

B.5 Takeover-relevant information pursuant to Section 289a Subsection 1 and Section 315a Subsection 1 of the German Commercial Code (HGB)

Structure of subscribed capital

The subscribed capital of €132,627,126 is divided into 44,209,042 bearer shares with an arithmetical value of €3.00 per share. Each share entitles its holder to one vote at the Annual General Meeting.

Limitations relating to voting rights or the transfer of shares

We are not aware of any limitations to voting rights beyond the legal limitations – such as in accordance with Sections 136 and 71b of the German Stock Corporation Act (AktG).

Shareholdings in Bilfinger exceeding 10 percent of voting rights

Investment company Cevian Capital II GP Limited, St. Helier, Jersey, Channel Islands, notified us on March 4, 2019 that its shareholding in Bilfinger was 26.81 percent of the voting rights. In accordance with Section 34 of the German Securities Trading Act (WpHG), these voting rights were assigned to Cevian Capital II GP Limited through Cevian Capital II Master Fund LP and Cevian Capital Partners Limited with 23.19 percent of the voting rights and Cevian Capital II Co-Investment Fund LP with 3.63 percent of the voting rights.

Shares with special rights

There are no Bilfinger shares with special rights conferring powers of control.

Control of voting rights of employee shares with indirect exercise of controlling rights

Within the scope of the employee share program, there are employee shareholdings from current and former employees who do not exercise their control rights directly, but have transferred these to a shareholder association that represents their interests. The proxies can be revoked at any time. On the balance-sheet date, a total of 9,858 voting rights had been transferred to the association.

Statutory requirements and provisions of the Articles of Incorporation on the appointment and dismissal of members of the Executive Board and changes to the Articles of Incorporation

The appointment and dismissal of members of the Executive Board are subject to the statutory provisions of Section 39 of the SE Regulations, Section 16 of the SE Implementation Act and Sections 84 and 85 of the German Stock Corporation Act (AktG), as well as the provisions of Article 8 of the Bilfinger SE Articles of Incorporation. Accordingly, members of the Executive Board are appointed by the Supervisory Board for a maximum period of five years. Re-appointments are permitted. The Supervisory Board can dismiss a member of the Executive Board when there is good cause for the dismissal. The Supervisory Board decides on the appointment or dismissal of a member of the Executive Board by simple majority. In the event of a tied vote, also in a second voting, the Chairman has a casting vote.

Any amendments to the Articles of Incorporation of Bilfinger SE are subject to the statutory provisions of Section 59 Subsection 1 of the SE Regulations and Sections 133 and 179 of the AktG, as well

as the provisions of Article 21 Section 2 of the Articles of Incorporation of Bilfinger SE. Accordingly, a majority of two-thirds of the valid votes cast or, provided that at least half of the share capital is represented, a simple majority of the valid votes cast is sufficient to amend the Articles of Incorporation. This does not apply to a change in the object of the company, for which a resolution in accordance with Section 8 Subsection 6 SE.VO is required as well as for cases in which a greater voting or capital majority is stipulated by law. Pursuant to Article 25 of the Articles of Incorporation, the Supervisory Board is authorized to make resolutions concerning amendments and supplements that affect only the wording of the Articles of Incorporation.

Authorization of the Executive Board with regard to the buyback and issue of shares

The Annual General Meeting of May 24, 2017 lifted the authorization for the purchase of the company's own shares granted to the Annual General Meeting of May 7, 2015. The authorizations in the Annual General Meeting resolution of May 7, 2015 on the use of the company's own shares remain unaffected. The Annual General Meeting held on May 24, 2017 authorized the Executive Board, with the consent of the Supervisory Board, to acquire the company's own shares until May 23, 2022 in the total amount of up to 10 percent of the share capital of the company under the condition that the shares to be acquired on the basis of this authorization, together with other shares held by the company which the company has already acquired and which are still in its possession or attributable to the company in accordance with Sections 71d and 71e AktG, at no time exceed 10 percent of the share capital of the company. Furthermore, the requirements of Section 71 Subsection 2 Sentences 2 and 3 AktG are also to be observed. The authorization can be exercised for any legally permissible purpose; the acquisition may not be used for the purpose of trading in treasury shares. Acquisition is to take place in accordance with the principle of equal treatment (Section 53a AktG) through the stock exchange or by means of a public offer to buy addressed to all shareholders.

In the case of acquisition through the stock exchange, the price paid (excluding incidental costs) may not be more than 10 percent higher or 20 percent lower than the stock exchange price of Bilfinger shares with the same rights resulting from the opening auction in the XETRA trading system of the Frankfurt Stock Exchange (or a comparable successor system). In the case of a public purchase offer, the company can either publish a formal offer or publicly request the issue of offers from the shareholders. In both cases, the company defines a purchase price or a purchase price range per share, whereby in the latter case the final purchase price is calculated on the basis of the current declarations of acceptance and / or sales offers. The purchase price per share of the company (excluding incidental costs) in the case of the issue of a formal offer by the company may not be more than 10 percent higher or 20 percent lower than the average stock exchange price of Bilfinger shares on the last three days of stock exchange trading before the day the offer is made public, calculated on the basis of the arithmetical average of the price of Bilfinger shares in the closing auction of the XETRA trading system of the Frankfurt Stock Exchange (or a comparable successor system). In the case of an adjustment to the offer, the day of the publication of the offer to buy shall be replaced by the day of publication of the adjustment to the offer. If the company publicly requests the submission of offers to sell, the day of the publication of the offer to buy or the adjustment to such offer shall be replaced by the day of the accepting of offers to sell by the company.

The Annual General Meeting of May 24, 2017 authorized the Executive Board to offer the own shares acquired by means of this authorization for sale to all shareholders under consideration of the principle of equal treatment or to sell them through the stock exchange. It also authorized the Executive Board to sell the own shares acquired as a result of this authorization with the approval of the Supervisory Board in a way other than over the stock exchange or through an offer to sell to all shareholders if the shares are sold in return for a cash payment at a price that is not significantly lower than

the average stock market price of the share of the company on the previous three trading days prior to the final determination of the selling price by the Executive Board, calculated on the basis of the arithmetical average of the closing auction price of the Bilfinger share in the XETRA trading system of the Frankfurt Stock Exchange (or a comparable successor system); this authorization is limited to a total of 10 percent of the current share capital of the company at the time of the resolution of the Annual General Meeting on May 24, 2017 or – if this figure is lower – 10 percent of the share capital of the company. The authorized volume is reduced by the proportionate part of the share capital which is attributable to shares or to which conversion and / or option rights or conversion and / or option obligations apply under bonds which were issued or sold, subject to an exclusion of subscription rights, on or after May 24, 2017 pursuant to Section 186 Subsection 3 Sentence 4 AktG either directly, analogously or *mutatis mutandis*. The shares may also be used within the scope of corporate mergers or acquisitions or the purchase of assets associated with such mergers or acquisitions, recalled without any further resolution by the Annual General Meeting, or used for the fulfillment of conversion and / or option rights or obligations under bonds. In addition, they can be used for the execution of a so-called scrip dividend for which the shareholder receives an offer to transfer to the company their dividend entitlement either wholly or partially as payment in kind in return for the granting of shares in the company. The shares can also, with the approval of the Supervisory Board, be offered for sale, pledged or transferred within the scope of a contractual remuneration agreement to employees of Bilfinger SE and of those subordinated subsidiary companies in the sense of Sections 15 ff. of the German Stock Corporation Act as well as to the management of subordinated subsidiary companies in the sense of Sections 15 ff. of the German Stock Corporation Act.

The Annual General Meeting of May 24, 2017 also authorized the Supervisory Board to use treasury shares that are acquired as a result of this authorization to meet the rights of members of the Executive Board to the granting of shares of Bilfinger SE which the Supervisory Board had granted as part of the Executive Board remuneration.

The purchase of shares may be fully or partially carried out through (i) the sale of options to third parties which obligate the company to acquire shares in the company upon the exercise of the option ("put option"), (ii) the purchase of options which give the company the right to acquire shares of the company upon exercise of the option ("call option"), (iii) forward purchases with which the company acquires own shares at a certain point of time in the future, and (iv) use of a combination of put and call options and forward purchases (together "derivatives").

Derivative transactions may only be concluded with one or more credit institutes or other companies that meet the conditions of Section 186 Paragraph 5 Sentence 1 of the German Stock Corporation Act. Through the conditions of the derivative transaction it must be ensured that the company is only supplied with shares which are acquired under consideration of the principle of equal treatment (Section 53a AktG). All share acquisitions under the use of derivatives are to be limited to shares in a maximum volume of 5 percent of the current share capital at the time of the resolution of the Annual General Meeting on this authorization or – if it is lower – the share capital of the company at the time of the utilization of this authorization. The terms of the derivatives must end at the latest on May 23, 2022, whereby the term of the individual derivatives may each not exceed 18 months and it must be ensured that an acquisition of shares of the company in the exercise or fulfillment of the derivative is carried out no later than May 23, 2022. The option fees paid by the company for call options and collected for put options may not be significantly above or below the theoretical market value of the respective option, calculated using a recognized financial mathematic method, for which the calculation, among other things, of the agreed exercise price is to be taken into account. The purchase price to be paid for the exercise of the options or upon maturity of forward purchase agreements per share of the company (not including supplementary purchase costs but under consideration of the paid or received option fees), may not be 10 percent higher or 20 percent lower than the average price of the

share of the company with the same rights in the closing auction of the XETRA trading system of the Frankfurt Securities Exchange (or a comparable successor system) during the previous three stock exchange trading days prior to the conclusion of the relevant option or futures transaction. If own shares under the use of derivatives under consideration of the aforementioned requirements are acquired, a right of the shareholders to conclude such derivative transactions with the company, in appropriate application of Section 186 Paragraph 3 Sentence 4 AktG, is ruled out. Shareholders have the right to tender their shares to the company only insofar as the company is obligated on the basis of the derivative transaction to accept their shares.

On September 6, 2017, the company started a program to buy back its own shares, which was completed on October 31, 2018. The share buyback took place under the authorization granted by the Annual General Meeting on May 24, 2017. The program called for the buyback of a maximum of 10 percent of the share capital at a purchase price of up to €150 million. Within the scope of the program, a total of 3,942,211 own shares (8.92 percent of the capital stock of Bilfinger SE) at a total value of €149,999,972.62 (not including supplementary costs of acquisition) were acquired. This corresponds to an average price of €38.05 (not including supplementary costs of acquisition) per re-acquired share. The authorization from the Annual General Meeting of May 24, 2017 also regulates all options for a possible use of the shares acquired.

Approved capital

The Annual General Meeting of May 15, 2018 lifted the authorization for the creation of approved capital resolved by the Annual General Meeting of May 8, 2014 and included in Section 4 Paragraph 3 of the Articles of Incorporation (approved capital 2014). By resolution of the Annual General Meeting of May 15, 2018, the Executive Board was authorized for a period ending on May 14, 2023 to increase the company's capital stock, subject to the consent of the Supervisory Board, by up to €66,313,563 by issuing new no-par value bearer shares on one or more occasions (approved capital 2018). Such issue of new shares may be effected against cash or non-cash contributions. The new shares are to be offered to the shareholders for subscription. An indirect subscription right within the meaning of Section 186 Subsection 5 of the AktG shall suffice in this context.

Limited to new shares representing a total proportionate amount of share capital of up to 20 percent and subject to the consent of the Supervisory Board, the Executive Board is authorized to exclude shareholders' statutory subscription rights under the conditions specified in the authorization resolution with the issue of new shares in cases of fractional amounts, to grant subscription rights to holders of conversion and / or option rights issued by the company or by a company of the Group, or to carry out capital increases against cash and / or non-cash contributions as well as for the execution of a so-called scrip dividend.

Conditional capital

The Annual General Meeting of May 24, 2017 lifted the conditional capital increase resolved by the Annual General Meeting of April 18, 2013 and included in the company's Articles of Incorporation (conditional capital 2013). By resolution of the Annual General Meeting of May 24, 2017, the share capital was conditionally increased by up to €13,262,712 through the issue of up to 4,420,904 new bearer shares representing a proportionate amount of the share capital of €3.00 per share (conditional capital 2017). The conditional capital increase serves the granting of shares or under the exercise of conversion and / or option rights or under conversion and / or option obligations under promissory notes that are issued by the company or a Group company by May 23, 2022. The issue of the new shares is carried out according to the aforementioned authorization resolution each at certain conversion and / or option prices.

The conditional capital increase will only be carried out to the extent that holders of bonds make use of their conversion or option rights or fulfill their obligations to exercise conversions or options, and the conditional capital is required in accordance with the conditions of the promissory notes. Each new share issued as a result of the exercise of the conversion or option right or the fulfillment of the conversion or option right participates in the profit from the beginning of the financial year in which it is created.

Agreements related to a change of control

In the case of a change of control resulting from an offer to take over Bilfinger SE, as is common business practice, termination possibilities exist for the providers of credit for our syndicated cash credit lines of €300 million and bank guarantees covering the sum of €955 million, as well as for the investors in our promissory note loan of €123 million and our corporate bond of €250 million.

Compensation agreements in the case of an offer to take over the company

In the case of a change of control and if certain other conditions are fulfilled, the members of the Executive Board have a special right to terminate their contracts of service. This regulation would give the members of the Executive Board the required independence in the case of a takeover bid so that they could direct their actions solely to the benefit of the company and its shareholders. Further details can be found in Chapter [A.4.2 Remuneration report](#).

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B.6 Executive Board remuneration

The remuneration of the members of the Executive Board is generally comprised of a fixed annual salary, variable remuneration components as well as fringe benefits and retirement benefits. Further information including individualized details of payments can be found in Chapter [A.4.2 Remuneration report](#). The remuneration report is part of the combined management report.

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