

epigenomics

INVITATION TO THE  
ANNUAL GENERAL  
SHAREHOLDERS' MEETING

2012

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ANNUAL GENERAL  
SHAREHOLDERS' MEETING 2012  
OF EPIGENOMICS AG, BERLIN

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*Dear Shareholders,*

*We invite you to attend*

**the Annual General Shareholders' Meeting  
of Epigenomics AG**

*on Wednesday, May 2, 2012, at 11:00 a.m.,  
in the premises of Deutsche Bank AG, Friedrichsaal,  
Unter den Linden 13-15 (entrance Charlottenstrasse),  
10117 Berlin, Germany.*

## AGENDA

### **1. Presentation of the approved annual financial statements and the approved consolidated financial statements as well as the management report of Epigenomics AG and the Group management report, the report of the Supervisory Board and the explanatory report of the Executive Board as to the specifications pursuant to Section 289 Paragraph 4, Section 315 Paragraph 4 German Commercial Code (HGB) as well as to the specifications pursuant to Section 289 Paragraph 5, Section 315 Paragraph 2 No. 5 HGB for the fiscal year 2011**

The aforementioned documents can be inspected on the internet at [www.epigenomics.com/news-investors/investors/annual-general-shareholder-meeting.html](http://www.epigenomics.com/news-investors/investors/annual-general-shareholder-meeting.html) and at the offices of Epigenomics AG, Kleine Präsidentenstrasse 1, 10178 Berlin, Germany. Upon request, every shareholder will promptly receive a copy of these documents free of charge.

The Supervisory Board has approved the annual financial statements and the consolidated financial statements prepared by the Executive Board; thus, the annual financial statements are formally approved according to Section 172 Sentence 1 of the German Stock Corporation Act (AktG). The documents specified under this item of the agenda are to be presented to the Annual General Shareholders' Meeting without the adoption of a resolution by the Annual General Shareholders' Meeting being required.

### **2. Resolution on the discharge of the members of the Executive Board for the fiscal year 2011**

The Executive Board and the Supervisory Board propose that discharge be granted for the members of the Executive Board holding office in the fiscal year 2011 with regard to such term.

### **3. Resolution on the discharge of the members of the Supervisory Board for the fiscal year 2011**

The Executive Board and the Supervisory Board propose that discharge be granted for the members of the Supervisory Board holding office in the fiscal year 2011 with regard to such term.

#### **4. Resolution on the approval of the compensation system applying to the members of the Executive Board**

The German Act for the Appropriateness of Executive Board Compensation that entered into force on August 5, 2009, provides the possibility that the Annual General Shareholders' Meeting resolves on the approval of the current compensation system applying to the members of the Executive Board. Also under the aspect of good corporate governance, the Annual General Shareholders' Meeting shall make use of this possibility. The compensation system which currently applies to the members of the Company's Executive Board is described in more detail in the compensation report which is published in the annual report 2011 and which is available on the internet at [www.epigenomics.com/news-investors/investors/annual-general-shareholder-meeting.html](http://www.epigenomics.com/news-investors/investors/annual-general-shareholder-meeting.html).

The Executive Board and the Supervisory Board propose that the compensation system for the remuneration of the members of the Executive Board which is described in the compensation report be approved.

#### **5. Resolution on the reduction of the number of Supervisory Board members and corresponding amendments to the Articles of Association in Section 10 (Compilation of Supervisory Board), Section 11 (Internal rules, Convening Meetings, Resolutions, Committees, Participation) and Section 17 (Chair of Shareholders' Meeting and limitation of the shareholders' right to put questions and speak at the Annual General Shareholders' Meeting)**

The Executive Board and the Supervisory Board propose to reduce the number of Supervisory Board members for efficiency reasons from currently six to three Supervisory Board members. Furthermore, in a Supervisory Board with three persons the election of a deputy chairperson does not appear to be necessary. Therefore, Sections 10 and 11 of the Articles of Association which concern the internal organization and the compilation of the Supervisory Board shall be adapted. The Executive Board and the Supervisory Board therefore propose to resolve:

The number of Supervisory Board members of Epigenomics AG is reduced from currently six to three members in the future. The Articles of Association of the Company shall be amended as follows:

- a) Section 10 of the Articles of Association shall be amended as follows:

"§ 10 Compilation of Supervisory Board

(1) The Supervisory Board shall consist of three members.

*[Paragraphs (2) and (3) remain unchanged]*

(4) The Supervisory Board shall elect a chairperson from among its members. The election shall be for the period of office of the elected person.

*[Paragraphs (5) and (6) remain unchanged]"*

- b) Section 11 of the Articles of Association shall be amended as follows:

"§ 11 Internal Rules, Convening Meetings, Resolutions, Committees, Participation

*[Paragraphs (1) to (4) remain unchanged]*

(5) The Supervisory Board has quorum if all three of its members participate in the adoption of the resolution.

*[Sentences 2 and 3 remain unchanged]*

(6) Resolutions shall be adopted by simple majority of the votes cast unless otherwise determined by statute or the Articles of Association. Abstention shall not be deemed to be a vote cast. In case of a tie, the chairperson shall have the casting vote.

(7) The Supervisory Board may form committees from among its members. Authority to take decisions may not be delegated to the committees. Unless the Supervisory Board otherwise determines, the provisions of this Section 11 and the internal rules of the Supervisory Board shall apply accordingly to the internal organization of the committees.

*[Paragraph (8) remains unchanged]*

(9) The chairperson of the Supervisory Board shall be authorized to submit on behalf of the Supervisory Board those declarations necessary for the implementation of the Supervisory Board's resolutions."

- c) Section 17 Paragraph 1 Sentence 1 of the Articles of Association shall be restated as follows:

"(1) The chairperson of the Supervisory Board or, if the chairperson of the Supervisory Board does not take the chair, another member of the Supervisory Board designated by the Supervisory Board, shall take the chair in the Shareholders' Meeting."

#### **6. Resolution regarding the remuneration of the members of the Supervisory Board and the corresponding amendment of the Articles of Association**

According to Section 12 Paragraph 1 of the Articles of Association the members of the Supervisory Board receive for each full fiscal year of service on the Supervisory Board a fixed remuneration in the amount of EUR 10,000.00. According to Section 12 Paragraph 3 of the Articles of Association, the Annual General Shareholders' Meeting decides on further remuneration for the members of the Supervisory Board. On this basis, the Annual General Shareholders' Meeting in 2005 has resolved upon a lump sum payment for the attendance of each meeting of the Supervisory Board by its members of EUR 2,000.00, whereas the chairman receives only a lump sum of EUR 1,000.00 per session.

Under item 5 of the agenda, a reduction of the number of Supervisory Board members from six to three members is proposed. The tasks and responsibilities of the Supervisory Board members are thereby concentrated on a smaller number of Supervisory Board members in the future. The committees which were foreseen in the past and the resulting sharing of tasks will fall away. Against this background, it appears appropriate to increase the annual fixed remuneration from EUR 10,000.00 to EUR 20,000.00 and to set the lump sum payment for each Supervisory Board member per attended Supervisory Board meeting at EUR 2,000.00. The increases shall apply as of the Annual General Shareholders' Meeting.

Therefore, Executive Board and Supervisory Board propose to resolve:

- a) The lump sum payment for the attendance of Supervisory Board meetings by its members shall be fixed a new as follows:

"The members of the Supervisory Board shall receive for each meeting of the Supervisory Board which is attended by the respective member of the Supervisory Board as of the close of the General Annual Shareholders' Meeting 2012, a lump sum payment of, in each case, EUR 2,000.00."

- b) Section 12 Paragraph 1 of the Articles of Association shall be amended as follows:

"(1) The members of the Supervisory Board shall receive for each full fiscal year of service a fixed remuneration in the amount of EUR 20,000.00, payable upon the end of the respective fiscal year. Members of the Supervisory Board who have only been a member of the Supervisory Board for a part of the fiscal year, shall receive a remuneration which is reduced *pro rata*. For the fiscal year 2012, the remuneration according to sentence 1 shall apply as of the day following the Annual General Shareholders' Meeting; for the prior period, the previous amount of EUR 10,000.00 shall apply."

## **7. Elections to the Supervisory Board**

According to Section 95, Section 96 Paragraph 1 AktG in connection with Section 10 Paragraph 1 of the Articles of Association, the Supervisory Board consists of six members who are elected by the Annual General Shareholders' Meeting.

The term of all current Supervisory Board members expires with the close of the Annual General Shareholders' Meeting on May 2, 2012. Due to the change in the number of Supervisory Board members proposed under item 5 of the agenda, the new elections will only be held for three members of the Supervisory Board.

The Annual General Shareholders' Meeting is not bound by any proposals.

The Supervisory Board proposes to elect as members of the Supervisory Board:

- a) **Ms. Ann Clare Kessler, Ph.D.**, Independent consultant, former Head of Global Project Management at F. Hoffmann-La Roche Ltd. in Basel, Switzerland and former Head of the Division of Exploratory Research at Hoffmann-La Roche Inc. in USA, with residence in Rancho Santa Fe, California, U.S.A.,
  - b) **Prof. Dr. Günther Reiter**, Professor at the ESB Business School in Reutlingen, with residence in Pfullingen, Germany,
- and
- c) **Mr. Heino von Prondzynski**, Independent consultant and former member of the group management of Hoffmann-La Roche (CEO of the Division Roche Diagnostics at F. Hoffmann-La Roche Ltd., Basel, Switzerland), with residence in Einsiedeln, Switzerland

for the term until the close of the shareholders' meeting which resolves on the discharge of the Supervisory Board for the second fiscal year after commencement of the term.

The elections will be performed in accordance with Section 5.4.3 Sentence 1 of the German Corporate Governance Code on an individual basis. Please note the following in accordance with Section 5.4.3 Sentence 3 of the German Corporate Governance Code: In the event of his election to the Supervisory Board, Mr. von Prondzynski will seek his election as chairman of the Supervisory Board in accordance with Section 10 Paragraph 4 of the Articles of Association.

**Information according to Section 125 Paragraph 1 Sentence 5 AktG concerning memberships in other mandatory supervisory boards and comparable boards with supervisory function of German and foreign undertakings**

- a) Ms. Kessler, Ph.D., is not a member of other mandatory supervisory boards. She is a member of comparable boards with supervisory function of the following German or foreign undertakings:
  - AltheaDx Inc., San Diego, CA, U.S.A.
  - MedGenesis Therapeutix, Inc., Victoria, BC, Canada



- b) Prof. Dr. Reiter is not a member of other mandatory supervisory boards. He is a member of comparable boards with supervisory function of the following German and foreign undertakings:
- Deltoton GmbH, Würzburg, Germany
- c) Mr. Heino von Prondzynski is not a member of other mandatory supervisory boards. He is a member of comparable boards with supervisory function of the following German and foreign undertakings:
- Hospira, Inc., Lake Forest, IL, U.S.A.
  - HTL-STREFA S.A., Warsaw, Poland (chairman)
  - Koninklijke Philips Electronics N.V.  
(Royal Philips Electronics), Eindhoven, The Netherlands
  - Qiagen N.V., Venlo, The Netherlands

**8. Resolution on the authorization to issue bonds with warrants, convertible bonds, participation rights or a combination of these instruments and the exclusion of subscription right as well as the creation of a conditional capital and the corresponding amendment of the Articles of Association**

The Executive Board and the Supervisory Board propose to adopt the following resolutions:

- a) **Authorization to issue bonds with warrants, convertible bonds, participation rights or a combination of these instruments and to exclude shareholders' subscription rights**

*(1) Term of authorization, nominal amount, term, number of shares and further specifications of the bonds and/or participation rights*

The Executive Board is authorized until May 1, 2017, subject to Supervisory Board approval, to issue, once or several times, convertible bearer or registered bonds with warrants, convertible bonds, participation rights or a combination of these instruments in an aggregate nominal amount of up to EUR 40,000,000.00 with or without a fixed term and to grant conversion rights to, or impose conversion obligations upon, the holders or creditors of convertible bonds and/or convertible participation rights and grant option rights, or impose option obligations upon the holders or creditors of bonds with warrants and/or participation rights with warrants for up to a total of 3,527,366 non-par value bearer

shares of the Company representing an aggregate notional portion of the share capital of the Company of up to EUR 3,527,366.00 as further specified in the terms and conditions of these bonds or participation rights. The terms and conditions of the bonds or participation certificates may, instead of conversion or option rights for the holders or creditors or the bonds or participation certificates, provide for (i) an obligation to exercise an option or conversion right at the end of the term or another point in time or (ii) the right for the Company, at final maturity of the bonds or participation rights (including maturity due to the exercise of a termination right), to grant to the holders or creditors non-par value shares of the Company or another listed company, entirely or partially instead of the payment of the due cash amount ("share delivery right").

The bonds or participation rights may – other than in Euro – be issued in the legal currency of another country, limited to the corresponding value expressed in Euro. They may also be issued by a subsidiary of the Company. For such event, the Executive Board is authorized to assume, subject to Supervisory Board approval, the guarantee on behalf of the Company for the bonds or participation rights and to grant to the holders or creditors option or conversion rights for non-par value bearer shares of the Company or to agree on option or conversion obligations or a share delivery right.

The bonds shall be divided into notes.

*(2) Subscription right, exclusion of subscription right*

The bonds and/or participation rights shall be offered to the shareholders for subscription. To the extent the shareholders are not granted a direct subscription right, the statutory subscription right shall be granted to the shareholders in such a manner that the bonds and/or participation rights will be underwritten by one or more credit institutions, by one or more companies acting in accordance with Section 53 Paragraph 1 Sentence 1 or Section 53b Paragraph 1 Sentence 1 or Paragraph 7 of the German Banking Act (KWG) or by a group or a syndicate of credit institutions and/or such companies subject to the obligation to offer the bonds and/or participation rights to the shareholders for subscription. If the bonds or participation rights are issued by a subsidiary, the Company must ensure that the statutory subscription rights

are granted to the shareholders of the Company in accordance with the preceding sentence.

However, the Executive Board, subject to Supervisory Board approval, is authorized to exclude any residual amounts resulting from the subscription ratio from the subscription right and to exclude the shareholders' subscription rights to the extent required to grant a subscription right to the holders or creditors of previously issued bonds with warrants, convertible bonds or convertible participation rights (and/or bonds or participation rights with share delivery right) in an amount to which such holders or creditors would be entitled as shareholders after the exercise of the option or conversion rights, in case of the performance of obligations to exercise option or conversion rights, or after the exercise of a share delivery right.

The Executive Board is further authorized, subject to Supervisory Board approval, to entirely exclude the subscription right for bonds and/or participation rights with warrants or conversion rights or obligations (and/or bonds or participation rights with share delivery right) which are issued against payment in cash to the extent that the Executive Board has concluded, following an examination in accordance with its legal duties, that the issuing price of the bonds and/or participation rights is not significantly below their hypothetical market value calculated on the basis of recognized, particularly financial mathematical, methods. This authorization to exclude the subscription right only applies to bonds or participation rights with an option or conversion right or obligation or with a share delivery right of the Company for shares representing a notional portion of the share capital which in the aggregate does not exceed 10% of the share capital, neither at the time this authorization takes effect nor – if this value is lower – at the time of the exercise of this authorization. Treasury shares which are disposed of under an exclusion of the shareholders' subscription right pursuant to Section 71 Paragraph 1 No. 8 in connection with Section 186 Paragraph 3 Sentence 4 AktG during the term of this authorization until the issuance of the respective bonds or participation rights shall be counted towards the aforementioned 10% limitation. Furthermore, shares issued from an authorized capital under exclusion of the subscription right pursuant to Section 203 Paragraph 1 in connection with Section 186 Paragraph 3 Sentence 4 AktG during the term

of this authorization until the issuance of the respective bonds or participation rights shall be counted towards the aforementioned 10%-limitation.

To the extent that participation rights without a right or obligation to convert, without a right or obligation to exercise an option and without a share delivery right are issued, the Executive Board is authorized to entirely exclude the shareholders' subscription right, subject to Supervisory Board approval, if these participation rights have bond-like characteristics, i.e. do not confer membership rights in the Company, do not provide for a participation in the liquidation proceeds and the amount of interest is not calculated based on the annual surplus, the balance sheet profit or the dividend. In addition, interest and issue price of the participation rights must, in this case, correspond to current market terms at the time of issuance.

### *(3) Option right and conversion ratio*

If bonds or participation rights with warrants are issued, one or more warrants will be attached to each note and/or each participation certificate and will entitle or oblige – including due to a share delivery right – the holders or creditors to subscribe for non-par value bearer shares of the Company as further specified by the terms and conditions of the bonds or participation certificates determined by the Executive Board. With respect to Euro-denominated bonds or participation rights with warrants issued by the Company, the terms and conditions of the bonds or participation certificates may provide that the option price may also be paid by way of transfer of notes and/or participation certificates or by offsetting against the claim for repayment under the notes and/or the participation rights and, as the case may be, an additional cash payment or an option premium in cash. The notional pro rata amount of the share capital attributable to the shares which may be subscribed for under each note and/or participation certificate must not exceed the nominal amount of such note and/or the participation certificate in addition to, if applicable, an additional cash payment or an option premium in cash. Any fractions of shares may, if so provided for in the terms and conditions of the bonds and/or participation certificates, be added up for the subscription of whole shares, against additional payment if necessary.

If convertible bonds or convertible participation rights are issued, the holders of bearer bonds or bearer participation rights, otherwise the creditors of the notes and/or participation certificates, have the indefeasible right or the obligation to convert their notes and/or participation certificates as further specified in the terms and conditions of the bonds and/or participation rights determined by the Executive Board into bearer shares of the Company or, as the case may be, to take delivery of such bearer shares. The conversion ratio is determined by dividing the nominal amount, or the issue price which is below the nominal amount, of a note or a participation certificate, by the determined conversion price for one non-par value bearer share of the Company; for this calculation of the conversion ratio, an additional cash payment or a cash conversion premium may be added to the nominal amount or the issue price of a note or participation certificate. The terms and conditions of the bonds and/or participation certificates may provide that the conversion ratio is variable and the conversion price (subject to the minimum price as described hereafter) is determined within a pre-determined range depending on the development of the stock price of the Company during the term of the bond and/or participation certificate. The conversion ratio may in any event be rounded up or down to the next whole number; furthermore, an additional payment or a conversion premium, in each case payable in cash, may be determined. Also, it may be provided that residual amounts resulting from the conversion ratio that cannot be converted can be added up and/or settled in cash.

*(4) Option and conversion price; anti-dilution protection*

The option or conversion price to be determined in each case for a non-par value share of the Company must – except for those cases where an option or conversion obligations or a share delivery right is foreseen – at least be equal to 80% of the unweighted average closing price of the non-par value shares of the Company as quoted in the electronic trading system of the Frankfurt Stock Exchange on the ten trading days preceding the day when the Executive Board has adopted the resolution to issue the bonds and/or participation rights, or – if a shareholders' subscription right is granted – at least be equal to 80% of the unweighted average stock exchange price of the shares of the Company as quoted in the electronic trading system of the Frankfurt Stock

Exchange during the subscription period except for those days which are necessary to timely announce the option or conversion price pursuant to Section 186 Paragraph 2 Sentence 2 AktG. If an obligation to exercise an option or conversion or a share delivery right is foreseen, the option or conversion price – as further specified in the terms and conditions of the bonds and/or participation certificates – may be equal to at least either the aforementioned minimum price or the unweighted average price of the shares of the Company as quoted in the electronic trading system of the Frankfurt Stock Exchange during a reference period of 15 trading days preceding the day of the final maturity or other determined point in time, as applicable, even if this average stock price is below the aforementioned minimum price (80%). The pro rata amount of the share capital attributable to the non-par value shares to be issued must not exceed the nominal amount of the bonds and/or participation rights including, if applicable, an additional cash payment or cash conversion or option premium. Sections 9 Paragraph 1 and 199 Paragraph 2 AktG shall remain unaffected.

Notwithstanding Section 9 Paragraph 1 AktG, the option or conversion price may be reduced pursuant to or corresponding to Section 216 Paragraph 3 AktG based on an anti-dilution provision as further specified in the terms and conditions of the bonds and/or participation rights to preserve the rights of the holders and/or creditors of the bonds and/or participation certificates if the Company, during the option or conversion period, (i) increases the share capital by issuing new shares in a capital increase from retained earnings, (ii) increases the share capital or sells treasury shares by granting an exclusive subscription right to its shareholders (notwithstanding a possible exclusion of subscription rights for residual amounts) or (iii) while granting an exclusive subscription right to its shareholders (notwithstanding a possible exclusion of subscription rights for residual amounts) issues, grants or guarantees additional bonds or participation rights with option or conversion rights or the obligation to exercise an option or conversion or with a share delivery right, and in the cases (i) to (iii) the holders or creditors of already existing option or conversion rights or obligations are not granted the subscription rights they would have been entitled to by statute following the exercise of the option or subscription right or performance of the option or conversion obligation. The reduction of the option

or conversion price may also be effected by a cash payment upon the exercise of the option or conversion right or the performance of the option or conversion obligation. To the extent required to protect against dilution, the terms and conditions of the bonds and/or participation rights, in the aforementioned cases, may also provide for an adjustment of the number of the option or conversion rights or obligations per note and/or participation certificate. The terms and conditions of the bonds and/or participation certificates may also provide for an adjustment of the option or conversion rights or obligations in the event that the Company's capital is reduced or other extraordinary measures are taken or events occur that are connected with an economic dilution of the value of the option or conversion rights or obligations (e.g. third parties gaining control of the Company). Sections 9 Paragraph 1 and 199 Paragraph 2 AktG shall remain unaffected.

*(5) Further specifications*

The terms and conditions of the bonds and/or participation certificates may provide that – if the option or conversion is exercised – the Company shall be entitled – instead of granting new non-par value shares – to pay a cash amount equal to the unweighted average closing price of the non-par value shares of the Company in the electronic trading system of the Frankfurt Stock Exchange during the ten trading days following the day on which the declaration exercising the option or conversion was made for the number of shares that would otherwise have been to be delivered.

The terms and conditions of the notes and/or participation certificates may also provide that the bonds and/or participation certificates may, at the election of the Company, be converted into existing shares of the Company or shares of another listed company or that the option right or obligation may be fulfilled or discharged by delivering such shares instead of new shares from conditional capital.

The Management Board is authorized, subject to Supervisory Board approval, to determine the further details concerning the issuance and features of the bonds and/or participation rights, in particular, interest rate, issue price, term and denomination, subscription and/or conversion ratio, creation of an option or conversion obligation, determination of an additional cash

payment, settlement or adding-up of residual amounts resulting from the conversion ratio, cash payment instead of delivery of shares, anti-dilution provisions, option and conversion period, the ranking and a possible sharing of losses, as well as, within the aforementioned range, the option and/or conversion price and the issue price of the new shares, and to provide for a subscription right of the holders or creditors of the bonds or participation rights in the event that the Company or a group company issues additional bonds or participation rights with option or conversion rights or obligations or a share delivery right, or, as the case may be, to determine any such details in coordination with the competent bodies of the group company issuing the bonds and/or participation rights.

#### **b) Creation of a conditional capital**

The Company's share capital is conditionally increased by up to EUR 3,527,366.00 through issuance of up to 3,527,366 new common bearer shares representing a notional portion of the share capital of EUR 1.00 per share (Conditional Capital IX). The conditional capital increase serves the purpose of granting shares to holders or creditors of bonds or participation rights issued by the Company or a subsidiary on the basis of the authorization resolution dated May 2, 2012, until May 1, 2017, if option or conversion rights are exercised, option or conversion obligations are performed or the Company exercises an election right to entirely or partially grant non-par value shares of the Company instead of payment of the due cash amount. The issuance of the new shares occurs at the respective option or conversion price or the lower issue price, in each case as further to be determined and specified in accordance with the aforementioned authorization resolution.

The conditional capital increase is only to be implemented if bonds or participation rights are issued in accordance with the authorization resolution of the General Shareholders' Meeting dated May 2, 2012, and only to the extent that

- option or conversion rights are exercised or
- holders or creditors of bonds or participation rights who are under an obligation to exercise an option or to convert perform their obligation to exercise the option or to convert or



- the Company exercises an election right to grant non-par value shares of the Company instead of paying a due cash amount

and to the extent that no cash settlement is granted or treasury shares or shares of another listed company are delivered. The newly issued shares shall carry dividend rights from the commencement of the fiscal year in which the shares are issued, or, if no resolution on the application of the profit of the fiscal year immediately preceding the year of the issuance has been adopted when the new shares are issued, from the commencement of this fiscal year immediately preceding the year of the issuance. The Executive Board is authorized, subject to Supervisory Board approval, to determine the further details concerning the implementation of the conditional capital increase.

### **c) Amendment of the Articles of Association**

The following Paragraph 5 shall be added to Section 5 of the Articles of Association:

"(5) The Company's share capital is conditionally increased by up to EUR 3,527,366.00 through issuance of up to 3,527,366 new common bearer shares representing a notional portion of the share capital of EUR 1.00 per share (Conditional Capital IX). The conditional capital increase is only to be implemented to the extent that

- (a) the holders or creditors of bonds with warrants or conversion rights under bonds or participation rights issued by the Company or a subsidiary, or guaranteed by the Company, based on the authorization of the Executive Board by resolution of the Shareholders' Meeting on May 2, 2012, until May 1, 2017, exercise their option or conversion rights or
- (b) the holders or creditors of bonds or participation rights issued by the Company or a subsidiary, or guaranteed by the Company, based on the authorization of the Executive Board by resolution of the Shareholders' Meeting on May 2, 2012, until May 1, 2017, are obliged to exercise an option or to convert and fulfill this obligation or

- (c) the Company exercises an election right to grant shares of the Company instead of paying a cash amount due for payment to the holders or creditors of bonds or participation rights issued by the Company or a subsidiary, or guaranteed by the Company, based on the authorization of the Executive Board by resolution of the Shareholders' Meeting on May 2, 2012, until May 1, 2017,

and to the extent that no cash settlement is granted and no shares from an authorized capital, treasury shares or shares of another listed company are delivered. The issuance of the new shares occurs at the respective option or conversion price or the lower issue price, in each case as further to be determined and specified in accordance with the aforementioned authorization resolution dated May 2, 2012. The newly issued shares shall carry dividend rights from the commencement of the fiscal year in which the shares are issued, or, if no resolution on the application of the profit of the fiscal year immediately preceding the year of the issuance has been adopted when the new shares are issued, from the commencement of this fiscal year immediately preceding the year of the issuance. The Executive Board is authorized, subject to Supervisory Board approval, to determine the further details concerning the implementation of the conditional capital increase. The Supervisory Board is authorized to amend the wording of the Articles of Association in accordance with the amount of the capital increase from the Conditional Capital IX."

#### **9. Appointment of the auditor for the fiscal year 2012**

Upon the recommendation of its Audit and Corporate Governance Committee, the Supervisory Board proposes that the auditing company UHY Deutschland AG Wirtschaftsprüfungsgesellschaft, Berlin, be appointed to serve as the auditor for the annual financial statements and the consolidated financial statements for the fiscal year 2012 as well as for the review of the half year financial report 2013. The auditing company UHY Deutschland AG Wirtschaftsprüfungsgesellschaft has issued the statement according to Section 7.2.1 of the German Corporate Governance Code.

**Report of the Executive Board on agenda item 8 pursuant to Section 221 Paragraph 4 Sentence 2 AktG in connection with Section 186 Paragraph 4 Sentence 2 AktG**

The Executive Board and the Supervisory Board propose to the Annual General Shareholders' Meeting under item 8 of the agenda to authorize the Executive Board to issue, subject to Supervisory Board approval, until May 1, 2017, once or several times bearer or registered bonds with warrants, convertible bonds, participation rights or a combination of these instruments (and to exclude the shareholders' subscription right) in an aggregate nominal amount of up to EUR 40,000,000.00. For the purpose of delivering shares in accordance with the bonds with warrants, convertible bonds and or participation rights, the creation of a conditional capital is proposed.

Pursuant to Section 221 Paragraph 4 Sentence 2, Section 186 Paragraph 4 Sentence 2 AktG, the Executive Board issues a written report on the authorization to exclude the subscription right in connection with the authorization which is released in full below:

The proposed authorization to issue bonds, participation rights or a combination of these instruments in an aggregate nominal amount of up to EUR 40,000,000.00 as well as the creation of a conditional capital in an amount of up to EUR 3,527,366.00 is intended to broaden the Company's options to finance its activities and to give the Executive Board access, subject to Supervisory Board approval, to quick and flexible financing in the interest of the Company, in particular in case of propitious capital market conditions.

The shareholders are, in principle, entitled to a statutory subscription right for bonds with warrants or conversion rights or obligations or with a right of the Company to, entirely or partially, grant to the holders or creditors of the bonds non-par value shares of the company instead of payment of a due cash amount ("share delivery right"), Sections 221 Paragraph 4, 186 Paragraph 1 AktG. In principle, shareholders are entitled to a statutory subscription right for participation rights, regardless of whether the participation rights carry option or conversion rights or obligations or a share delivery right.

To the extent that shareholders are not granted the possibility to directly subscribe for the bonds or participation rights, the Executive Board may make use of the possibility to issue bonds or participation rights to a credit institution, to a company which is deemed equivalent to a credit institution by statute and by the proposed resolution, or to several, also to a syndicate of, credit institutions and/or such equivalent companies, with the obligation for offer the bonds or participation rights to the shareholders in accordance with their subscription right (indirect subscription right within the meaning of Section 221 Paragraph 4 Sentence 2 in connection with Section 186 Paragraph 5 AktG).

The authorization provides for the possibility to exclude the subscription right for residual amounts resulting from the conversion ratio. This enables the utilization of the requested authorization by round amounts and thereby facilitates the implementation of the shareholders' subscription right. Furthermore, the proposed resolution includes the authorization to exclude the subscription right in favor of the holders or creditors of previously issued bonds with warrants or conversion rights or obligations and/or bonds or participation rights with respect to which the Company has a share delivery right. The advantage of this is that the option and/or conversion price for previously issued option or conversion rights or obligations or share delivery rights does not need to be reduced which allows for increased aggregate proceeds for the Company. Both exclusions of the subscription right are therefore in the interest of the Company and its shareholders.

The issue price of the new shares, in case of an exclusion of the subscription right, must in each case at least be equal to 80% of the stock exchange price of the shares, determined at a time which is close to the issuance of the bonds and/or participation rights. The possibility of an extra amount (which may increase in accordance with the term of the bonds or participation rights) allows for the terms and conditions of the bonds or participation rights to take into account the respective conditions on the capital markets at the time of issuance. If option or conversion obligations or a share delivery right for the Company are foreseen, the option or conversion price may also be aligned to the average stock market price of the share of the Company, even if it is below the aforementioned minimum price. These structuring options enable the Company to successfully place the bonds or participa-

tion rights in the market at favorable conditions for the Company and taking into account the prevailing market conditions at the time when the bonds or participation rights are issued.

The Executive Board is further authorized, subject to Supervisory Board approval, to entirely exclude the shareholders' participation right, if the bonds or the participation rights with warrants or conversion rights and/or participation rights with share delivery right are issued against cash payment at a price that is not significantly below the market value of these bonds and/or participation rights. This enables the Company to make use of propitious market conditions very quickly and to obtain better conditions with respect to the interest rate, option and/or conversion price and the issue price of the bonds and/or participation rights by determining the terms and conditions in accordance with current market conditions. If subscription rights were granted, a smooth placement at market conditions would not be possible. Section 186 Paragraph 2 AktG allows for a publication of the subscription price (and therefore the conditions of these bonds and/or participation rights) until the third to last day of the subscription period. However, taking into account the often volatile stock markets, even then a market risk exists over several days which leads to precautionary discounts when the terms and conditions of the bonds and/or participation rights are fixed, and therefore to terms and conditions which do not correspond to the market conditions. Also, if a subscription right is granted, there is uncertainty with respect to its exercise (subscription behavior) which constitutes a risk for a successful placement with third parties or causes additional expenses in connection therewith. Finally, the Company cannot react quickly to propitious market conditions if a subscription right is granted due to the length of the subscription period; the Company would rather bear the risk of falling share prices during the subscription period which might lead to raising equity at unfavorable conditions.

In this case of an entire exclusion of the subscription right, the provision of Section 186 Paragraph 3 Sentence 4 AktG applies accordingly pursuant to Section 221 Paragraph 4 Sentence 2 AktG. The limit of 10% of the share capital for exclusions of subscription rights provided for in this provision is to be complied with according to the content of the resolution. The maximum amount of the conditional capital that may be used to secure

option or conversion rights or obligations or a share delivery right may not exceed 10% of the share capital when the authorization to exclude the subscription right pursuant to Section 186 Paragraph 3 Sentence 4 enters into effect. By way of a corresponding requirement in the authorization resolution it is ensured that the 10% limit will not be exceeded in case of a capital decrease either, as the authorization to exclude the subscription right must explicitly not exceed 10% of the share capital, neither when the authorization enters into effect nor – if this is the lesser amount – when the authorization is exercised. Treasury shares which are disposed of under an exclusion of the subscription right pursuant to Section 186 Paragraph 3 Sentence 4 AktG as well as shares that are issued from an authorized capital under an exclusion of the subscription right pursuant to Section 186 Paragraph 3 Sentence 4 AktG will count towards this limit, if their disposal and/or issuance occurs during the term of this authorization and prior to an issuance of bonds or participation rights without subscription right. Thereby they reduce the number of shares that may be issued based on the authorization by making use of an exclusion of subscription rights pursuant to Sections 221 Paragraph 4 Sentence 2, 186 Paragraph 3 Sentence 4 AktG.

It further results from Section 186 Paragraph 3 Sentence 4 that the issue price must not be significantly below the stock market price. This shall prevent a significant economic dilution of the value of the shares. Whether such a dilution effect occurs in case of the issuance of bonds or participation rights without subscription right can be determined by calculating the hypothetical market value of the bond and/or participation right based on recognized, particularly financial mathematical, methods and comparing this value with the issue price of the bond and/or participation right. If this issue price – after due examination – is not more than insignificantly lower than the hypothetical stock market price at the time when the bonds and/or participation rights are issued, the exclusion of the subscription right is not prohibited based on the rationale of Section 186 Paragraph 3 Sentence 4 AktG due to the merely insignificant discount. The proposed resolution therefore provides that the Executive Board – prior to the issuance of the bonds and/or participation rights and after due examination in accordance with its legal duties – must have come

to the conclusion that the envisaged issue price of the bonds and/or participation rights does not lead to a significant dilution of the value of the shares, as the issue price of the bonds and/or participation price does not significantly fall short of hypothetical market value calculated pursuant to recognized, in particular financial mathematical methods. Thereby, the arithmetical market value of a subscription right would be reduced to nearly zero such that no significant economic disadvantage may arise for the shareholders due to the exclusion of the subscription right. All this ensures, that no significant dilution of the value of the shares will result from the exclusion of the subscription right.

In addition, the shareholders have the opportunity to maintain their pro rata share of the share capital of the Company also subsequent to the exercise of option or conversion rights, the performance of option or conversion obligations or the exercise of a share delivery right through stock market purchases of shares at any time. On the contrary, the authorization to exclude the subscription right offers the Company market-adequate determination of the terms and conditions, maximum security with respect to the possibility to place the bonds and/or participation rights with third parties and the quick utilization of propitious market situations.

To the extent that participation rights without option or conversion rights or obligations and without share delivery right are to be issued, the Executive Board is authorized, subject to Supervisory Board approval, to entirely exclude the shareholders' subscription right, if these participation rights have bond-like characteristics, i.e. do not confer membership rights in the Company, do not provide for a participation in the liquidation proceeds or the amount of interest is not calculated based on the annual surplus, the balance sheet profit or the dividend. In addition, interest and issue price of the participation rights must, in this case, correspond to current market terms at the time of issuance. If these conditions are fulfilled, the exclusion of the subscription right does not result in disadvantages to the shareholders, as the participation rights do not confer membership rights and no share in the liquidation proceeds or in the profit of the Company.

The report pursuant to Sections 221 Paragraph 4 Sentence 2, 186 Paragraph 4 Sentence 2 AktG reproduced above is available on the internet at [www.epigenomics.com/de/news-investors/investor-relations/hauptversammlung.html](http://www.epigenomics.com/de/news-investors/investor-relations/hauptversammlung.html) as well as at the offices of Epigenomics AG, Kleine Präsidentenstraße 1, 10178 Berlin, Germany. Upon request, every shareholder will promptly receive a copy of the report free of charge.

## FURTHER INFORMATION REGARDING THE CALLING OF THE ANNUAL GENERAL SHAREHOLDERS' MEETING

### **1. Total number of shares and voting rights at time of calling the meeting**

The share capital of the Company amounts to EUR 8,818,417.00 and is divided into 8,818,417 non-par value bearer shares. Pursuant to Section 18 Paragraph 1 of the Articles of Association, each share carries one vote in the Annual General Shareholders' Meeting. The Company does not hold treasury shares. Therefore, the total number of voting rights at the time of the calling of this Annual General Shareholders' Meeting is 8,818,417.

### **2. Attendance of the Annual General Shareholders' Meeting**

Shareholders who register to attend and present proof of their entitlement to the Company shall be entitled to attend the Annual General Shareholders' Meeting and to exercise their voting rights. The proof of entitlement requires a proof in text form by the depository bank with respect to the shareholding at the point in time as provided in the German Stock Corporation Act (AktG). According to Section 123 Paragraph 3 Sentence 3 AktG, the proof must relate to the beginning of the 21st day prior to the Annual General Shareholders' Meeting, i.e. the April 11, 2012, 0:00 a.m. (CEST).

The registration and the proof of entitlement must be in the German or English language and must be received by the Company at the latest by the end of April 25, 2012, i.e. at the latest by April 25, 2012, 12:00 p.m. (CEST), at the following address:



Epigenomics AG  
c/o Deutsche Bank AG  
Securities Production  
- General Meetings -  
Postfach 20 01 07  
60605 Frankfurt am Main, Germany

or *via* fax: +49 (0)69 12012-86045  
or *via* e-mail: wp.hv@xchanging.com

A shareholder will only be deemed a shareholder entitled to attend the meeting and to exercise voting rights in relation to the Company if the shareholder has submitted proof of its shareholding. The entitlement to attend and the scope of the voting rights are exclusively determined by the shareholding of the shareholder on the record date. The occurrence of the record date will not hinder a sale of the shareholding. Even in the event of a full or partial sale of the shareholding following the record date, the shares owned by the shareholder on the record date will continue to be exclusively relevant for the attendance of the meeting and the scope of the voting rights. The sale of shares after the record date will not affect the entitlement to attend the meeting or the scope of the voting rights. The same applies if shares are purchased after the record date. Persons who do not own any shares on the record date and become shareholders only after the record date are not entitled to attend the meeting or to exercise voting rights.

### **3. Proxy voting**

Shareholders may exercise their voting rights in the Annual General Shareholders' Meeting also by proxy, e.g. a credit institution, a shareholders' association or any other person of their choice. In the case of proxy voting the conditions for the attendance of the Annual General Shareholders' Meeting and the exercise of voting rights as stated in Section 2 above must also be observed.

Proxy authorization, its revocation and proof of authorization vis-à-vis the Company must be made, in principle, in text form if the power of attorney to exercise the voting rights is granted neither to a credit institution or an institution or company with an equivalent status pursuant to Section 135 Paragraph 10 AktG in connection with Section 125 Paragraph 5 AktG, nor to a share-

holders' association or another person with an equivalent status pursuant to Section 135 Paragraph 8 AktG. For proxy authorization vis-à-vis the Company as well as for the transmission of the proof of authorization for an authorization given vis-à-vis the proxy and for a possible revocation of the proxy, the following address, fax number and e-mail address are available:

Epigenomics AG  
Ms. Antje Zeise  
Kleine Präsidentenstrasse 1  
10178 Berlin, Germany

or *via* fax: +49 30 24345-555

or *via* e-mail: HV2012@epigenomics.com

In case of proxy granted to credit institutions, institutions or companies with equivalent status pursuant to Section 135 Paragraph 10 AktG in connection with Section 125 Paragraph 5 AktG, shareholders' associations or any persons or institutions with equivalent status pursuant to Section 135 Paragraph 8 AktG, Section 135 AktG, whereby the proxy must be retained in a verifiable manner, must be complete and may only contain declarations relating to the exercise of voting rights, as well as other regulations shall reply which are provided by the proxyholder with respect to its proxy, and which should be clarified with the proxyholder.

Forms for the authorization of and giving instructions to the proxy-holder are attached to each admission card and are also available at the website of Epigenomics AG at [www.epigenomics.com/news-investors/investors/annual-general-shareholder-meeting.html](http://www.epigenomics.com/news-investors/investors/annual-general-shareholder-meeting.html). They will also be provided in text form to any person who is entitled to vote upon request.

As a special service, the Company offers its shareholders to grant power of attorney in advance of the Annual General Shareholders' Meeting to a proxy nominated by the Company and bound by instructions. In the case of voting by the proxy nominated by the Company, the conditions for the attendance of the Annual General Shareholders' Meeting and the exercise of voting rights as stated in Section 2 above must also be observed. Instructions must be given to the proxy nominated by the Company. Powers of attorney to the proxy nominated by the Company must be in text form. The proxy nominated by the Company is obliged to

exercise the voting rights in accordance with the instructions. The power of attorney and the instructions must be received at the address indicated in the form for the granting of proxy to a proxy nominated by the Company at the latest on Tuesday, May 1, 2012, 12:00 p.m. (CEST). The same applies to a possible revocation of the proxy and amendments to the instructions that have been granted and/or given to the proxy nominated by the Company. However, the shareholders remain entitled, also after this point in time, to personally exercise their rights in the Annual General Shareholders' Meeting or to have them exercised by a different proxy. In this case the proxy granted to the proxies nominated by the Company and bound by instructions is deemed to be revoked, and the proxies nominated by the Company and bound by instructions will therefore not exercise any voting rights on the basis of their proxy. In addition, shareholders or proxies attending the Annual General Shareholders' Meeting may grant power of attorney and give instructions to the proxies nominated by the Company during the Annual General Shareholders' Meeting; proxies will need to ensure that they are entitled to grant this proxy under their legal relationship with the shareholder represented by them.

Shareholders will receive further documents and information (including forms for the authorization of a proxy nominated by the Company and for the authorization of another representative nominated by the shareholder) together with the admission card; these documents and information are also available on the website of Epigenomics AG at [www.epigenomics.com/news-investors/investors/annual-general-shareholder-meeting.html](http://www.epigenomics.com/news-investors/investors/annual-general-shareholder-meeting.html)

#### **4. Shareholders' rights pursuant to Section 122 Paragraph 2, Section 126 Paragraph 1, Section 127, Section 131 Paragraph 1 of the German Stock Corporation Act (AktG)**

##### **Requisitioning of items to be included on the agenda pursuant to Section 122 Paragraph 2 AktG**

Shareholders whose shares amount in aggregate to no less than one-twentieth of the share capital or represent a proportional amount of no less than EUR 500,000.00 (this is equivalent to 500,000 shares) may request that items be included on the agenda and be published. Reasons or a proposal for a resolution must be attached to every new item. Any requisitions must be

received in writing by the Company no later than the end of April 1, 2012, i.e. until April 1, 2012, 12:00 p.m. (CEST). Such request must be addressed in writing to the Executive Board of the Company. Please address your request to:

Epigenomics AG  
Executive Board of the Epigenomics AG  
to the attention of Ms. Antje Zeise  
Kleine Präsidentenstrasse 1  
10178 Berlin, Germany

Requests for amendments of the agenda that are required to be published and unless they are announced with the notice to call the Annual General Shareholders' Meeting, will be published without undue delay upon receipt of the request in the German Electronic Federal Gazette (elektronischer Bundesanzeiger) and will be submitted to those media for publication which may be expected to distribute the information throughout the European Union. In addition, such requests will be disclosed on the internet at [www.epigenomics.com/news-investors/investors/annual-general-shareholder-meeting.html](http://www.epigenomics.com/news-investors/investors/annual-general-shareholder-meeting.html) and communicated to the shareholders according to Section 125 AktG.

The applicants must establish that they have held the shares for at least the three-months prior holding period pursuant to Section 122 Paragraph 2 Sentence 1 AktG in connection with Sections 122 Paragraph 1 Sentence 3 and 142 Paragraph 2 Sentence 2 AktG and that they hold the shares until the request is decided upon in the sense of the aforementioned provisions.

### **Motions by shareholders and nominations for elections pursuant to Sections 126 Paragraph 1 and 127 AktG**

Every shareholder is entitled to file counter-motions with reasons to the Executive Board's and/or the Supervisory Board's proposals with respect to identified items on the agenda as well as nominations for elections for which no reasons need to be given. Motions and election nominations by shareholders pursuant to Section 126 Paragraph 1 and Section 127 AktG need to be addressed exclusively to:

Epigenomics AG  
Ms. Antje Zeise  
Kleine Präsidentenstrasse 1  
10178 Berlin, Germany

or *via* fax: +49 (0)30 24345-555  
or *via* e-mail: HV2012@epigenomics.com

Motions and election nominations sent to a different address will not be taken into consideration. Motions and election nominations by shareholders that need to be made accessible and have been received by the Company at the latest by the end of April 17, 2012, i.e. until April 17, 2012, 12:00 p.m. (CEST) will be published at [www.epigenomics.com/news-investors/investors/annual-general-shareholder-meeting.html](http://www.epigenomics.com/news-investors/investors/annual-general-shareholder-meeting.html) according to the legal provisions. Any comments by the management on the motions and election nominations will likewise be published at this internet address.

Sections 126 Paragraph 2, 127 Sentence 1 and Sentence 3 AktG govern the conditions under which counter-motions and election nominations need not to be made accessible.

### **Right of shareholders to obtain information pursuant to Section 131 Paragraph 1 AktG**

Every shareholder or shareholder representative present at the Annual General Shareholders' Meeting may request from the Executive Board information on matters concerning the Company to the extent that it is required to make an informed judgment on the agenda item under discussion. The duty to provide information includes the legal and business relationships between the Company and its subsidiaries, the situation of the Group and the Company's consolidated subsidiaries.

The information provided shall comply with the principles of conscientious and accurate accounting. Information shall be given orally; there are generally no rights for shareholders to receive information in written form. Section 131 Paragraph 3 AktG sets out the conditions under which the Executive Board may refuse to provide the information.

### **Additional explanations**

Additional explanations regarding shareholders' rights pursuant to Section 122 Paragraph 2, Section 126 Paragraph 1, Section 127, Section 131 Paragraph 1 AktG can be found on the website of Epigenomics AG at [www.epigenomics.com/news-investors/investors/annual-general-shareholder-meeting.html](http://www.epigenomics.com/news-investors/investors/annual-general-shareholder-meeting.html).

### **5. Reference to the Company's website**

This invitation to the Annual General Shareholders' Meeting, the documents that are required to be made available to the Annual General Shareholders' Meeting and further information relating to the Annual General Shareholders' Meeting can be downloaded from the following website once the Annual General Shareholders' Meeting has been called: [www.epigenomics.com/news-investors/investors/annual-general-shareholder-meeting.html](http://www.epigenomics.com/news-investors/investors/annual-general-shareholder-meeting.html).

The documents that are required to be made available at the Annual General Shareholders' Meeting will also be available during the Annual General Shareholders' Meeting on May 2, 2012.

Berlin, March 2012

Epigenomics AG  
The Executive Board

## DISCLAIMER

This document constitutes a convenience translation of the authentic German version. In case of any discrepancies, the German version shall prevail.



