they may be adopted or what impact they may have on us. Any spending decreases or other significant changes in the Medicare program could reduce our revenues and profitability and have a material adverse effect on our business, financial condition and results of operations.

Other countries, especially those in Western Europe, have also considered health care reform proposals and could materially alter their government-sponsored health care programs by reducing reimbursement payments. Any reduction could affect the pricing of our products and the profitability of our services, especially as we expand our international business. This potential development could have a material adverse effect on our business, financial condition and results of operations.

### **Risks Relating to our Business**

#### ***Our competitors proposed combination could foreclose certain business opportunities.***

On December 6, 2004, DaVita Inc. ( DaVita ), the second largest provider of dialysis services in the U.S., agreed to acquire Gambro Healthcare, Inc. ( Gambro Healthcare ), the third largest provider of dialysis services in the U.S., and to purchase a substantial portion of its dialysis product supply requirements from Gambro Healthcare's parent company during the next ten years. These agreements are subject to regulatory review and/or approval, and DaVita announced in February 2005 that it has received a request for additional information regarding the transaction from the United States Federal Trade Commission. If the proposed product supply contract is consummated, DaVita's purchases of our products may decrease substantially. Any such reduction in DaVita's purchases will decrease our product revenues and could result in a material adverse effect on our business, financial condition and results of operations.

#### ***Our growth depends, in part, on our ability to continue to make acquisitions.***

The health care industry has experienced significant consolidation in recent years, particularly in the dialysis services sector. Our ability to make acquisitions depends, in part, on our available financial resources and limitations imposed under our credit agreements. If we make future acquisitions, we may issue ordinary shares of Fresenius Medical Care KGaA that could dilute the holdings of our shareholders, incur debt, assume significant liabilities or create additional expenses relating to intangible assets, any of which might reduce our reported earnings or reduce earnings per share and cause our stock price to decline. In addition, any financing that we might need for future acquisitions might be available to us only on terms that restrict our business. Acquisitions that we complete are also subject to the risks that we might not successfully integrate the acquired businesses or that we might not realize anticipated synergies from the combination. If we are not able to effect acquisitions in the dialysis care business on reasonable terms, there could be an adverse impact on growth in our business and on our results of operations.

On May 3, 2005, we entered into a definitive merger agreement for the acquisition of RCG for an all cash purchase price of approximately \$3.5 billion. The acquisition is subject to approval by the shareholders of RCG and other conditions, including expiration or termination of the applicable waiting period under the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended, and other regulatory approvals. See Recent Developments. We cannot assure you that we will receive the required antitrust and other regulatory approvals required to consummate this acquisition.

#### ***Our competitors could develop superior technology or impact our product sales.***

We face numerous competitors in both our dialysis services business and our dialysis products business, some of which may possess substantial financial, marketing or research and development resources. Competition could materially adversely affect the future pricing and sale of our products and services. In particular, technological innovation has historically been a significant competitive factor in the dialysis products business. The introduction of new products by competitors could render one or more of our products obsolete.

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We are engaged in both manufacturing dialysis products and providing dialysis services. We compete in the dialysis services business with many customers of our products business. As a result, independent dialysis clinics, those operated by other chains and dialysis centers acquired by other products manufacturers may elect to limit or terminate their purchases of our dialysis products so as to avoid purchasing products manufactured by a competitor. In addition, as consolidation in the dialysis services business continues and other vertically integrated dialysis companies expand, the external market for our dialysis products could be reduced. Possible purchase reductions could decrease our product revenues, with a material adverse effect on our business, financial condition and results of operations.

We also compete with other dialysis products and services companies in seeking selected acquisitions. If we are not able to continue to effect acquisitions in the provider business upon reasonable terms there could be an adverse impact on the growth of our business and our future growth prospects.

***We face products liability and other claims which could result in significant liability.***

Health care companies are subject to claims alleging negligence, products liability, breach of warranty, malpractice and other legal theories that may involve large claims and significant defense costs whether or not liability is ultimately imposed. Health care products may also be subject to recalls. Although product liability claims and recalls have not had a material adverse effect on our businesses in the past, we cannot assure that we will not suffer one or more significant claims or product recalls in the future. Product liability claims or recalls could result in judgments against us or significant compliance costs, which could materially adversely affect our business, financial condition and results of operations.

While we have been able to obtain liability insurance in the past, it is possible that such insurance may not be available in the future either on acceptable terms or at all. A successful claim in excess of the limits of our insurance coverage could have a material adverse effect on our business, results of operations and financial condition. Liability claims, regardless of their merit or eventual outcome, also may have a material adverse effect on our business and reputation, which could in turn reduce our revenues and profitability.

***If physicians and other referral sources cease referring patients to our dialysis clinics or cease purchasing our dialysis products, our revenues would decrease.***

Our dialysis services business is dependent upon patients choosing our clinics as the location for their treatments. Patients may select a clinic based, in whole or in part, on the recommendation of their physician. We believe that physicians and other clinicians typically consider a number of factors when recommending a particular dialysis facility to an end-stage renal disease patient, including, but not limited to, the quality of care at a clinic, the competency of a clinic's staff, convenient scheduling, and a clinic's location and physical condition. Physicians may change their facility recommendations at any time, which may result in the movement of our existing patients to competing clinics, including clinics established by the physicians themselves. At most of our clinics, a relatively small number of physicians account for the referral of all or a significant portion of the patient base. If a significant number of physicians ceased referring their patients to our clinics, this would reduce our dialysis care revenue and could materially adversely affect our overall operations. Our operations are also affected by referrals from hospitals, managed care plans and other sources.

The decision to purchase our dialysis products and other services or competing dialysis products and other services will be made in some instances by medical directors and other referring physicians at our dialysis clinics and by the managing medical personnel and referring physicians at other dialysis clinics, subject to applicable regulatory requirements. A decline in physician recommendations or purchases of our products or ancillary services would reduce our dialysis product and other services revenue, and could materially adversely affect our business, financial condition and results of operations.

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### ***If we are unable to attract and retain skilled medical, technical and engineering personnel, we may be unable to manage our growth or continue our technological development.***

Our continued growth in the provider business will depend upon our ability to attract and retain skilled employees, such as highly skilled nurses and other medical personnel. Competition for those employees is intense and the current nursing shortage in North America has increased our personnel and recruiting costs. Moreover, we believe that future success in the provider business will be significantly dependent on our ability to attract and retain qualified physicians to serve as medical directors of our dialysis clinics.

Our dialysis products business depends on the development of new products, technologies and treatment concepts. Competition is also intense for skilled engineers and other technical research and development personnel. If we are unable to obtain and retain the services of key personnel, the ability of our officers and key employees to manage our growth would suffer and our operations could suffer in other respects. These factors could preclude us from integrating acquired companies into our operations, which could increase our costs and prevent us from realizing synergies from acquisitions. Lack of skilled research and development personnel could impair our technological development, which would increase our costs and impair our reputation for production of technologically advanced products.

### ***We face additional costs and uncertainties from international operations.***

We intend to expand our international presence. Revenues from international operations are subject to a number of risks, including the following:

Worsening of the economic situation in Latin America;

Fluctuations in exchange rates could adversely affect profitability;

We could face difficulties in enforcing and collecting accounts receivable under some countries' legal systems;

Local regulations could restrict our ability to obtain a direct ownership interest in dialysis clinics or other operations;

Political instability, especially in developing countries, could disrupt our operations;

Some customers and governments could have longer payment cycles, with resulting adverse effects on our cash flow; and

Some countries could impose additional taxes or restrict the import of our products.

Any one or more of these factors, or any difficulty in integrating businesses we acquire into our operations, could increase our costs, reduce our revenues, or disrupt our operations, with possible material adverse effects on our business, financial condition and results of operations.

### **Risks Relating to our Securities**

#### ***Capital markets may be unfamiliar with the KGaA form, which may affect our share price. In addition, if most of our preference shares are converted into ordinary shares, ADSs representing our preference shares may not be eligible for listing on the New York Stock Exchange after the conversion and transformation.***

We are presently aware of only a few companies organized in KGaA form in Germany whose shares are publicly traded, and no such companies' shares are listed on any national stock exchange in the United States or quoted in the Nasdaq Stock Market. The lack of familiarity of capital markets with the KGaA form, plus other factors, such as the lesser degree of shareholder influence on management and the inability to effect a takeover without the consent of Fresenius AG, could adversely affect the price of our shares after the conversion and the transformation. We will apply to list the ordinary shares of Fresenius Medical Care KGaA on the Frankfurt Stock Exchange and we will apply to list ADSs representing such

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ordinary shares on the New York Stock Exchange. We believe that, if most of our preference shares are converted into ordinary shares in the conversion offer that we intend to make immediately prior to completing the transformation, the public float of our ordinary shares and, therefore, the liquidity of our ordinary shares will increase. We cannot give any assurances as to the level of capital market acceptance of our securities after the transformation or the prices at which our ordinary shares or ADSs representing ordinary shares will trade after the conversion and the transformation.

We also intend to apply to list the preference shares of Fresenius Medical Care KGaA on the Frankfurt Stock Exchange and ADSs representing the preference shares of Fresenius Medical Care KGaA on the New York Stock Exchange. However, we expect that, if most of our preference shares are converted into ordinary shares in the conversion offer that we intend to make immediately prior to completing the transformation, the number of preference shares of Fresenius Medical Care KGaA that would remain outstanding after completion of the transformation and the distribution of ownership of those shares would not satisfy the listing criteria of the New York Stock Exchange. Without a New York Stock Exchange or a Nasdaq Stock Market listing, we might not be able to maintain an American Depositary Receipt facility for the preference shares of Fresenius Medical Care KGaA. In addition, if substantially all of the preference shares are converted, we may terminate the deposit agreement for the preference shares, or the depository may resign due to the substantially reduced compensation it is likely to receive for its services in such circumstances and we may not be able to find a suitable replacement. If there is a high acceptance rate of the conversion offer, any public market that may be available for the preference shares of Fresenius Medical Care KGaA after the transformation is likely to be limited and highly illiquid.

***Our significant indebtedness may limit our ability to pay dividends or implement certain elements of our business strategy.***

We have a substantial amount of debt. As of December 31, 2004, our total consolidated liabilities were \$4.33 billion, including obligations with respect to all our trust preferred securities of approximately \$1.28 billion, our total consolidated assets were \$7.96 billion and our shareholders' equity was \$3.63 billion. If we complete the acquisition of RCG (see Recent Developments), on a pro forma basis our total consolidated liabilities will increase to approximately \$8.59 billion and our total consolidated assets to approximately \$12.29 billion. Our substantial level of debt and the higher level of debt to be incurred in connection with the RCG acquisition present the risk that we might not generate sufficient cash to service our indebtedness or that our leveraged capital structure could limit our ability to finance acquisitions and develop additional projects, to compete effectively or to operate successfully under adverse economic conditions.

Our senior credit agreement and the indentures relating to our trust preferred securities include covenants that require us to maintain certain financial ratios or meet other financial tests. Under our senior credit agreement, we are obligated to maintain a minimum consolidated net worth and a minimum consolidated interest coverage ratio (ratio of consolidated earnings before interest, taxes, depreciation and amortization (EBITDA) to consolidated net interest expense) and a certain consolidated leverage ratio (ratio of consolidated funded debt to EBITDA).

Our senior credit agreement and our indentures include other covenants which, among other things, restrict or have the effect of restricting our ability to dispose of assets, incur debt, pay dividends, create liens or make capital expenditures, investments or acquisitions. These covenants may otherwise limit our activities. The breach of any of the covenants could result in a default under the credit agreement or the indentures, which could, in turn, create additional defaults under the agreements relating to our other long-term indebtedness.

In connection with our proposed acquisition of RCG, we will enter into a new credit agreement to refinance outstanding indebtedness under our existing senior credit facility, to pay the purchase price and related expenses for the acquisition of RCG, and for working capital. For additional information with respect to the anticipated terms of the new credit agreement, including the restrictive covenants to be included in that agreement, see Recent Developments New Senior Credit Facility.

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***Fresenius AG will own 100% of the general partner of the Company after the transformation and will continue to be able to control our management and affairs.***

Fresenius AG currently holds approximately 50.8% of our voting securities. Accordingly, Fresenius AG currently possesses the ability to elect the members of the supervisory board (*Aufsichtsrat*) of the Company and, through its voting power, to approve many actions requiring the vote of the shareholders of the Company. This controlling ownership has the effect of, among other things, preventing a change in control and precluding a declaration or payment of dividends without the consent of Fresenius AG.

After the transformation, Fresenius AG will no longer possess a majority of the outstanding ordinary shares with voting power of the Company and will be precluded from voting on certain matters that will be submitted to the shareholders of the Company. See *Effects on and Comparison of Shareholder Rights*. However, Fresenius AG will own 100% of the outstanding shares of the general partner of the Company and will have the sole right to elect the supervisory board of the general partner which, in turn, will elect the management board of the general partner. The management board of the general partner will be responsible for the management of the Company, but the actions and decisions of the general partner's management board will be reviewable only by the supervisory board of the general partner. However, actions of the management board that currently require the consent or approval of the supervisory board of Fresenius Medical Care AG, elected by all of the shareholders, will require only the approval of the supervisory board of the general partner. Accordingly, through its ownership of the general partner, Fresenius AG will be able to exercise substantially the same degree of control over the management and policies of Fresenius Medical Care KGaA as it currently exercises over Fresenius Medical Care AG, notwithstanding that it will no longer own a majority of the outstanding voting shares.

***Because we are not organized under U.S. law, we are subject to certain less detailed disclosure requirements under U.S. federal securities laws.***

Under pooling agreements that we have entered into for the benefit of minority holders of our ordinary shares and holders of our preference shares (including, in each case, holders of American Depositary Receipts representing beneficial ownership of such shares), we have agreed to file quarterly reports with the SEC, to prepare annual and quarterly financial statements in accordance with U.S. generally accepted accounting principles, and to file information with the SEC with respect to annual and general meetings of our shareholders. These pooling agreements also require that the supervisory board of Fresenius Medical Care AG include at least two members who do not have any substantial business or professional relationship with Fresenius AG and require the consent of those independent directors to certain transactions between us and Fresenius AG and its affiliates. We intend to enter into similar arrangements with Fresenius AG in connection with the transformation, including requirements that the supervisory board of the general partner include independent directors.

We are a foreign private issuer, as defined in the SEC's regulations, and consequently we are not subject to all of the same disclosure requirements applicable to domestic companies. We are exempt from the SEC's proxy rules, and our annual reports contain less detailed disclosure than reports of domestic issuers regarding such matters as management, executive compensation and outstanding options, beneficial ownership of our securities and certain related party transactions. Also, our officers, directors and beneficial owners of more than 10% of our equity securities are exempt from the reporting requirements and short-swing profit recovery provisions of Section 16 of the Securities Exchange Act of 1934. We are not obligated to comply with the Commission's rules regarding internal control over financial reporting until 2006 and we are also generally exempt from most of the governance rule revisions recently adopted by the New York Stock Exchange, other than the obligation to maintain an audit committee in accordance with Rule 10A-3 under the Securities Exchange Act of 1934, as amended. These limits on available information about our company and exemptions from many governance rules applicable to domestic issuers may adversely affect the market prices for our securities.

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**RECENT DEVELOPMENTS**

**Acquisition of Renal Care Group, Inc.**

On May 3, 2005, we entered into a definitive merger agreement for the acquisition of RCG for an all cash purchase price of approximately \$3.5 billion. At December 31, 2004, RCG provided dialysis and ancillary services to over 29,700 patients through 418 outpatient dialysis centers in 33 states, in addition to providing acute dialysis services to more than 200 hospitals. Completion of the acquisition is subject to governmental approvals (including termination or expiration of the waiting period under the Hart-Scott Rodino Antitrust Improvements Act of 1976, as amended), third-party consents, and approval by RCG's stockholders. We expect to complete the acquisition during the second half of 2005 but we cannot offer any assurance that the acquisition will be completed during this time or that it will be completed at all.

**New Senior Credit Facility**

In connection with our proposed acquisition of RCG, we have entered into a commitment letter pursuant to which Bank of America, N.A. ( BofA ) and Deutsche Bank AG New York Branch ( DB ) have agreed, subject to the satisfaction of certain conditions, to underwrite an aggregate of \$5.0 billion in principal amount of term and revolving loans (the Senior Credit Facilities ) to be syndicated to other financial institutions by Banc of America Securities LLC and Deutsche Bank Securities Inc., as joint lead arrangers and joint book running managers, and BofA has agreed to act as administrative agent. The loans under the Senior Credit Facilities will be available to us, among other things, to pay the purchase price and related expenses for the acquisition of RCG, to refinance the outstanding indebtedness under our existing senior credit facility and certain indebtedness of RCG, and to utilize for working capital purposes. The Senior Credit Facilities will consist of a 5-year \$1.0 billion revolving credit facility, a 5-year \$1.5 billion term loan A facility, and a 7-year \$2.5 billion term loan B facility. Interest on the Senior Credit Facilities will be at the option of the borrowers at a rate equal to either (i) LIBOR plus an applicable margin, or (ii) the higher of BofA's prime rate or the Federal Funds rate plus 0.5% plus the applicable margin. The applicable margin is variable and depends on the consolidated leverage ratio of the borrowers.

The Senior Credit Facilities will include financial covenants that require us to maintain a certain consolidated leverage ratio and a certain consolidated fixed charge coverage ratio. The Senior Credit Facilities will also include covenants that are substantially the same as those under our existing senior credit facility, with modifications as required in the context of the transaction. Among other covenants, there will be limitations on liens, mergers, consolidations, sale of assets, incurrence of debt and capital expenditures, prepayment of certain other debt, investments and acquisitions, and transactions with affiliates.

The Senior Credit Facilities will be guaranteed by the Company and FMCH and certain of their respective subsidiaries and secured by pledges of the stock of certain of the Company's material subsidiaries. The borrowers and guarantors under the Senior Credit Facilities will provide liens on substantially all of their personal property and material real property if the non-credit enhanced senior secured debt rating of the borrowers falls below a certain level, to the extent a grant of security interests is determined appropriate by a cost-benefit analysis.

The closing of the Senior Credit Facilities will be subject, among other things, to the negotiation and execution of definitive documents, the non-occurrence of a material adverse effect in relation to RCG, and the refinancing of the indebtedness under our existing senior credit facility and certain indebtedness of RCG. DB and BofA also have the right to approve any material modification to the merger agreement and any waiver of any material conditions precedent under that agreement. The commitment letter for the Senior Credit Facilities expressly permits us to consummate the conversion and the transformation. However, completion of the conversion and the transformation while our existing credit facility is in effect could require that we obtain the consent of the lenders under that facility.

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**CAUTIONARY STATEMENT CONCERNING FORWARD-LOOKING STATEMENTS**

This information statement/ prospectus including the information incorporated by reference contains forward-looking statements within the meaning of Section 27A of the Securities Act of 1933, as amended, and Section 21E of the Securities Exchange Act of 1934, as amended, which are based upon our current expectations, assumptions, estimates and projections about us and our industry that address, among other things:

Our business development, operating development and financial condition;

Our expectations of growth in the patient population regarding renal dialysis products and services;

Our ability to remain competitive in the markets for our products and services;

The effects of regulatory developments, legal and tax proceedings and any resolution of government investigations into our business;

Changes in government reimbursement policies and those of private payors;

Changes in pharmaceutical administration patterns or reimbursement policies;

Our ability to develop and maintain additional sources of financing; and

Other statements of our expectations, beliefs, future plans and strategies, anticipated development and other matters that are not historical facts.

When used in this information statement/ prospectus, the words *expects*, *anticipates*, *intends*, *plans*, *believes*, *seeks*, *estimates* and similar expressions are generally intended to identify forward-looking statements. Although we believe that the expectations reflected in such forward-looking statements are reasonable, forward-looking statements are inherently subject to risks and uncertainties, many of which cannot be predicted with accuracy and some of which might not even be anticipated. Future events and actual results, financial and otherwise, could differ materially from those set forth in or contemplated by the forward-looking statements contained elsewhere in this information statement/ prospectus. These risks and uncertainties include: general economic, currency exchange and other market conditions, litigation and regulatory compliance risks, changes in government reimbursement for our dialysis care and pharmaceuticals, the investigations by the United States Attorneys for the Eastern District of Missouri and the Eastern District of New York, and changes to pharmaceutical utilization patterns.

This information statement/ prospectus contains or incorporates by reference patient and other statistical data related to end-stage renal disease and treatment modalities, including estimates regarding the size of the patient population and growth in that population. These data have been included in reports published by organizations such as the Centers for Medicare and Medicaid Services of the U.S. Department of Health and Human Services, the Japanese Society for Dialysis Therapy and the German registry Quasi-Niere. While we believe these surveys and statistical publications to be reliable, we have not independently verified the data or any assumptions on which the estimates they contain are based.

Our business is also subject to other risks and uncertainties that we describe from time to time in our public filings. Developments in any of these areas could cause our results to differ materially from the results that we or others have projected or may project.

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**THE MEETINGS**

**The Extraordinary General Meeting**

An extraordinary general meeting of our shareholders will be held at \_\_\_\_\_ on \_\_\_\_\_, 2005 at \_\_\_\_\_. Each of our shareholders is entitled to attend the extraordinary general meeting although only ordinary shareholders will be entitled to vote. Those shareholders who deposit their shares during normal business hours no later than on \_\_\_\_\_, 2005 with the Company, a notary public in the Federal Republic of Germany, a securities clearing and depository bank, or Dresdner Bank AG and its branches, and keep their shares deposited through the close of the extraordinary general meeting will be entitled to attend the extraordinary general meeting.

In case of deposit with a German notary public or a securities clearing and depository bank, you must submit the certificate to be issued by them to the cash office of the Company no later than on the first workday after the deadline for deposit, i.e. by \_\_\_\_\_, 2005. Shares will be deemed properly deposited if, with the consent of the depository, the shares are blocked in favor of such depository at a credit institution through the close of the extraordinary general meeting.

Shareholders may also exercise their voting rights and/or their rights of attendance at the extraordinary general meeting by engaging a party to act as a proxy for him or her, such as the depository bank, an association of shareholders or another person of his or her choice.

**The Separate Meeting of Preference Shareholders Under Consideration by the Company**

We are presently evaluating the necessity of a separate meeting of our preference shareholders. If we determine to call a separate meeting, we will issue an invitation in substantially the form of the invitation that appears on the page following the invitation to the extraordinary general meeting included in this information statement/prospectus. Any such meeting would be held in the same location immediately following the extraordinary general meeting. The purpose of the separate meeting, if held, would be to submit to the consideration and approval of the preference shareholders the proposals relating to the conversion of our outstanding preference shares into ordinary shares. We have not made a final determination whether we will call a separate meeting. Any separate meeting, if called, may be cancelled by us, in our sole discretion, at any time prior to commencement of the meeting.

**Votes Required for Approval**

Each ordinary share is entitled to one (1) vote at the extraordinary general meeting. Preference shares are not entitled to vote at the extraordinary general meeting. Each of the proposals on the agenda is being presented as a resolution for which the vote required for approval is 75% of the ordinary shares present at the extraordinary general meeting. Fresenius AG, which owns approximately 50.8% of our ordinary shares, intends to vote its ordinary shares in favor of each of these resolutions.

Each preference share would be entitled to one (1) vote at the separate meeting of preference shareholders, if held. Ordinary shares would not be entitled to vote at any such separate meeting. If a separate meeting is held, the conversion proposals would require the approval of 75% of the preference shares present at the separate meeting.

Approval of all of the proposals at the extraordinary general meeting is a condition to completing both the conversion and transformation. If we do not hold a separate meeting of our preference shareholders, we may nevertheless determine to complete the conversion and the transformation. Alternatively, we may determine to complete only the transformation.

**Proxies**

As a special service, shareholders (other than holders of American Depositary Shares) can authorize a party who will be appointed by the Company prior to the general meeting to act as a proxy for them. If a shareholder wishes to nominate such party to act as proxy for him or her at a shareholder meeting, the

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shareholder must obtain an entrance card to attend the meeting and therefore must deposit his or her shares as described above. Proxies must be transmitted in text form. The necessary documents and information for this proxy procedure will be distributed to shareholders together with the entrance card.

Shareholders who hold American Depositary Shares evidenced by American Depositary Receipts are being furnished, together with this information statement/ prospectus, a form on which they may instruct the depository for the American Depositary Shares with respect to voting their shares at the extraordinary general meeting and at any separate meeting of preference shareholders. Holders of American Depositary Shares who wish to have their shares voted should complete such request and return it to the depository in accordance with the instructions accompanying the request.

### **Counter Proposals**

Counter proposals to a proposal of the management board and supervisory board on a particular item on the agenda may be made to:

Fresenius Medical Care AG  
Attention: Investor Relations  
Else-Kröner-Strasse 1  
61352 Bad Homburg v.d.H., Germany  
Telefax: ++49-6172-609-2301  
e-mail: [ir-fms@fmc-ag.de](mailto:ir-fms@fmc-ag.de)

Counter proposals received no later than two weeks before the date of the extraordinary general meeting at this address will be made accessible to other shareholders on [www.fmc-ag.com](http://www.fmc-ag.com) as soon as practicable upon receipt. Counter proposals that are sent to any other address will not be considered.

### **The Conversion and the Transformation Proposals**

The following are the proposals with respect to the conversion of non-voting bearer preference shares (referred to as preference shares ) into voting bearer ordinary shares (referred to as ordinary shares ) and the transformation of the legal form of Fresenius Medical Care AG from a stock corporation into a partnership limited by shares under German law, a *Kommanditgesellschaft auf Aktien* ( KGaA ). Ordinary shareholders will vote on proposals 1 through 4 below at the extraordinary general meeting and preference shareholders would vote on a consent to the ordinary shareholders resolutions regarding proposals 1 and 2 at the separate meeting, if it is held.

1. *Conversion of Preference Shares into Ordinary Shares.* The management board and the supervisory board propose that the general meeting and thereafter the ordinary shareholders by special resolution in accordance with the German Stock Corporation Act, resolve that:

a) Out of 26,296,086 existing preference shares as of December 31, 2004 up to all of these shares may be converted into ordinary shares. In addition, of the preference shares issued over and above the existing number of preference shares up to the end of the period for conversion, those preference shares that have been deposited with the Company in accordance with b) of this resolution will be converted into ordinary shares. The dividend preference provided by the articles of association to the preference shares to be converted will be cancelled. The right to dividends on the converted preference shares with respect to the Company's profits shall be the same as that for ordinary shares, effective as of January 1, 2005.

b) Only preference shares that are deposited with the Company for conversion within the time period allowed and in accordance with the conditions specified in the conversion offer, together with a conversion declaration and the conversion premium of EUR 12.25 per deposited share will be converted into ordinary shares.

c) The management board is authorized, with the approval of the supervisory board, to determine and announce further details of the conversion process in a conversion offer, including the

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period for conversion and the conditions of conversion. The period for conversion will be between four and six weeks (i.e., not less than 20 U.S. business days).

d) The supervisory board is authorized to amend the articles of association in accordance with this resolution to reflect the number of ordinary and preference shares after the conversion.

e) The management board is instructed to file the amendment to the articles of association in connection with the conversion of the preference shares into ordinary shares with the commercial register only when the management board is satisfied that the transformation of legal form to a KGaA proposed by the management board and supervisory board will also occur.

f) This resolution will be invalid if the amendment to the articles of association described in paragraph e) is not registered with the commercial register prior to the end of the general meeting which resolves on the ratification of the actions of the management board and supervisory board for the 2005 financial year, unless that general meeting renews or confirms the resolution.

The management board has prepared a conversion report on the conversion of the preference shares into ordinary shares. This report is available at the German offices of the Company, Else-Kröner-Strasse 1, 61352 Bad Homburg v.d.H., Germany, for inspection by shareholders. On request, each shareholder will receive a copy of the report free of charge. The report will also be available at the extraordinary general meeting. A copy of this report has also been furnished to the SEC under cover of a report on Form 6-K and is available at the public reference rooms of the SEC.

**THIS INFORMATION STATEMENT/PROSPECTUS IS BEING DISTRIBUTED SOLELY TO ENABLE OUR SHAREHOLDERS TO VOTE AT THE SHAREHOLDER MEETINGS ON THE AMENDMENTS TO OUR ARTICLES OF ASSOCIATION REQUIRED TO PERMIT THE CONVERSION OF OUR PREFERENCE SHARES INTO ORDINARY SHARES AND THE TRANSFORMATION OF THE LEGAL FORM OF THE COMPANY. IT DOES NOT CONSTITUTE AN OFFER TO ISSUE ORDINARY SHARES UPON CONVERSION INTO PREFERENCE SHARES OR A SOLICITATION OF OFFERS TO CONVERT PREFERENCE SHARES INTO ORDINARY SHARES. ANY SUCH OFFER WILL BE MADE BY A SEPARATE PROSPECTUS TO BE DISTRIBUTED AFTER THE SHAREHOLDER MEETINGS.**

2. *Conversion of Interests Held Under the Employee Participation Programs.* In connection with the proposed conversion, we intend to offer employees and members of our management board, as well as employees and members of the management of affiliated companies, that hold convertible bonds or stock options under our employee participation programs the right to receive ordinary shares upon conversion or exercise, rather than preference shares. Our management board and supervisory board propose the following resolutions:

*a) The 1996/1998 Employee Participation Programs*

i) The 1996/1998 Employee Participation Programs approved on September 24, 1996 by the general meeting will be changed as follows as a result of the conversion of our outstanding preference shares into ordinary shares:

We will make an offer to the holders of convertible bonds convertible into preference shares to change a portion of the convertible bonds granted to them out of a tranche of grants of such bonds so that they are convertible into ordinary shares. The number of convertible bonds to be changed is calculated for each tranche of grants by the formula:

Average price of preference shares (EUR 45.82)	×	Number of convertible bonds issued	=	Number of amended convertible bonds
Average price of ordinary shares (EUR 64.21)				



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The result will be rounded up or down to whole figures. The remaining, unchanged convertible bonds of each holder will be returned to us at their nominal value.

The conversion price of the convertible bonds of each tranche will be adjusted according to the following formula:

$$\begin{array}{rcl}
 \text{Average price of} & & \\
 \text{ordinary shares (EUR 64.21)} & & \\
 & \times & \text{Old option price for} \\
 & & \text{relevant tranche} & = & \text{New option price} \\
 & & & & \text{for relevant tranche} \\
 \text{Average price of} & & & & \\
 \text{preference shares (EUR 45.82)} & & & & 
 \end{array}$$

The average price on which both calculations will be based will correspond to the weighted average stock exchange price of the past three months in the final auction in the Xetra trading system of the Deutsche Börse AG through and including May 3, 2005, the day before the date of the Company's first announcement of the conversion and transformation of legal form, and will be EUR 64.21 for the ordinary shares and EUR 45.82 for the preference shares.

Holders of convertible bonds will be able to accept our conversion and adjustment offer only for all convertible bonds they hold.

If holders of convertible bonds do not consent to the adjustment, their bonds will continue to be convertible into preference shares and the conversion price will not change.

The management board is authorized, with the consent of the supervisory board, to specify details of the conversion process.

ii) The conditional capital of the Company under our articles of association will be adjusted in accordance with the above resolution to ordinary shares and will read as follows:

The capital of the Company is conditionally increased by up to Euro 5,628,725.76 (in words: five million six hundred twenty-eight thousand seven hundred twenty-five Euro and seventy-six Euro cents) by the issue of up to 2,198,721 (in words: two million, one hundred ninety-eight thousand seven hundred twenty-one) new non-voting bearer preference shares and by up to 0 new bearer ordinary shares. The conditional capital increase will be implemented only to the extent that, in accordance with the employee participation program approved by the general meeting on September 24, 1996, convertible bonds relating to non-par value bearer shares have been issued and the holders of convertible bonds exercise their right of conversion. The new non-voting bearer preference shares and bearer ordinary shares shall participate in profits from the beginning of the financial year in which they arise by exercise of the right of conversion.

iii) The supervisory board is authorized to amend our articles of association consistent with this resolution.

*b) The 1998 Employee Participation Program*

i) The 1998 Employee Participation Program approved on June 10, 1998 and modified on May 30, 2000, will be changed as follows as a result of the proposed conversion of our outstanding preference shares into ordinary shares:

We will make an offer to the holders of stock options to change a portion of the stock options granted to them out of a tranche of grants of such options exercisable to acquire

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preference shares so that they are exercisable to acquire ordinary shares. The number of stock options to be changed will be calculated for each tranche by the formula:

$$\begin{array}{rcl} \text{Average price of} & & \\ \text{preference shares (EUR 45.82)} & \times & \text{Number of} \\ & & \text{options issued} \\ \text{Average price of} & & \\ \text{ordinary shares (EUR 64.21)} & & \end{array} = \begin{array}{l} \text{Number of changed} \\ \text{options} \end{array}$$

The result will be rounded up or down to whole figures. The remaining, unchanged stock options of each holder will be cancelled.

The exercise price for the options will be adjusted according to the following formula:

$$\begin{array}{rcl} \text{Average price of} & & \\ \text{ordinary shares (EUR 64.21)} & \times & \text{Old option price} \\ & & \text{for relevant} \\ \text{Average price of} & & \text{tranche} \\ \text{preference shares (EUR 45.82)} & & \end{array} = \begin{array}{l} \text{New option price} \\ \text{for relevant tranche} \end{array}$$

The average price on which both calculations will be based will correspond to the weighted average stock exchange price of the past three months in the final auction in the Xetra trading system of the Deutsche Börse AG through and including May 3, 2005, the day before the date of our first announcement of the conversion and transformation of legal form, and shall be EUR 64.21 for the ordinary shares and EUR 45.82 for the preference shares.

The performance target under the option plan fixed in the general meeting resolution of June 10, 1998 will not change.

Holder of stock options will be able to accept our conversion and adjustment offer only for all options they hold.

If holders of stock options do not consent to the adjustment, their options will continue to be exercisable to acquire preference shares and the exercise price will not change.

The management board is authorized, with the consent of the supervisory board, to specify details of the adjustment process.

ii) Our conditional capital under our articles of association will be adjusted, in accordance with the above resolution, to ordinary shares and will now read as follows:

The capital of the Company is conditionally increased by up to Euro 2,848,235.52 (in words: two million eight hundred forty-eight thousand two hundred thirty-five Euro and fifty-two Euro cents) by the issue of up to 1,112,592 (in words: one million one hundred twelve thousand five hundred ninety-two) new non-voting bearer preference shares and by up to 0 new bearer ordinary shares. The conditional capital increase will be implemented only to the extent that, in accordance with the share option program approved by the general meetings of June 10, 1998 and May 30, 2000, share options relating to non-par value bearer shares have been issued and the holders exercise their options. The new non-voting bearer preference shares and bearer ordinary shares shall participate in profits from the beginning of the financial year in which they are issued.

iii) The supervisory board is authorized to amend the articles of association consistent with this resolution.

*c) The 2001 Employee Participation Program*

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i) The 2001 Employee Participation Program approved on May 23, 2001 will be changed as follows as a result of the proposed conversion of our outstanding preference shares into ordinary shares:

We will make an offer to the holders of convertible bonds convertible into preference shares to change a portion of the convertible bonds granted to them out of a tranche of grants of such bonds so that they are convertible into ordinary shares. The number of convertible bonds to be changed will be calculated for each tranche by the formula:

$$\begin{array}{l} \text{Average price of} \\ \text{preference shares (EUR 45.82)} \end{array} \times \begin{array}{l} \text{Number of} \\ \text{convertible} \\ \text{bonds issued} \end{array} = \begin{array}{l} \text{Number of} \\ \text{amended} \\ \text{convertible bonds} \end{array}$$

$$\begin{array}{l} \text{Average price of} \\ \text{ordinary shares (EUR 64.21)} \end{array}$$

The result will be rounded up or down to whole figures. The remaining, unchanged convertible bonds of each holder will be returned to us at their nominal value.

The price at which the conversion right may be exercised will be adjusted according to the following formula:

$$\begin{array}{l} \text{Average price of} \\ \text{ordinary shares (EUR 64.21)} \end{array} \times \begin{array}{l} \text{Old} \\ \text{option price for} \\ \text{relevant tranche} \end{array} = \begin{array}{l} \text{New option price} \\ \text{for relevant tranche} \end{array}$$

$$\begin{array}{l} \text{Average price of} \\ \text{preference shares (EUR 45.82)} \end{array}$$

The average price on which both calculations are to be based will correspond to the weighted average stock exchange price of the past three months in the final auction in the Xetra trading system of the Deutsche Börse AG through and including May 3, 2005, the day before the date of our first announcement of the conversion and transformation of legal form, and shall therefore be EUR 64.21 for the ordinary shares and EUR 45.82 for the preference shares.

The performance target which the general meeting resolution of May 23, 2001 set for the convertible bonds will, for converted bonds, from the day of our first announcement of the conversion and transformation of legal form (May 4, 2005), refer to ordinary shares. Any partial achievement of the target in relation to preference shares will be taken into account up to the day of the announcement.

Holders of convertible bonds will be able to accept our conversion and adjustment offer only for all convertible bonds that they hold.

If holders of convertible bonds do not consent to the adjustment, their bonds will continue to be convertible into preference shares, the conversion price will not change and the performance targets set by the resolution of May 23, 2001 will not change.

The management board is authorized, with the consent of the supervisory board, to specify details of the conversion process.

ii) Our conditional capital under our articles of association will be adjusted, in accordance with the above resolution to ordinary shares and will now read as follows:

The capital of the Company is conditionally increased by up to Euro 10,215,170.56 (in words: ten million two hundred fifteen thousand one hundred seventy Euro and fifty-six Euro cents) by the issue of up to

3,990,301 (in words: three million nine hundred ninety thousand

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three hundred one) new non-voting bearer preference shares and by up to 0 new bearer ordinary shares. The conditional capital increase will be implemented only to the extent that, in accordance with the international employee participation program approved by the general meeting of May 23, 2001, convertible bonds relating to non-par value bearer shares have been issued and the holders of convertible bonds exercise their right of conversion. The new non-voting bearer preference shares and bearer ordinary shares shall participate in profits from the beginning of the financial year in which they arise by exercise of the right of conversion.

iii) The supervisory board is authorized to amend our articles of association consistent with this resolution.

d) The management board is instructed to file amendments reflecting the new version of the articles of association with the commercial register only when the management board is satisfied that the transformation of legal form to a KGaA proposed by the management board and supervisory board will occur.

3. *The Creation of Authorized Capital.* Our articles of association currently provide for Authorized Capital I and Authorized Capital II, which authorize the management board with the approval of the supervisory board, to increase the share capital by up to Euro 30,720,000.00 by issuing new preference shares for cash (Authorized Capital I) and up to Euro 20,480,000.00 by the issue of preference shares for cash and/or contributions in kind (Authorized Capital II). We anticipate that after the conversion and transformation, we will raise equity capital by issuing ordinary shares. Therefore, Authorized Capital I and Authorized Capital II, which provide for the issuance of new preference shares, will no longer be appropriate, and the management board and supervisory board propose canceling the existing Authorized Capital I and Authorized Capital II and replacing them with the following resolutions, which provide for the issuance of new ordinary shares:

a) A new Authorized Capital I in the articles of association will be created as set forth below:

The management board is authorized, with the approval of the supervisory board, to increase, on one or more occasions during the period ending \_\_\_\_\_, 2010, the share capital of the Company by up to a total of Euro 35,000,000.00 for cash by the issue of new ordinary shares (Authorized Capital I).

The number of shares must be increased in the same proportion as the capital.

The management board is further authorized, with the approval of the supervisory board, to decide on the exclusion of shareholders' pre-emption rights.

Exclusion of pre-emption rights is permissible, however, only for fractional amounts.

The new shares may also be taken up by credit institutions to be specified by the management board, with the obligation to offer them to our shareholders (indirect pre-emption rights).

The management board is further authorized, with the approval of the supervisory board, to determine the further details of the implementation of the capital increase out of Authorized Capital I.

The supervisory board is authorized to amend the articles of association after complete or partial implementation of a capital increase out of Authorized Capital I or after the expiry of the authorized period of in accordance with the amount of the capital increase out of Authorized Capital I.

Our articles of association will be amended to reflect the points set forth above and will now read as follows:

The management board is authorized, in the period up to \_\_\_\_\_, 2010, with the approval of the supervisory board, to increase, on one or more occasions, the capital of the company by

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up to a total of Euro 35,000,000.00 (thirty five million Euro) for cash by the issue of new ordinary bearer shares (Authorized Capital I). The number of shares must increase in the same proportion as the capital. The management board is further authorized, with the approval of the supervisory board, to decide on the exclusion of shareholders' pre-emption rights. Exclusion of pre-emption rights is admissible, however, only for fractional amounts. The new shares may also be taken up by credit institutions to be specified by the management board, with the obligation to offer them to the shareholders (indirect rights). The management board is further authorized, with the approval of the supervisory board, to determine the further details of the implementation of the capital increase out of Authorized Capital I. The supervisory board is authorized to amend the articles of association after complete or partial implementation of the capital increase out of Authorized Capital I or after the expiry of the authorized period in accordance with the amount of the capital increase out of Authorized Capital I.

b) A new Authorized Capital II in our articles of association will be created as set forth below:

The management board is authorized, with the approval of the supervisory board, to increase, on one or more occasions during the period ending \_\_\_\_\_, 2010, the share capital of the Company by up to a total of Euro 25,000,000.00 for cash and/or contributions in kind by the issue of new ordinary shares (Authorized Capital II).

The number of shares must be increased in the same proportion as the capital.

The management board is further authorized, with the approval of the supervisory board, to decide on the exclusion of shareholders' pre-emption rights.

Pre-emption rights may be excluded, however, only if:

1) in the case of a capital increase for cash the amount of capital attributable to the new shares does not exceed 10% of the nominal value of our share capital at the time of the issue of the new shares and the issue price for the new shares is not significantly lower than the stock exchange price of listed shares of the same class and rights at the time of the final determination of the issue price by the management board, or

2) in the case of a capital increase for contributions in kind the grant of shares should be for the purpose of acquiring an enterprise, parts of an enterprise or an interest in an enterprise.

The management board is further authorized, with the approval of the supervisory board, to determine the further details of the implementation of the capital increase out of Authorized Capital II.

The supervisory board is authorized to amend the articles of association after complete or partial implementation of the capital increase out of Authorized Capital II or after the expiry of the authorized period in accordance with the amount of a capital increase out of Authorized Capital II.

Our articles of association will be amended to reflect the points set forth above and will read as follows:

The management board is authorized, in the period up to \_\_\_\_\_, 2010, with the approval of the supervisory board, to increase, on one or more occasions, the capital of the company by up to a total of Euro 25,000,000.00 (twenty five million Euro) for cash and/or contributions in kind by the issue of new ordinary bearer shares (Authorized Capital II). The number of shares must increase in the same proportion as the capital. The management board is further authorized, with the approval of the supervisory board, to decide on the exclusion of shareholders' pre-emption rights. Exclusion of pre-emption rights is admissible, however, only if

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in the case of a capital increase for cash the amount of capital attributable to the new shares does not exceed 10% of the capital at the time of the issue of the new shares and the issue price for the new shares is not significantly lower than the stock exchange price of the listed shares of the same class and rights at the time of the final determination of the issue price by the management board, or

in the case of a capital increase for contributions in kind the grant of shares should be for the purpose of acquiring an enterprise, parts of an enterprise or a participation in an enterprise.

The management board is further authorized, with the approval of the supervisory board, to determine the further details of the implementation of the capital increase out of Authorized Capital II. The supervisory board is authorized to amend the articles of association after complete or partial implementation of the capital increase out of Authorized Capital II or after the expiry of the authorized period in accordance with the amount of the capital increase out of Authorized Capital II.

The management board has issued a report in accordance with the German Stock Corporation Act as to the reasons for the exclusion of pre-emption rights in connection with any capital increase using Authorized Capital II. The report will be made available at the Company for inspection by the shareholders. Shareholders will be entitled to receive a copy of the report free of charge upon request. The report will also be available at the extraordinary general meeting.

The management board is instructed to file the above resolutions with the commercial register only when the management board is satisfied that the transformation of legal form to a KGaA proposed by the management board and supervisory board will also occur.

*4. Transformation of the Legal Form of the Company to a KGaA with Fresenius Medical Care Management AG as Sole General Partner.*

a) Resolution on the transformation of Fresenius Medical Care AG into Fresenius Medical Care KGaA. The management board and supervisory board propose the following resolutions.

i. Fresenius Medical Care AG will be transformed into a partnership limited by shares under German law (a KGaA ).

ii. The name of the KGaA will be Fresenius Medical Care AG & Co. KGaA, referred to herein as Fresenius Medical Care KGaA.

iii. The share capital of Fresenius Medical Care AG of EUR 246,517,980 will become the share capital of Fresenius Medical Care KGaA, and the persons and companies who are shareholders of Fresenius Medical Care AG at the time of the registration of the transformation in the commercial register will become shareholders in Fresenius Medical Care KGaA. They will participate in Fresenius Medical Care KGaA to the same extent and with the same number of shares as they held in Fresenius Medical Care AG prior to the transformation. The ordinary shareholders and the preference shareholders will receive the same number of ordinary shares and preference shares in Fresenius Medical Care KGaA, respectively, as they held in Fresenius Medical Care AG prior to the transformation.

iv. The general partner of Fresenius Medical Care KGaA will be Fresenius Medical Care Management AG, which will be registered in Hof an der Saale. The general partner will not make a capital contribution and therefore will not participate in the assets, profits or losses of the Company.

v. Special Rights

*Preference Shares.* The holders of preference shares in the Company will continue to receive for each preference share held by them an annual dividend based on the Company's profits for the year in an amount EUR 0.06 per share higher than the dividend



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paid on the ordinary shares, and a minimum dividend of EUR 0.12 for each preference share. If the Company's profits in one or more financial years is not adequate to enable payment of EUR 0.12 per preference share, any deficits will be paid in arrears, without interest, in the following years, after distribution of the minimum dividend on the preference shares for that financial year and before the payment of a dividend on the ordinary shares. The right to such payment in arrears is an integral part of the right to dividends for the financial year in respect of which the dividend payment on the preference shares is made.

*Employee Participation Programs.* In the course of the transformation, the conditional capital to cover the shares to be issued under the employee participation programs of 1996, 1998 and 2001 will continue to exist in the KGaA and the right to convert convertible bonds or exercise options to acquire shares of the AG will refer to shares in the KGaA. The performance target for convertible bonds set by the general meeting of June 10, 1998 will remain unchanged. The performance target for convertible bonds set by the general meeting of May 23, 2001 will, for convertible bonds as of May 4, 2005, refer to ordinary shares in the KGaA, and any partial achievement of the performance target will be taken into account. Holders of convertible bonds and stock options under the existing employee participation programs will be offered the opportunity to change the terms of their convertible bonds and stock options so that they will be convertible into or exercisable for ordinary shares rather than preference shares as more fully set forth above under proposal 2.

vi. An English translation of the form of the articles of association of Fresenius Medical Care KGaA is attached as Appendix A to this information statement/ prospectus. The supervisory board is authorized to make amendments to the articles of association before registration with the commercial register, to the extent necessary to implement the approved resolutions and to issue shares out of existing conditional capital in order to adjust the number of preference shares and ordinary shares as a result of the conversion. The supervisory board is further authorized to amend the articles of association prior to the filing of the transformation in the commercial register in order to amend the amount of the conditional capital in connection with the above resolutions.

vii. No offer of compensation will be made to shareholders objecting to the transformation.

viii. There are no consequences for the employees or their representatives arising out of the transformation of legal form. It does not involve a change of employer. Each employee's employment contract will continue in force unchanged. After the transformation of legal form, the employer's right to issue instructions will be exercised by the management board of the general partner, Fresenius Medical Care Management AG. No change for the employees and their representatives will arise therefrom. The composition of the works council and its rights and entitlements will not be altered by the transformation of legal form. Works agreements will remain in force in their present form unchanged. There are no effects on co-determination or collective bargaining in relation to the Company and its subsidiaries.

ix. KPMG Deutsche Treuhand-Gesellschaft Aktiengesellschaft Wirtschaftsprüfungsgesellschaft, Frankfurt am Main, will be our auditor for the 2005 fiscal year.

b) Consent of Management AG to join as general partner of Fresenius Medical Care KGaA and consent of Management AG to the articles of association of Fresenius Medical Care KGaA, an English translation of which is attached as Appendix A to this information statement/ prospectus.

If validly adopted, the management board shall file the amendments to the articles of association described under proposals 1 through 3 under the caption "The Conversion and the Transformation" with the commercial register only in such manner as will assure that these amendments will be registered prior to registration of the transformation of legal form.



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**THE CONVERSION AND TRANSFORMATION**

The description of the material terms of the conversion and transformation set forth below is not intended to be a complete description of the conversion and transformation. We qualify this description by reference to the proposed resolutions set forth above under "The Meetings - The Conversion and Transformation Proposals" and to the proposed articles of association of Fresenius Medical Care KGaA, an English translation of which is attached as Appendix A to this information statement/ prospectus and which we incorporate in this information statement/ prospectus by reference. We urge all shareholders to read these documents in their entirety.

**Structure of the Conversion and Transformation**

The management board and the supervisory board of Fresenius Medical Care AG propose the conversion of our outstanding preference shares into ordinary shares and the transformation of the legal form of the Company from a stock corporation into a partnership limited by shares, a *Kommanditgesellschaft auf Aktien* ( KGaA ). German law requires that our ordinary shareholders approve the transformation and the conversion. We will hold a separate meeting of our preference shareholders if we determine that German law requires that our preference shareholders also approve the conversion.

Currently, our outstanding share capital consists of ordinary shares and non-voting preference shares that are issued only in bearer form. Fresenius AG owns approximately 50.8% of our ordinary shares. Fresenius AG's ordinary shares represent approximately 37% of our total share capital. In connection with the transformation, Management AG will assume the management of the Company through its position as general partner. Fresenius AG, which currently controls the Company as holder of a majority of our ordinary shares, will continue to do so after the transformation as sole shareholder of the general partner.

***The Conversion***

Prior to registration of the transformation, we intend to offer our preference shareholders the opportunity to convert their preference shares into ordinary shares on a one-to-one basis pursuant to a conversion offer to be conducted after the shareholder meetings. The right to convert preference shares into ordinary shares will be available only during a specific period which will be held open for four to six weeks but not less than 20 U.S. business days. The details of the conversion process will be determined by the management board with the approval of the supervisory board, and announced together with the conversion period.

Preference shareholders who decide to convert their shares into ordinary shares will be required to pay a premium of EUR 12.25 per converted share for the conversion. The premium corresponds to approximately two-thirds of the difference between the weighted average stock exchange price of the ordinary shares and the weighted average stock exchange price of the preference shares on the Frankfurt Stock Exchange as calculated for the three months through and including May 3, 2005, the last trading day before our first announcement of the proposed conversion and transformation.

In the conversion process, preference shares submitted for conversion will lose the preferential dividend right provided for under our articles of association and German law. The conversion will increase the number of ordinary shares outstanding held by persons other than Fresenius AG, which we refer to in this information statement/ prospectus as the "outside shareholders" or "free float" of our ordinary shares, as the context requires. Under the applicable rules of Deutsche Börse AG with regard to index weighting, an increase in the number of ordinary shares in free float would lead to a strengthening of our DAX position because this position, among other criteria, is determined by reference to the market capitalization of the free float of the largest class of shares. DAX is an index that measures the performance of the Prime Standard's 30 largest German companies in terms of order book volume and market capitalization. We believe that membership in the DAX is advantageous to us because many institutional investors utilize inclusion in the DAX index as a decisive investment criterion. Some fund investors reproduce a selected index such as the DAX and, therefore, rely exclusively on index participations. The index is based on prices generated in the electronic trading system Xetra. Assuming that most of our outstanding preference

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shares are converted into ordinary shares, the preference shares will have limited trading volume after the conversion.

Those persons who hold convertible bonds or stock options entitling them to preference shares under our employee participation programs will be offered the opportunity to receive convertible bonds or stock options entitling them to receive ordinary shares.

The conversion requires that we amend our articles of association for the purpose of allotting the shares as between ordinary and preference. The final version of the articles of association can be determined, however, only upon final determination of the number of preference shares submitted to the Company for conversion in proper form within the time allowed, together with the applicable conversion premium. As a result, the supervisory board will be authorized to amend the wording of the articles of association after the conversion offer has been completed to reflect the final allotment between classes of shares.

The conversion requires approval by the affirmative vote of 75% of our ordinary shares present at the extraordinary general meeting. Fresenius AG, which holds approximately 50.8% of our ordinary shares, intends to vote in favor of the conversion. If we determine to hold a separate meeting of our preference shareholders, approval of the conversion proposals would require the affirmative vote of 75% of the preference shares present at that meeting.

**THIS INFORMATION STATEMENT/ PROSPECTUS IS BEING DISTRIBUTED SOLELY TO ENABLE OUR SHAREHOLDERS TO VOTE AT THE SHAREHOLDER MEETINGS ON THE AMENDMENTS TO OUR ARTICLES OF ASSOCIATION REQUIRED TO PERMIT THE CONVERSION OF OUR PREFERENCE SHARES INTO ORDINARY SHARES AND THE TRANSFORMATION OF THE LEGAL FORM OF THE COMPANY. IT DOES NOT CONSTITUTE AN OFFER TO ISSUE ORDINARY SHARES UPON CONVERSION OF PREFERENCE SHARES OR A SOLICITATION OF OFFERS TO CONVERT PREFERENCE SHARES INTO ORDINARY SHARES. ANY SUCH OFFER WILL BE MADE BY A SEPARATE PROSPECTUS DISTRIBUTED AFTER THE SHAREHOLDER MEETINGS.**

***The Transformation***

If the transformation is approved by the required shareholder vote, it will become effective upon registration with the commercial register that has jurisdiction over the Company, i.e., the commercial register of the local court (*Amtsgericht*) Hof an der Saale. Upon registration of the transformation, the Company's legal form will be changed by operation of law from an AG, which is a German stock corporation, to a KGaA, which is a German partnership limited by shares, and it will continue to exist in that legal form. In connection with the transformation, the Company will not transfer any assets to another entity, merge into or with or consolidate with any entity, or acquire the shares of any other entity. The Company as a KGaA will be the same legal entity under German law, rather than a successor to the stock