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UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D.C. 20549

FORM S-8  
REGISTRATION STATEMENT  
UNDER THE SECURITIES ACT OF 1933

**Mallinckrodt plc**

(Exact name of registrant as specified in its charter)

**Ireland**

(State or other jurisdiction  
of incorporation or organization)

**98-1088325**

(I.R.S. Employer  
Identification No.)

**College Business & Technology Park, Cruiserath, Blanchardstown, Dublin 15, Ireland**

(Address of Principal Executive Offices)

**Mallinckrodt Pharmaceuticals 2022 Stock and Incentive Plan**

(Full title of the plan)

**Mark J. Casey, Esq.**

**Executive Vice President, Chief Legal Officer  
and Company Secretary**

**Mallinckrodt plc**

**53 Frontage Road Suite 300**

**Hampton, NJ 08827**

(Name and address of agent for service)

Telephone number, including area code, of agent for service: **908-238-6600**

*With a copy to:*

**Bradwell Limited, 10 Earlsfort Terrace**

**Dublin 2, Dublin, D02T380**

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, a smaller reporting company or an emerging growth company. See the definitions of "large accelerated filer," "accelerated filer," "smaller reporting company," and "emerging growth company" in Rule 12b-2 of the Exchange Act.

Large accelerated filer

Accelerated filer

Non-accelerated filer

Smaller reporting company

Emerging growth company

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 7(a)(2)(B) of the Securities Act.

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## Explanatory Note

On October 12, 2020, Mallinckrodt plc, an Irish public limited company (“Mallinckrodt” or the “Registrant”) and certain of its subsidiaries voluntarily initiated proceedings (the “Chapter 11 Cases”) under chapter 11 of title 11 (“Chapter 11”) of the United States (“U.S.”) Code (the “Bankruptcy Code”) in the U.S. Bankruptcy Court for the District of Delaware (the “Bankruptcy Court”). On February 3, 2022, the Bankruptcy Court issued an opinion (which was subsequently revised on February 8, 2022 to make minor corrections) stating its intention to confirm Mallinckrodt’s Fourth Amended Joint Plan of Reorganization of Mallinckrodt Plc and Its Debtor Affiliates Under Chapter 11 of the Bankruptcy Code. On March 2, 2022, the Bankruptcy Court entered an order confirming the Fourth Amended Joint Plan of Reorganization (with Technical Modifications) of Mallinckrodt Plc and Its Debtor Affiliates Under Chapter 11 of the Bankruptcy Code (as amended, supplemented or otherwise modified, the “Plan”). On February 14, 2022, the directors of Mallinckrodt initiated examinership proceedings before the High Court of Ireland (the “Irish High Court”). Subsequently, on April 27, 2022, the Irish High Court made an order pursuant to Section 541(3) of the Companies Act of Ireland confirming a scheme of arrangement proposed between Mallinckrodt, its creditors and members, based on and consistent in all respects with the Plan (the “Scheme”). On June 8, 2022, the Bankruptcy Court entered an order approving a minor modification to the Plan, which is reflected in the final Plan filed at Docket No. 7670.

On June 16, 2022, the Plan and the Scheme became effective and Mallinckrodt emerged from the Chapter 11 and Irish examinership proceedings.

Under an interpretation by the Division of Corporation Finance of the U.S. Securities and Exchange Commission (the “Commission” or the “SEC”), where, following emergence from bankruptcy, the same issuer issues a new class of common stock that has substantially the same terms as its old common stock, except for a different par value, and under the bankruptcy plan all shares of the old common stock are canceled simultaneously with the issuance of the new common stock to new holders, the new common stock succeeds to the registered status of the old common stock. Based on this interpretation, the new ordinary shares of the Registrant issued in connection with the consummation of the Plan and the Scheme are registered pursuant to Section 12(g) of the Securities Exchange Act of 1934, as amended (the “Exchange Act”).

This registration statement on Form S-8 (this “Registration Statement”) is being filed in connection with the registration of ordinary shares of the Registrant issuable to employees, consultants and directors of the Registrant pursuant to awards that may be granted under the Mallinckrodt Pharmaceuticals 2022 Stock and Incentive Plan (the “Stock and Incentive Plan”), as approved by the Registrant’s board of directors pursuant to the terms of the Plan. These documents and the documents incorporated by reference in this Registration Statement pursuant to Item 3 of Part II of Form S-8, taken together, constitute a prospectus that meets the requirements of Section 10(a) of the Securities Act of 1933, as amended (the “Securities Act”).

### **PART I INFORMATION REQUIRED IN THE SECTION 10(a) PROSPECTUS**

The information to be specified in Item 1 and Item 2 of Part I of this Registration Statement is omitted from this filing in accordance with the provisions of Rule 428 under the Securities Act, and the introductory note to Part I of Form S-8. The documents containing the information to be specified in Part I will be delivered to the participants in the Stock and Incentive Plan as required by Rule 428(b)(1). In accordance with the Note to Part I of Form S-8, such documents are not required to be, and are not, filed with the Commission either as part of this Registration Statement or as a prospectus or prospectus supplement pursuant to Rule 424 under the Securities Act.

**PART II**  
**INFORMATION REQUIRED IN THE REGISTRATION STATEMENT**

**ITEM 3. INCORPORATION OF DOCUMENTS BY REFERENCE.**

The following documents filed with the Commission by the Registrant are incorporated in this Registration Statement by reference:

- (a) [the Registrant's Annual Report on Form 10-K for the fiscal year ended December 31, 2021, filed with the Commission on March 15, 2022](#);
- (b) [the Registrant's Quarterly Report on Form 10-Q for the period ended April 1, 2022, filed with the Commission on May 3, 2022](#); and the Registrant's Current Reports on Form 8-K filed with the Commission on [March 11, 2022](#), [May 3, 2022](#) (Commission File No. 001-35803), [June 22, 2022](#), [June 30, 2022](#) and [July 1, 2022](#); and
- (c) the description of the Registrant's ordinary shares contained in the Registrant's Registration Statement on [Form 10/A filed with the Commission on June 5, 2013](#), including any amendment or report filed for the purpose of updating such description, including the description of Mallinckrodt's ordinary shares provided under Item 3 of this Registration Statement below.

All documents subsequently filed by the Registrant pursuant to Sections 13(a), 13(c), 14 or 15(d) of the Exchange Act, subsequent to the filing of this Registration Statement (other than any such documents or portions thereof that are furnished under Items 2.02 or 7.01 of Form 8-K, unless otherwise indicated therein, including any exhibits included with such Items) and prior to the filing of a post-effective amendment to this Registration Statement which indicates that all securities offered hereby have been sold or which deregisters all securities then remaining unsold, shall be deemed to be incorporated by reference into this Registration Statement and to be a part hereof from the date of filing such documents.

Any statement contained in this Registration Statement or in a document incorporated or deemed to be incorporated by reference herein shall be deemed to be modified or superseded for purposes of this Registration Statement to the extent that a statement contained or incorporated by reference herein or in any other subsequently filed document that is deemed to be incorporated by reference herein modifies or supersedes such statement. Any such statement so modified or superseded shall not be deemed, except as so modified or superseded, to constitute a part of this Registration Statement.

**Description of Ordinary Shares**

The following description of the share capital of Mallinckrodt is a summary. This summary does not purport to be complete and is qualified in its entirety by reference to the Irish Companies Act 2014 (the "Companies Act") and the complete text of Mallinckrodt's memorandum and articles of association.

**Legal Name; Formation; Fiscal Year; Registered Office**

The legal name of the company is Mallinckrodt public limited company. Mallinckrodt was incorporated in Ireland as a public limited company on January 9, 2013 with company registration number 522227. Mallinckrodt's fiscal year ends on the last Friday in December and Mallinckrodt's registered address is College Business & Technology Park, Cruiseraith, Blanchardstown, Dublin 15, Ireland.

**Share Capital**

The authorized share capital of Mallinckrodt is €40,000 and \$10,000,000, divided into 40,000 ordinary A shares with a par value of €1.00 per share, 500,000,000 ordinary shares with a par value of \$0.01 per share and 500,000,000 preferred shares with a par value of \$0.01 per share.

Mallinckrodt may issue shares subject to the maximum prescribed by its authorized share capital contained in its memorandum of association. For the avoidance of doubt, notwithstanding anything herein to the contrary, pursuant to Section 1123(a)(6) of the Bankruptcy Code, Mallinckrodt shall not issue non-voting equity securities; provided, however, that the foregoing restriction (i) shall have no further force or effect beyond that required under Section 1123 of the Bankruptcy Code, (ii) shall have such force and effect, if any, only for so long as such section is in effect and applicable to the Company and (iii) in all events may be amended or eliminated in accordance with applicable law as from time to time in effect.

As a matter of Irish company law, the directors of a company may cause the company to issue new ordinary or preferred shares without shareholder approval once authorized to do so by the articles of association of the company or by an ordinary resolution adopted by the shareholders at a general meeting. An ordinary resolution requires over 50% of the votes of a company's shareholders cast at a general meeting (in person or by proxy). The authority conferred can be granted for a maximum period of five years, at which point it must be renewed by the shareholders of the company by an ordinary resolution.

The authorized share capital may be increased or reduced (but not below the number of issued ordinary shares, preferred shares or ordinary A shares, as applicable) by way of an ordinary resolution of Mallinckrodt's shareholders, but not below the number of shares then outstanding. The shares comprising the authorized share capital of Mallinckrodt may be divided into shares of such par value as the resolution prescribes.

The rights and restrictions to which the ordinary shares are subject are prescribed in Mallinckrodt's articles of association. Mallinckrodt's articles of association entitle the board of directors, without shareholder approval, to determine the terms of the preferred shares issued by Mallinckrodt. Preferred shares may be preferred as to dividends, rights on a winding up, voting or in such manner as the directors of Mallinckrodt may resolve. The preferred shares may also be redeemable at the option of the holder of the preferred shares or at the option of Mallinckrodt, and may be convertible into or exchangeable for shares of any other class or classes of Mallinckrodt, depending on the terms of such preferred shares. The issuance of preferred shares is subject to applicable law, including the Irish Takeover Rules.

Irish law does not recognize fractional shares held of record; accordingly, Mallinckrodt's articles of association do not provide for the issuance of fractional ordinary shares of Mallinckrodt, and the official Irish register of Mallinckrodt will not reflect any fractional ordinary shares.

Whenever an alteration or reorganization of the share capital of Mallinckrodt would result in any Mallinckrodt shareholder becoming entitled to fractions of a share, the Mallinckrodt board of directors may, on behalf of those shareholders that would become entitled to fractions of a share, arrange for the sale of the shares representing fractions and the distribution of the net proceeds of sale in due proportion among the shareholders who would have been entitled to the fractions. For the purpose of any such sale the board may authorize some person to transfer the shares representing fractions to the purchaser, who shall not be bound to see to the application of the purchase money, nor shall his title to the shares be affected by any irregularity or invalidity in the proceedings relating to the sale.

#### **Preemption Rights, Share Warrants and Share Options**

Under Irish law, certain statutory preemption rights apply automatically in favor of Mallinckrodt's shareholders where shares in Mallinckrodt are to be issued for cash, unless Mallinckrodt is authorized to opt out of these preemption rights by authorization under the articles of association of the company or a special resolution of the shareholders. The statutory preemption rights do not apply where shares are issued for non-cash consideration (such as in a stock-for stock acquisition) and do not apply to the issue of non-equity shares (that is, shares that have the right to participate only up to a specified amount in any income or capital distribution) or when shares are issued pursuant to an employee option or similar equity plan.

The articles of association of Mallinckrodt provide that, subject to any shareholder approval requirement under any laws, regulations or the rules of any stock exchange to which Mallinckrodt is subject, the board is authorized, from time to time, in its discretion, to grant such persons, for such periods and upon such terms as the board deems advisable, options to purchase or subscribe for such number of shares of any class or classes or of any series of any class as the board may deem advisable, and to cause warrants or other appropriate instruments evidencing such options to be issued. The Companies Act provides that directors may issue share warrants or options without shareholder approval once authorized to do so by the articles of association or an ordinary resolution of shareholders. Under Irish law, the board may issue shares upon exercise of validly issued warrants or options without shareholder approval or authorization.

## **Dividends**

Under Irish law, dividends and distributions may only be made from “distributable reserves.” Distributable reserves, broadly, means the accumulated realized profits of Mallinckrodt less accumulated realized losses of Mallinckrodt and includes reserves created by way of capital reduction. In addition, no distribution or dividend may be made unless the net assets of Mallinckrodt are equal to, or in excess of, the aggregate of Mallinckrodt’s called up share capital plus distributable reserves and the distribution does not reduce Mallinckrodt’s net assets below such aggregate. Undistributable reserves include the share premium account, the capital redemption reserve fund and the amount by which Mallinckrodt’s accumulated unrealized profits, so far as not previously utilized by any capitalization, exceed Mallinckrodt’s accumulated unrealized losses, so far as not previously written off in a reduction or reorganization of capital.

The determination as to whether or not Mallinckrodt has sufficient distributable reserves to fund a dividend must be made by reference to the “relevant financial statements” of Mallinckrodt. The “relevant financial statements” are either the last set of unconsolidated annual audited financial statements or unaudited financial statements prepared in accordance with the Companies Act, which give a “true and fair view” of Mallinckrodt’s unconsolidated financial position and accord with accepted accounting practice.

The mechanism as to who declares a dividend and when a dividend becomes payable is governed by the articles of association of Mallinckrodt. Mallinckrodt’s articles of association authorize the directors to declare such dividends as appear justified from the profits of Mallinckrodt without the approval of the shareholders at a general meeting. The board of directors may also recommend a dividend to be approved and declared by the shareholders at a general meeting. Any general meeting declaring a dividend and any resolution of the directors declaring a dividend may direct that the payment be made by distribution of assets, shares or cash. No dividend issued may exceed the amount recommended by the directors. The dividends can be declared and paid in the form of assets, shares or cash.

The directors of Mallinckrodt may deduct from any dividend payable to any shareholder all sums of money (if any) immediately payable by such shareholder to Mallinckrodt in relation to the shares of Mallinckrodt.

The directors of Mallinckrodt are also entitled to issue shares with preferred rights to participate in dividends declared by Mallinckrodt. The holders of such preferred shares may, depending on their terms, be entitled to claim arrears of a declared dividend out of subsequently declared dividends in priority to ordinary shareholders. The holders of ordinary A shares are not entitled to receive any dividend.

## **Share Repurchases and Redemptions**

### *Overview*

Mallinckrodt’s articles of association provides that unless the board of directors specifically resolves to treat such acquisition as a purchase for the purposes of the Companies Act, any ordinary share or an interest in any ordinary share which Mallinckrodt has acquired or agreed to acquire from a third party is deemed to be a redeemable share. Accordingly, for Irish company law purposes, the repurchase of ordinary shares by Mallinckrodt may technically be effected as a redemption of those shares as described below under “Share Repurchases and Redemptions-Repurchases and Redemptions by Mallinckrodt.” If such shares were not to be deemed to be redeemable shares, their repurchase by Mallinckrodt would be subject to additional requirements imposed by Irish law. Neither Irish law nor any constituent document of Mallinckrodt places limitations on the right of non-resident or foreign owners to vote or hold Mallinckrodt ordinary shares. Except where otherwise noted, when we refer elsewhere in this Item 3 to repurchasing or buying back ordinary shares of Mallinckrodt, we are referring to the redemption of ordinary shares by Mallinckrodt or the purchase of Mallinckrodt ordinary share by a subsidiary of Mallinckrodt, in each case in accordance with the Mallinckrodt articles of association and Irish company law as described below.

### *Repurchases and Redemptions by Mallinckrodt*

Under Irish law, a company can issue redeemable shares and redeem them out of distributable reserves (which are described above under “Dividends”) or the proceeds of a new issue of shares for that purpose. The issue of redeemable shares may only be made by Mallinckrodt where the nominal value of the issued share capital that is not redeemable is not less than 10% of the nominal value of the total issued share capital of Mallinckrodt. All redeemable shares must also be fully paid and the terms of redemption of the shares must provide for payment on redemption. Based on the provision of Mallinckrodt’s articles described above, shareholder approval is not required to redeem Mallinckrodt ordinary shares.

The board of directors of Mallinckrodt is also entitled to issue preferred shares which may be redeemed at the option of either Mallinckrodt or the shareholder, depending on the terms of such preferred shares. For additional information on redeemable shares, see "Share Capital."

Mallinckrodt may also be given an additional general authority by its shareholders to purchase its own shares as overseas market purchases on a recognized stock exchange such as the New York Stock Exchange or the Nasdaq stock market, which would take effect on the same terms and be subject to the same conditions as applicable to purchases by Mallinckrodt's subsidiaries as described below.

Repurchased and redeemed shares may be cancelled or held as treasury shares. The nominal value of treasury shares held by Mallinckrodt at any time must not exceed 10% of the nominal value of the issued share capital of Mallinckrodt. While Mallinckrodt holds shares as treasury shares, it cannot exercise any voting rights in respect of those shares. Treasury shares may be cancelled by Mallinckrodt or re-issued subject to certain conditions.

#### *Purchases by Subsidiaries of Mallinckrodt*

Under Irish law, it may be permissible for an Irish or non-Irish subsidiary to purchase ordinary shares of Mallinckrodt either as overseas market purchases on a recognized stock exchange or off-market. A general authority of the shareholders of Mallinckrodt is required to allow a subsidiary of Mallinckrodt to make on-market purchases of Mallinckrodt ordinary shares; however, as long as this general authority has been granted, no specific shareholder authority for a particular on-market purchase by a subsidiary of Mallinckrodt ordinary shares is required. In order for a subsidiary of Mallinckrodt to make an on-market purchase of Mallinckrodt's ordinary shares, such shares must be purchased on a "recognized stock exchange." Each of the New York Stock Exchange and the Nasdaq stock market are specified as a recognized stock exchange for this purpose by Irish company law.

For an off-market purchase by a subsidiary of Mallinckrodt, the proposed purchase contract must be authorized by special resolution of the shareholders of Mallinckrodt before the contract is entered into. The person whose shares are to be bought back cannot vote in favor of the special resolution and, for at least 21 days prior to the special resolution, the purchase contract must be on display or must be available for inspection by shareholders at the registered office of Mallinckrodt.

The number of shares held by the subsidiaries of Mallinckrodt at any time will count as treasury shares and will be included in any calculation of the permitted treasury share threshold of 10% of the nominal value of the issued share capital of Mallinckrodt. While a subsidiary holds Mallinckrodt ordinary shares, it cannot exercise any voting rights in respect of those shares. The acquisition of the ordinary shares of Mallinckrodt by a subsidiary must be funded out of distributable reserves of the subsidiary.

#### **Lien on Shares, Calls on Shares and Forfeiture of Shares**

Mallinckrodt's articles of association provide that Mallinckrodt will have a first and paramount lien on every share for all moneys, whether presently due or not, payable in respect of such Mallinckrodt ordinary share. Subject to the terms of their allotment, directors may call for any unpaid amounts in respect of any shares to be paid, and if payment is not made, the shares may be forfeited. These provisions are standard inclusions in the articles of association of an Irish company limited by shares such as Mallinckrodt and will only be applicable to Mallinckrodt shares that have not been fully paid up.

#### **Bonus Shares**

Under Mallinckrodt's articles of association, the board may resolve to capitalize any amount for the time being standing to the credit of Mallinckrodt's reserves accounts or to the credit of the profit and loss account which is not available for distribution by applying such sum in paying up in full unissued shares to be allotted as fully paid-up bonus shares to shareholders of Mallinckrodt who would have been entitled to that sum if it were distributable and had been distributed by way of dividend (and in the same proportions).

### **Consolidation and Division; Subdivision**

Under its articles of association, Mallinckrodt may, by ordinary resolution, consolidate and divide all or any of its share capital into shares of larger par value than its existing shares or subdivide its shares into smaller amounts than are fixed by its articles of association.

### **Reduction of Share Capital**

Mallinckrodt may, by ordinary resolution, reduce its authorized but unissued share capital in any way. Mallinckrodt also may, by special resolution and subject to confirmation by the High Court of Ireland, reduce or cancel its issued share capital (which includes share premium) in any way permitted by the Companies Act.

### **Annual General Meetings of Shareholders**

Mallinckrodt held its first annual general meeting on March 20, 2014, and is required to hold subsequent annual general meetings at intervals of no more than 15 months thereafter, provided that an annual general meeting is held in each calendar year following the first annual general meeting, no more than nine months after Mallinckrodt's fiscal year end. Any annual general meeting may be held outside Ireland if a resolution so authorizing has been passed at the preceding annual general meeting. Because of the 15-month requirement described in this paragraph, Mallinckrodt's articles of association include a provision reflecting this requirement of Irish law.

Notice of an annual general meeting must be given to all Mallinckrodt shareholders and to the auditors of Mallinckrodt. The articles of association of Mallinckrodt provide for a minimum notice period of 21 days, which is the minimum permitted under Irish law.

The only matters which must, as a matter of Irish company law, be transacted at an annual general meeting are the review by the members of the company's affairs, presentation of the statutory financial statements and reports of the directors and auditors, the appointment of new auditors and the fixing of the auditor's remuneration (or delegation of same). If no resolution is made in respect of the reappointment of an existing auditor at an annual general meeting, the existing auditor will be deemed to have continued in office.

At any annual general meeting, only such business may be conducted as has been brought before the meeting (i) by or at the direction of the board of directors, (ii) in certain circumstances, at the direction of the Irish High Court, (iii) as required by law or (iv) such business that the chairman of the meeting determines is properly within the scope of the meeting. The business to be conducted at any extraordinary general meeting must be set forth in the notice of the meeting. In addition, shareholders entitled to vote at an annual general meeting may make nominations of candidates for election to the board of directors.

### **Extraordinary General Meetings of Shareholders**

Extraordinary general meetings of Mallinckrodt may be convened by (i) the board of directors, (ii) on requisition of the shareholders holding not less than 10% of the paid-up share capital of Mallinckrodt carrying voting rights, (iii) on requisition of Mallinckrodt's auditors upon their resignation or (iv) in exceptional cases, by court order. Extraordinary general meetings are generally held for the purposes of approving shareholder resolutions of Mallinckrodt as may be required from time to time. At any extraordinary general meeting only such business shall be conducted as is set forth in the notice thereof.

Notice of an extraordinary general meeting must be given to all Mallinckrodt shareholders and to the auditors of Mallinckrodt. Under Irish law and Mallinckrodt's articles of association, the minimum notice periods are 21 days' notice in writing for an extraordinary general meeting to approve a special resolution and 14 days' notice in writing for any other extraordinary general meeting. General meetings may be called by shorter notice in accordance with the terms of the Companies Act.

In the case of an extraordinary general meeting convened by shareholders of Mallinckrodt, the proposed purpose of the meeting must be set out in the requisition notice. The requisition notice can contain any resolution. Upon receipt of this requisition notice, the board of directors has 21 days to convene a meeting of Mallinckrodt's shareholders to vote on the matters set out in the requisition notice. This meeting must be held within two months of the receipt of the requisition notice. If the board of directors does not convene the meeting within such 21-day period, the requisitioning shareholders, or any of them representing more than one half of the total voting rights of all of them, may themselves convene a meeting, which meeting must be held within three months of the receipt of the requisition notice.

If the directors become aware that the net assets of Mallinckrodt are half or less of the amount of Mallinckrodt's called-up share capital, the directors of Mallinckrodt must convene an extraordinary general meeting of Mallinckrodt's shareholders not later than 28 days from the date that they learn of this fact. This meeting must be convened for the purposes of considering whether any, and if so what, measures should be taken to address the situation. The directors convened an extraordinary general meeting of Mallinckrodt's shareholders held on April 4, 2022, in compliance with this provision of the Companies Act.

## **Voting**

Where a vote is to be taken at a general meeting, every shareholder has one vote for each ordinary share that he or she holds as of the record date for the meeting. Voting rights may be exercised by shareholders registered in Mallinckrodt's share register as of the record date for the meeting or by a duly appointed proxy of such a registered shareholder, which proxy need not be a shareholder. Where interests in shares are held by a nominee trust company, this company may exercise the rights of the beneficial holders on their behalf as their proxy. All proxies must be appointed in the manner prescribed by Mallinckrodt's articles of association. The articles of association of Mallinckrodt permit the appointment of proxies by the shareholders to be notified to Mallinckrodt electronically.

Except where a greater majority is required by the Companies Act, any question, business or resolution proposed at any general meeting shall be decided by a simple majority of the votes cast.

Mallinckrodt's articles provide that all resolutions are decided by a show of hands unless a poll (before or on the declaration of the result of the show of hands) is demanded by (i) the Chairman, (ii) at least three shareholders present in person or by proxy, (iii) any shareholder or shareholders present in person or by proxy, holding not less than one-tenth of the total voting rights of Mallinckrodt having the right to vote at such meeting, or (iv) any shareholder or shareholders holding shares in Mallinckrodt conferring the right to vote at the meeting being shares on which an aggregate sum has been paid equal to not less than one-tenth of the total sum paid up on all shares conferring that right. Each Mallinckrodt ordinary shareholder of record as of the record date for the meeting has one vote at a general meeting on a show of hands.

In accordance with Mallinckrodt's articles of association, the board of directors may from time to time cause Mallinckrodt to issue preferred or any other class or series of shares. These shares may have such voting rights, if any, as may be specified in the terms of such shares (i.e. they may carry more votes per share than ordinary shares or may entitle their holders to a class vote on such matters as may be specified in the terms of the shares). Treasury shares and shares held by subsidiaries will not be entitled to vote at general meetings of shareholders.

Irish company law requires "special resolutions" of the shareholders at a general meeting to approve certain matters. A special resolution requires not less than 75% of the votes cast of Mallinckrodt's shareholders present in person or by proxy at a general meeting. This may be contrasted with "ordinary resolutions," which require a simple majority of the votes of Mallinckrodt's shareholders cast in person or by proxy at a general meeting. Examples of matters requiring special resolutions include:

- amending the objects (i.e., main purposes) of Mallinckrodt;
- amending the articles of association of Mallinckrodt;
- approving a change of name of Mallinckrodt;
- authorizing the entering into of a guarantee or provision of security in connection with a loan, quasi-loan or credit transaction to a director or a person who is deemed to be "connected" to a director for the purposes of the Companies Act;
- opting-out of preemption rights on the issuance of new shares;
- re-registration of Mallinckrodt from a public limited company to a private company;



- variation of class rights attaching to classes of shares;
- purchasing Mallinckrodt's ordinary shares off-market;
- any reduction of Mallinckrodt's issued share capital;
- resolving that Mallinckrodt be wound up by the Irish courts;
- sanctioning a compromise/scheme of arrangement;
- resolving in favor of a shareholders' voluntary winding-up;
- re-designation of shares into different share classes; and
- setting the re-issue price of treasury shares

### **Unanimous Shareholder Consent to Action Without Meeting**

The Companies Act provides that shareholders may approve an ordinary or special resolution of shareholders without a meeting only if (a) all shareholders sign the written resolution and (b) the company's articles of association permit written resolutions of shareholders. Mallinckrodt's articles of association permit unanimous written resolutions of shareholders, as permitted under Irish law.

### **Variation of Class Rights Attaching to Shares**

Variation of all or any special rights attached to any class of shares of Mallinckrodt is addressed in the articles of association of Mallinckrodt as well as the Companies Act. Any variation of class rights attaching to the issued shares of Mallinckrodt must be approved by a special resolution of the shareholders of the class affected. Mallinckrodt's articles of association expressly provide that any issue of preferred shares (whatever the rights attaching to them) will be deemed not to be a variation of the rights of ordinary shareholders.

The provisions of the articles of association of Mallinckrodt relating to general meetings shall apply to every such general meeting of the holders of any class of shares with certain exceptions in relation to quorum and the right to demand a poll.

### **Quorum for General Meetings**

The presence, in person or by proxy, of the holders of shares in Mallinckrodt entitling them to exercise a majority of the voting power of Mallinckrodt constitutes a quorum for the conduct of business. No business may take place at a general meeting of Mallinckrodt if a quorum is not present in person or by proxy. The board of directors has no authority to waive quorum requirements stipulated in the articles of association of Mallinckrodt. Abstentions and broker non-votes will be counted as present for purposes of determining whether there is a quorum in respect of the proposals.

### **Requirements for Advance Notification of Director Nominations and Proposals of Shareholders**

Mallinckrodt's articles of association provide that with respect to an annual or extraordinary general meeting of shareholders, nominations of persons for election to its board of directors and the proposal of business to be considered by shareholders may be made only (i) pursuant to Mallinckrodt's notice of meeting; (ii) by the board of directors; (iii) by any shareholders pursuant to the valid exercise of power granted to them under the Companies Act; (iv) or by a shareholder who is entitled to vote at the meeting and who has complied with the advance notice procedures provided for in the articles of association.

In order to comply with the advance notice procedures of Mallinckrodt's articles of association, a shareholder must give written notice to Mallinckrodt's secretary on a timely basis. To be timely for an annual general meeting, notice must be delivered not earlier than the close of business on the 120th day and not later than the close of business on the 90th day prior to the first anniversary of the preceding year's annual general meeting, provided, however, that in the event that the date of the annual general meeting is more than 30 days before or more than 60 days after such anniversary date, notice by the member must be so delivered not earlier than the close of business on the 120th day prior to the date of such annual general meeting and not later than the close of business on the later of the 90th day prior to the date of such annual general meeting or, if the first public announcement of the date of such annual general meeting is less than 100 days prior to the date of such annual general meeting, the 10th day following the day on which public announcement is first made of the date of the annual general meeting. In no event shall the public announcement of an adjournment or postponement of an annual general meeting commence a new time period (or extend any time period) for the giving of a shareholder's notice.

To be timely for an extraordinary general meeting, notice must be delivered not earlier than the close of business on the 120th day prior to the date of such extraordinary general meeting and not later than the close of business on the 90th day prior to the date of such extraordinary general meeting or, if the first public announcement of the date of such extraordinary general meeting is less than 100 days prior to the date of such extraordinary general meeting, the 10th day following the day on which public announcement is first made of the date of the extraordinary general meeting and of the nominees proposed by the board of directors to be elected at such meeting. In no event shall the public announcement of an adjournment or postponement of an annual general meeting commence a new time period (or extend any time period) for the giving of a shareholder's notice.

In addition, whether relating to an annual or extraordinary general meeting, to be timely, a shareholder's notice must be updated and supplemented, if necessary, so the information provided or required to be provided is true and correct as of the record date for the meeting and as of the date that is 10 business days prior to the meeting or any adjournment or postponement thereof. Such update and supplement shall be delivered to Mallinckrodt's secretary (i) not later than five business days after the record date for the meeting in the case of the update and supplement required to be made as of the record date and (ii) not later than eight business days prior to the meeting or any adjournment or postponement thereof in the case of the update and supplement required to be made as of 10 business days prior to the meeting on any adjournment or postponement thereof.

For nominations to the board, the notice must include (i) all information about the director nominee that is required to be disclosed by SEC rules regarding the solicitation of proxies for the election of directors pursuant to Section 14 under the Exchange Act (including such person's written consent to being named in the proxy statement as a nominee and to serving as a director if elected), (ii) a description of all direct and indirect compensation and other material monetary agreements or arrangements during the past three years, any other material relationships between the nominating shareholder, and their affiliates and associates or others acting in concert, and the proposed nominee and his or her affiliates and associates and other concert parties (including, but not limited to, information that would be required to be disclosed pursuant to Rule 404 promulgated under Regulation S-K under the Exchange Act) and (iii) such other information as Mallinckrodt may reasonably require to determine the eligibility of the proposed nominee, as well as a completed questionnaire, representation and agreement signed by the proposed nominee regarding the background, qualification and certain existing relationships and arrangements of the proposed nominee.

For other business that a shareholder proposes to bring before the meeting, the notice must include a brief description of the business, the reasons for proposing the business at the meeting, the text of the proposal or wording (including the text of any proposed resolutions for consideration and if such business includes a proposal to amend the articles of association of Mallinckrodt, the text of the proposed amendment), a discussion of any material interest of the shareholder in the business and a description of all arrangements between the shareholder(s) any other person or persons in connection with the proposal.

Whether the notice relates to a nomination to the board of directors or to other business to be proposed at the meeting, the notice also must include information about (i) the shareholder, (ii) the shareholder's holdings of Mallinckrodt shares (as well as "derivative instruments" or "short interests" with respect to Mallinckrodt shares, as defined in the articles of association), (iii) any arrangements giving the shareholder the right to vote shares of Mallinckrodt, (iv) any rights to dividends on the Mallinckrodt shares that are separated or separable from the underlying Mallinckrodt shares, (v) any proportionate interest in Mallinckrodt's shares or "derivative instruments," held by a general or limited partnership in which the shareholder has an interest, (vi) any performance-related fees (other than an asset-based fee) that the shareholder is entitled to base on any increase or decrease in the value of the Mallinckrodt shares or "derivative instruments," (vii) any significant equity interests or any "derivative instruments" or "short interests" in any of Mallinckrodt's principal competitors held by the shareholder, (viii) any interest of the shareholder in any contract with Mallinckrodt or any of its affiliates or principal competitors and (ix) any other information that would be required to be disclosed by SEC rules regarding solicitation of proxies for the director nomination and/or other business to be proposed at the meeting.

The chairman of the meeting shall have the power and duty to determine whether any business proposed to be brought before the meeting was made or proposed in accordance with these procedures (as set out in Mallinckrodt's articles of association), and if any proposed business is not in compliance with these provisions, to declare that no action shall be taken in respect of such defective proposal and that it shall be disregarded.

In addition, the Companies Act provides that shareholders holding not less than 10% of the total voting rights may call an extraordinary general meeting for the purpose of considering director nominations or other proposals, as described above under "Extraordinary General Meetings of Shareholders."

### **Inspection of Books and Records**

Under Irish law, shareholders have the right to: (i) receive a copy of the memorandum and articles of association of Mallinckrodt and any act of the Irish legislature which alters the memorandum and articles of association of Mallinckrodt; (ii) inspect and obtain copies of the minutes and resolutions of general meetings of Mallinckrodt; (iii) inspect and receive a copy of the register of shareholders, register of directors and secretaries, register of directors' interests and other statutory registers maintained by Mallinckrodt; (iv) receive copies of statutory financial statements and directors' and auditors' reports which have previously been sent to shareholders prior to an annual general meeting; and (v) receive any statutory financial statement of a subsidiary company of Mallinckrodt which have previously been sent to shareholders prior to an annual general meeting for the preceding 10 years. The auditors of Mallinckrodt also have the right to inspect all books, records and vouchers of Mallinckrodt. The auditors' report must be circulated to the shareholders 21 days before the annual general meeting with Mallinckrodt's financial statements prepared in accordance with the Companies Act, and must be available to the shareholders at Mallinckrodt's annual general meeting.

### **Acquisitions**

There are a number of mechanisms for acquiring an Irish public limited company, including:

- a) a court-approved scheme of arrangement under the Companies Act. A scheme of arrangement with shareholders requires a court order from the High Court of Ireland and the approval of a majority in number representing 75% in value of the shareholders present and voting in person or by proxy at a meeting called to approve the scheme;
- b) through a tender offer or takeover offer by a third party for all of the shares of Mallinckrodt. Where the holders of 80% or more of Mallinckrodt's shares have accepted an offer by a bidder for their shares in Mallinckrodt, the remaining shareholders may be statutorily required to also transfer their shares to such bidder. If the bidder does not exercise its "squeeze out" right, then the non-accepting shareholders also have a statutory right to require the bidder to acquire their shares on the same terms. If shares of Mallinckrodt were listed on the main market of the Irish Stock Exchange or another regulated stock exchange in the European Economic Area (the European Economic Area includes all member states of the E.U. and Norway, Iceland and Liechtenstein), this threshold would be increased to 90%; and
- c) it is also possible for Mallinckrodt to be acquired by way of a merger with an E.U.-incorporated public company under the E.U. Cross Border Merger Directive 2017/1132. Such a merger must be approved by a special resolution. If Mallinckrodt is being merged with another E.U. public company under the E.U. Cross Border Merger Directive 2017/1132 and the consideration payable to Mallinckrodt's shareholders is not all in the form of cash, Mallinckrodt's shareholders may be entitled to require their shares to be acquired at fair value.

Under Irish law, there is no requirement for a company's shareholders to approve a sale, lease or exchange of all or substantially all of a company's property and assets. However, Mallinckrodt's articles of association provide that the passing of an ordinary resolution is required to approve a sale, lease or exchange of all or substantially all of its property or assets.

### **Appraisal Rights**

Generally, under Irish law, shareholders of an Irish company do not have dissenters' or appraisal rights. Under the European Communities (Cross-Border Mergers) Regulations 2008 (as amended) governing the merger of an Irish company limited by shares such as Mallinckrodt and a company incorporated in the European Economic Area, a shareholder (i) who voted against the special resolution approving the transaction or (ii) of a company in which 90% of the shares are held by the other party to the transaction has the right to request that the company acquire its shares for cash at a price determined in accordance with the share exchange ratio set out in the transaction.

In the event of a takeover of Mallinckrodt by a third party in accordance with the Irish Takeover Rules and the Companies Act where the holders of 80% or more in value of a class of Mallinckrodt' shares (excluding any shares already beneficially owned by the bidder) have accepted an offer for their shares, the remaining shareholders in that class may be statutorily required to transfer their shares, unless, within one month, the non-tendering shareholders can obtain an Irish court order otherwise providing. If the bidder does not exercise this "squeeze out" right, the non-accepting shareholders also have a statutory right to require the bidder to acquire their shares on the same terms as the original offer, or such other terms as the bidder and the non-tendering shareholders may agree or on such terms as an Irish court, on application of the bidder or non-tendering shareholder, may order.

### **Disclosure of Interests in Shares**

Under the Companies Act, there is a notification requirement for shareholders who acquire or cease to be interested in 3% of the shares of an Irish public company. A shareholder of Mallinckrodt must notify Mallinckrodt (but not the public at large) if as a result of a transaction the shareholder will be interested in 3% or more of any class of shares of Mallinckrodt carrying voting rights; or if as a result of a transaction a shareholder who was interested in more than 3% of any class of shares of Mallinckrodt carrying voting rights ceases to be so interested. Where a shareholder is interested in more than 3% of any class of shares of Mallinckrodt carrying voting rights, any alteration of his or her interest that brings his or her total holding through the nearest whole percentage number, whether an increase or a reduction, must be notified to Mallinckrodt (but not the public at large). The relevant percentage figure is calculated by reference to the aggregate par value of the class of shares in which the shareholder is interested as a proportion of the entire par value of the issued shares of that class. Where the percentage level of the shareholder's interest does not amount to a whole percentage, this figure may be rounded down to the next whole number. All such disclosures must be notified to Mallinckrodt within five business days of the transaction or alteration of the shareholder's interests that gave rise to the requirement to notify. Where a person fails to comply with the notification requirements described above, no right or interest of any kind whatsoever in respect of any shares in Mallinckrodt concerned, held by such person, will be enforceable by such person, whether directly or indirectly, by action or legal proceeding. However, such person may apply to the Irish High Court to have the rights attaching to the shares concerned reinstated.

In addition to the above disclosure requirement, Mallinckrodt, under the Companies Act, may by notice in writing require a person whom Mallinckrodt knows or has reasonable cause to believe to be or, at any time during the three years immediately preceding the date on which such notice is issued, to have been interested in shares comprised in Mallinckrodt's relevant share capital: (i) to indicate whether or not it is the case, and (ii) where such person holds or has during that time held an interest in any class of shares of Mallinckrodt carrying voting rights to give such further information as may be required by Mallinckrodt, including particulars of such person's own past or present interests in such class of shares of Mallinckrodt. Any information given in response to the notice is required to be given in writing within such reasonable time as may be specified in the notice.

Where such a notice is served by Mallinckrodt on a person who is or was interested in shares of Mallinckrodt carrying voting rights and that person fails to give Mallinckrodt any information required within the reasonable time specified, Mallinckrodt may apply to the court for an order directing that the affected shares be subject to certain restrictions.

Under the Companies Act, the restrictions that may be placed on the shares by the court are:

- a) any transfer of those shares, or in the case of unissued shares any transfer of the right to be issued with shares and any issue of shares, is void;
- b) no voting rights are exercisable in respect of those shares;
- c) no further shares may be issued in right of those shares or in pursuance of any offer made to the holder of those shares; and
- d) no payment may be made of any sums due from Mallinckrodt on those shares, whether in respect of capital or otherwise.

Where the shares in Mallinckrodt are subject to these restrictions, the court may order the shares to be sold and may also direct that the shares will cease to be subject to these restrictions.

In the event that Mallinckrodt is in an offer period pursuant to the Irish Takeover Rules, accelerated disclosure provisions apply for persons holding an interest in Mallinckrodt securities of 1% or more.

## **Anti-Takeover Provisions**

### *Shareholder Rights Plans and Share Issuances*

Irish law does not expressly prohibit companies from issuing share purchase rights or adopting a shareholder rights plan (commonly known as a “poison pill”) as an anti-takeover measure. However, there is no directly relevant case law on the validity of such plans under Irish law. In addition, such a plan is subject to the Irish Takeover Rules described below.

Mallinckrodt’s articles of association allow the board to adopt a shareholder rights plan upon such terms and conditions as the board deems expedient and in the best interests of Mallinckrodt, subject to applicable law.

Subject to the Irish Takeover Rules described below, the board also has power to cause Mallinckrodt to issue any of its authorized and unissued shares on such terms and conditions as the board may determine (as described under “Share Capital”) and any such action must be taken in the best interests of Mallinckrodt. It is possible, however, that the terms and conditions of any issue of preferred shares could discourage a takeover or other transaction that holders of some or a majority of the ordinary shares believe to be in their best interests or in which holders might receive a premium for their shares over the then market price of the shares.

### *Irish Takeover Rules*

A transaction by virtue of which a third party is seeking to acquire 30% or more of the voting rights of Mallinckrodt will be governed by the Irish Takeover Panel Act 1997 and the Irish Takeover Rules made thereunder and will be regulated by the Irish Takeover Panel. The “General Principles” of the Irish Takeover Rules and certain important aspects of the Irish Takeover Rules are described below.

*General Principles.* The Irish Takeover Rules are built on the following General Principles which will apply to any transaction regulated by the Irish Takeover Panel:

- in the event of an offer, all classes of shareholders of the target company should be afforded equivalent treatment and, if a person acquires control of a company, the other holders of securities must be protected;
- the holders of securities in the target company must have sufficient time and information to allow them to make an informed decision regarding the offer. If the board of the target company advises the holders of securities as regards the offer, it must advise on the effects of the implementation of the offer on employment, employment conditions and the locations of the target company’s place of business;
- the board of the target company must act in the interests of the company as a whole and must not deny the holders of securities the opportunity to decide on the merits of the offer;
- false markets (i.e., a market based on erroneous, imperfect or unequally disclosed information) must not be created in the securities of the target company, the bidder or any other company concerned by the offer in such a way that the rise or fall of the prices of the securities become artificial and the normal functioning of the markets is distorted;
- a bidder must announce an offer only after ensuring that he or she can pay in full the consideration offered and after taking all reasonable measures to secure the implementation of any other type of consideration;
- a target company may not be hindered in the conduct of its affairs longer than is reasonable by an offer for its securities, (this is a recognition that an offer will disrupt the day-to-day running of a target company, particularly if the offer is hostile, and the board of the target company must divert its attention to deal with the offer); and
- a substantial acquisition of securities (whether such acquisition is to be effected by one transaction or a series of transactions) shall take place only at an acceptable speed and shall be subject to adequate and timely disclosure.

*Mandatory Bid.* Under certain circumstances, a person who acquires shares or other voting rights in Mallinckrodt may be required under the Irish Takeover Rules to make a mandatory cash offer for the remaining outstanding shares in Mallinckrodt at a price not less than the highest price paid for the shares by the acquirer (or any parties acting in concert with the acquirer) during the previous 12 months. This mandatory bid requirement is triggered if an acquisition of shares would increase the aggregate holding of an acquirer (including the holdings of any parties acting in concert with the acquirer) to shares representing 30% or more of the voting rights in Mallinckrodt, unless the Irish Takeover Panel otherwise consents. An acquisition of shares by a person holding (together with its concert parties) shares representing between 30% and 50% of the voting rights in Mallinckrodt would also trigger the mandatory bid requirement if, after giving effect to the acquisition, the percentage of the voting rights held by that person (together with its concert parties) would increase by 0.05% within a 12-month period. Any person (excluding any parties acting in concert with the holder) holding shares representing more than 50% of the voting rights of a company is not subject to these mandatory offer requirements in purchasing additional securities.

*Voluntary Bid; Requirements to Make a Cash Offer and Minimum Price Requirements.* If a person makes a voluntary offer to acquire outstanding Mallinckrodt ordinary shares, the offer price must be no less than the highest price paid for Mallinckrodt ordinary shares by the bidder or its concert parties during the three month period prior to the commencement of the offer period. The Irish Takeover Panel has the power to extend the “look back” period to 12 months if the Irish Takeover Panel, taking into account the General Principles, believes it is appropriate to do so.

If the bidder or any of its concert parties has acquired Mallinckrodt ordinary shares (i) during the period of 12 months prior to the commencement of the offer period which represent more than 10% of the total Mallinckrodt ordinary shares or (ii) at any time after the commencement of the offer period, the offer must be in cash (or accompanied by a full cash alternative) and the price per Mallinckrodt ordinary share must not be less than the highest price paid by the bidder or its concert parties during, in the case of (i), the 12-month period prior to the commencement of the offer period and, in the case of (ii), the offer period. The Irish Takeover Panel may apply this rule to a bidder who, together with its concert parties, has acquired less than 10% of the total Mallinckrodt ordinary shares in the 12-month period prior to the commencement of the offer period if the Irish Takeover Panel, taking into account the General Principles, considers it just and proper to do so.

A voluntary offer period will generally commence on the date of the first announcement of the offer or proposed offer.

*Substantial Acquisition Rules.* The Irish Takeover Rules also contain rules governing substantial acquisitions of shares that restrict the speed at which a person may increase his or her holding of voting shares and rights over voting shares to an aggregate of between 15% and 30% of the voting rights of Mallinckrodt. Except in certain circumstances, an acquisition or series of acquisitions of shares or rights over shares representing 10% or more of the voting rights is prohibited if such acquisition(s), when aggregated with shares or rights already held, would result in the acquirer holding 15% or more but less than 30% of the voting rights of Mallinckrodt and such acquisitions are made within a period of seven days. These rules also require accelerated disclosure of acquisitions of shares or rights over shares relating to such acquisitions.

*Frustrating Action.* Under the Irish Takeover Rules, the board of directors of Mallinckrodt is not permitted to take any action which might frustrate an offer for the shares of Mallinckrodt once the board of directors has received an approach which may lead to an offer, or has reason to believe an offer is imminent, except as noted below. Potentially frustrating actions such as (i) the issue of shares, options or convertible securities, (ii) material disposals, (iii) entering into contracts other than in the ordinary course of business or (iv) any action, other than seeking alternative offers, which may result in frustration of an offer, are prohibited during the course of an offer or at any time during which the board has reason to believe an offer is imminent. Exceptions to this prohibition are available:

- a) where the action is approved by Mallinckrodt’s shareholders at a general meeting; or
- b) with the consent of the Irish Takeover Panel where:
  - i) the Irish Takeover Panel is satisfied the action would not constitute a frustrating action;
  - ii) the Mallinckrodt shareholders that hold 50% of the voting rights state in writing that they approve the proposed action and would vote in favor of it at a general meeting;
  - iii) such action is in accordance with a contract entered into prior to the announcement of the offer; or
  - iv) the decision to take such action was made before the announcement of the offer and either has been at least partially implemented or is in the ordinary course of business.

For other provisions that could be considered to have an anti-takeover effect, see above at “Share Capital” (regarding issuance of preferred shares) “Preemption Rights, Share Warrants and Share Options,” “Disclosure of Interests in Shares,” “Requirements for Advance Notification of Director Nominations and Proposals of Shareholders” and “Unanimous Shareholder Consent to Action Without Meeting,” in addition to “Election of Directors,” “Vacancies on Board of Directors” and “Amendment of Governing Documents” below.

### **Insider Dealing**

The Irish Takeover Rules also provide that no person, other than the bidder, who is privy to confidential price-sensitive information concerning an offer made in respect of the acquisition of our company (or a class of its securities) or a contemplated offer shall deal in relevant securities of the target during the period from the time at which such person first has reason to suppose that such an offer, or an approach with a view to such an offer being made, is contemplated to the time of (i) the announcement of such offer or approach or (ii) the termination of discussions relating to such offer, whichever is earlier.

### **Corporate Governance**

The articles of association of Mallinckrodt delegate the day-to-day management of Mallinckrodt to its board of directors. The board of directors may then delegate management of Mallinckrodt to committees, executives or to a management team, but regardless, the directors remain responsible, as a matter of Irish law, for the proper management of the affairs of Mallinckrodt. Committees may meet and adjourn as they determine proper. Unless otherwise determined by the board of directors, the quorum necessary for the transaction of business at any committee meeting shall be a majority of the members of such committee then in office unless the committee shall consist of one or two members, in which case one member shall constitute a quorum.

### **Election of Directors**

The Companies Act provides for a minimum of two directors. Mallinckrodt’s articles of association provide for a minimum of two directors and a maximum of 15 directors. The shareholders of Mallinckrodt may from time to time increase or reduce the maximum number, or increase the minimum number, of directors by a special resolution amending the articles of association.

At each annual general meeting of Mallinckrodt, all the directors shall retire from office and be eligible for re-election. Upon the resignation or termination of office of any director, if a new director shall be appointed to the board he will be designated to fill the vacancy arising. In the event that an election results in either only one or no directors receiving the required majority vote, either the nominee or each of the two nominees receiving the greatest number of votes in favor of his or her election, in accordance with Mallinckrodt’s articles of association, hold office until his or her successor shall be elected.

No person shall be appointed director unless nominated in accordance with the articles of association of Mallinckrodt. Mallinckrodt’s articles of association provide that with respect to an annual or extraordinary general meeting of shareholders, nominations of persons for election to the board of directors and the proposal of business to be considered by shareholders may be made only pursuant to Mallinckrodt’s notice of meeting by (i) the board of directors, (ii) any shareholders pursuant to the valid exercise of power granted to them under the Companies Act; (iii) a shareholder who is entitled to vote at the meeting and who has complied with the advance notice procedures provided for in Mallinckrodt articles of association or (iv) by holders of any class of shares in Mallinckrodt then in issue having special rights to nominate or appoint directors in accordance with the terms of issue of such class or series, but only to the extent provided in such terms of issue. In addition, the Companies Act provides that shareholders holding not less than 10% of the total voting rights may call an extraordinary general meeting for the purpose of considering director nominations or other proposals.

Directors shall be appointed as follows:

- a) by shareholders by ordinary resolution at the annual general meeting in each year or at any extraordinary general meeting called for the purpose;
- b) by the board in accordance with the articles of association of Mallinckrodt; or
- c) so long as there is in office a sufficient number of directors to constitute a quorum of the board in accordance with the articles of association of Mallinckrodt, the directors shall have the power at any time and from time to time to appoint any person to be director, either to fill a vacancy in the board or as an addition to the existing directors but so that the total number of directors shall not any time exceed the maximum number provided for in the articles of association. A director so appointed shall hold office only until the next following annual general meeting.

### **Vacancies on the Board of Directors**

Mallinckrodt's articles of association provide that the directors have the authority to appoint one or more directors to the Mallinckrodt board of directors, subject to the maximum number of directors allowed for in the articles of association. A vacancy caused by the removal of a director may be filled at the meeting at which the director is removed by ordinary resolution of Mallinckrodt's shareholders, subject to compliance with the applicable advance notice requirements for the election of directors, see above at "Requirements for Advance Notification of Director Nominations and Proposals of Shareholders". If not, it may be filled by the board of directors.

Any director appointed by the other directors will hold office until the next annual general meeting of Mallinckrodt. During any vacancy on the board, the remaining directors will have full power to act as the board but, if and so long as, their number is reduced below the minimum number, the continuing directors may act for increasing the number of directors to that minimum number or of summoning a general meeting of Mallinckrodt but for no other purpose.

### **Removal of Directors**

The Companies Act provides that, notwithstanding anything contained in the articles of association of a company or in any agreement between that company and a director, the shareholders may, by an ordinary resolution, remove a director from office before the expiration of his or her term at a meeting held on no less than 28 days' notice and at which the director is entitled to be heard. Accordingly, the shareholders of Mallinckrodt may by an ordinary resolution remove a director from office before the expiration of his or her term (notwithstanding any agreement between Mallinckrodt and the director). The power of removal is without prejudice to any claim for damages for breach of contract (e.g., employment contract) which the director may have against Mallinckrodt in respect of his or her removal.

### **Amendment of Governing Documents**

Irish companies, including Mallinckrodt, may only alter their memorandum of association and articles of association with the approval of a special resolution of a general meeting of the company.

### **Duration; Dissolution; Rights upon Liquidation**

Mallinckrodt's corporate existence has unlimited duration. Mallinckrodt may be dissolved at any time by way of either a shareholders' voluntary winding up or a creditors' voluntary winding up. In the case of a shareholders' voluntary winding up, a special resolution of the shareholders of Mallinckrodt is required. Mallinckrodt may also be dissolved by way of court order on the application of a creditor, or by the Companies Registration Office as an enforcement measure where Mallinckrodt has failed to file certain returns. Mallinckrodt may also be dissolved by the Director of Corporate Enforcement in Ireland where the affairs of Mallinckrodt have been investigated by an inspector and it appears from the report or any information obtained by the Director of Corporate Enforcement that Mallinckrodt should be wound up.

The rights of the shareholders to a return of Mallinckrodt's assets on dissolution or winding up, following the settlement of all claims of creditors, may be prescribed in Mallinckrodt's articles of association or the terms of any preferred shares issued by the directors of Mallinckrodt from time to time. The holders of preferred shares in particular may have the right to priority in a dissolution or winding up of Mallinckrodt. If the articles of association contain no specific provisions in respect of a dissolution or winding up, then, subject to the priorities of any creditors, the assets will be distributed to shareholders in proportion to the paid-up par value of the shares held. Mallinckrodt's articles provide that the ordinary shareholders of Mallinckrodt are entitled to participate pro rata in a winding up, but their right to do so may be subject to the rights of any preferred shareholder to participate under the terms of any series or class of preferred shares.



## **Uncertificated Shares**

Holders of ordinary shares of Mallinckrodt do not have the right to require Mallinckrodt to issue certificates for their shares. Mallinckrodt only issues uncertificated ordinary shares.

## **Stock Exchange Listing**

In connection with its initiation of proceedings under Chapter 11, Mallinckrodt's pre-emergence ordinary shares were delisted from the New York Stock Exchange. Mallinckrodt ordinary shares are traded over the counter under the symbol "MNKPF." Mallinckrodt ordinary shares are not listed on any Irish Stock Exchange (including Euronext Dublin) or any other exchange.

## **No Sinking Fund**

The Mallinckrodt ordinary shares have no sinking fund provisions.

## **Transfer and Registration of Shares**

Mallinckrodt's official share register is maintained by its transfer agent and the transfer agent's affiliates. Registration in this share register is determinative of membership in Mallinckrodt. A shareholder of Mallinckrodt who holds shares beneficially is not the holder of record of such shares. Instead, the depository (e.g., Cede & Co., as nominee for The Depository Trust Company ("DTC")) or other nominee is the holder of record of such shares. Accordingly, a transfer of shares from a person who holds such shares beneficially to a person who also holds such shares beneficially through the same depository or other nominee is not registered in Mallinckrodt's official share register, as the depository or other nominee remains the record holder of such shares. Under Irish law, rights attaching to Mallinckrodt's shares, including those outlined in this Item 3 are generally only exercisable by the legal owner of the relevant shares on Mallinckrodt's official Irish share register. A shareholder holding through a depository (including Cede & Co. as nominee for DTC) may only exercise such rights by either procuring the transfer of the shares from the depository into their direct legal ownership or by procuring the exercise by the depository nominee of those rights on their behalf in accordance with the applicable terms, procedures and rules of the depository.

A written instrument of transfer is required under Irish law in order to register on Mallinckrodt's official share register any transfer of shares (i) from a person who holds such shares directly to any other person, (ii) from a person who holds such shares beneficially to a person who holds such shares directly, or (iii) from a person who holds such shares beneficially to another person who holds such shares beneficially where the transfer involves a change in the depository or other nominee that is the record owner of the transferred shares. An instrument of transfer also is required for a shareholder who directly holds shares to transfer those shares into his or her own broker account (or vice versa). Such instruments of transfer may give rise to Irish stamp duty which must be paid prior to registration of the transfer on Mallinckrodt's official Irish share register. However, a shareholder who directly holds shares may transfer those shares into his or her own broker account (or vice versa) without giving rise to Irish stamp duty, provided there is no change in the ultimate beneficial ownership of the shares as a result of the transfer and the transfer is not made in contemplation of a sale of the shares by a beneficial owner to a third party.

Mallinckrodt has to date undertaken to pay (or caused one of its affiliates to pay) stamp duty, if any, in connection with share transfers made in the ordinary course of trading by a seller who holds shares directly to a buyer who will hold the acquired shares beneficially. In other cases Mallinckrodt may, in its absolute discretion, pay (or cause one of its affiliates to pay) any stamp duty. Mallinckrodt's articles of association provide that, in the event of any such payment, Mallinckrodt (i) may seek reimbursement from the buyer, (ii) will have a lien against the Mallinckrodt ordinary shares acquired by such buyer and any dividends paid on such shares and (iii) may set-off the amount of the stamp duty against future dividends on such shares. Parties to a share transfer may assume that any stamp duty arising in respect of a transaction in Mallinckrodt ordinary shares has been paid unless one or both of such parties is otherwise notified by Mallinckrodt. Mallinckrodt may review its practice of paying stamp duty (or causing stamp duty to be paid) and there is no guarantee this practice will be continued.

Mallinckrodt's articles of association delegate to Mallinckrodt's secretary and certain other persons and delegates the authority to execute an instrument of transfer on behalf of a transferring party.

In order to help ensure that the official share register is regularly updated to reflect trading of Mallinckrodt ordinary shares occurring through normal electronic systems, Mallinckrodt intends to regularly produce any required instruments of transfer in connection with any transactions for which it pays stamp duty (subject to the reimbursement and set-off rights described above). In the event that Mallinckrodt notifies one or both of the parties to a share transfer that it believes stamp duty is required to be paid in connection with such transfer and that Mallinckrodt will not pay such stamp duty, such parties may either themselves arrange for the execution of the required instrument of transfer (and may request a form of instrument of transfer from Mallinckrodt for this purpose) or request that Mallinckrodt execute an instrument of transfer on behalf of the transferring party in a form determined by Mallinckrodt. In either event, if the parties to the share transfer have the instrument of transfer duly stamped (to the extent required) and then provide it to Mallinckrodt's transfer agent, the transferee will be registered as the legal owner of the relevant shares on Mallinckrodt's official Irish share register (subject to the matters described below).

The directors of Mallinckrodt, in their absolute discretion, may decline to recognize any instrument of transfer unless (i) it is accompanied by such evidence as the directors may reasonably require to show the right of the transferor to make the transfer; (ii) it is in respect of one class of share only; (iii) it is in favor of not more than four transferees; and (iv) it is lodged at the registered office of Mallinckrodt or at such other place as the directors may appoint. In the case of a transfer of shares by means other than a sale through a stock exchange on which the shares are listed, the directors have absolute discretion and without assigning any reason therefor to decline to register such transfer of a share that is not fully paid or that is transferred to or by a minor or person of unsound mind.

The registration of transfers may be suspended by the directors at such times and for such period, not exceeding in the whole 30 days in each year, as the directors may from time to time determine.

#### **Transfer Agent and Registrar**

The transfer agent and registrar for Mallinckrodt ordinary shares is Computershare Trust Company, N.A.

#### **ITEM 4. DESCRIPTION OF SECURITIES.**

Not Applicable.

#### **ITEM 5. INTERESTS OF NAMED EXPERTS AND COUNSEL.**

Not Applicable.

#### **ITEM 6. INDEMNIFICATION OF OFFICERS AND DIRECTORS.**

Mallinckrodt is incorporated under the laws of Ireland.

Mallinckrodt's articles of association confer an indemnity on its directors and Secretary only in the limited circumstances permitted by the Companies Act. The Companies Act only permits a company to pay the costs or discharge the liability of a director or the Secretary where judgment is given in his/her favor in any civil or criminal action in respect of such costs or liability, or where an Irish court grants relief because the director or Secretary acted honestly and reasonably and ought fairly to be excused. This restriction does not apply to executives who are not directors or the Secretary of Mallinckrodt. Any obligation of an Irish company which purports to indemnify a director or secretary of an Irish company over and above this will be void under Irish law, whether contained in its articles of association or any contract between the director or secretary and the company.

In addition, the articles of association of Mallinckrodt also contain an indemnity for executive officers (other than the directors and Secretary).

The directors of Mallinckrodt may on a case-by-case basis decide at their discretion that it is in the best interest of Mallinckrodt to indemnify an individual director from any liability arising from his or her position as a director of Mallinckrodt. However, this discretion must be exercised bona fide in the best interests of Mallinckrodt as a whole.

Irish companies may take out directors' and officers' liability insurance, as well as other types of insurance, for their directors and officers. Mallinckrodt has taken out directors' and officers' liability insurance.

As of June 16, 2022, the board of directors of Mallinckrodt approved (i) Mallinckrodt's entry into a (A) form of deed of indemnification with each of Mallinckrodt's directors and Secretary and (B) form of deed of indemnification with each of Mallinckrodt's officers (other than the Secretary), including its named executive officers (all of the foregoing, collectively, the "**Deeds of Indemnification**"), and (ii) a form of indemnification agreement entered into by and between Sucampo Pharmaceuticals, Inc., a Delaware corporation and a wholly owned subsidiary of Mallinckrodt ("**Sucampo**"), and each of Mallinckrodt's directors and Secretary (the "**Indemnification Agreements**"), substantially in the forms filed as Exhibit 10.14, Exhibit 10.15, and Exhibit 10.16 respectively, to Mallinckrodt's Current Report on Form 8-K filed with the Commission on June 22, 2022. With respect to the foregoing agreements with Mark Casey and each of Mallinckrodt's officers, the Deeds of Indemnification and Indemnification Agreements amend and restate and supersede and replace the previous deeds of indemnification entered into with Mallinckrodt as well as the related indemnification agreements entered into with Sucampo and Mallinckrodt Brand Pharmaceuticals, Inc.

The Deeds of Indemnification and Indemnification Agreements (together, the "**Indemnification Arrangements**") provide, respectively, that Mallinckrodt and Sucampo will, to the fullest extent permitted by law, indemnify each indemnitee on the terms and conditions set forth in the Indemnification Arrangements against all expenses, liabilities or losses incurred by the indemnitee as a result of or in connection with the indemnitee being, or threatened to be made, a party, witness or other participant in any action, suit, litigation, proceeding or arbitration or any alternative dispute resolution mechanism (or any inquiry, hearing, tribunal or investigation, whether conducted by Mallinckrodt or any other party, that the indemnitee in good faith believes might lead to the institution of any of the foregoing or otherwise might give rise to adverse consequences or findings in respect of the indemnitee) (any of the foregoing, a "**Proceeding**") in whole or in part by reason of (or arising in whole or in part out of) an event or occurrence related to such indemnitee's service to Mallinckrodt. However, Mallinckrodt and Sucampo will not indemnify the indemnitees pursuant to the Indemnification Arrangements (i) on account of any Proceeding in which a final and non-appealable judgment is rendered against the indemnitee for an accounting of profits made from the purchase or sale by such indemnitee of securities of Mallinckrodt pursuant to the provisions of Section 16(b) of the Exchange Act, or similar provision of any federal, state or local laws; (ii) if a court of competent jurisdiction has determined in a final and non-appealable judgment that such indemnification is not permitted under applicable law; (iii) on account of any such Proceeding as to which the indemnitee has been convicted of a crime constituting a felony under the laws of the jurisdiction where the criminal action was brought (or, where a jurisdiction does not classify any crime as a felony, a crime for which the indemnitee is sentenced to death or imprisonment for a term exceeding one year); or (iv) on account of any Proceeding brought by Mallinckrodt or any of its subsidiaries against the indemnitee.

Because Mallinckrodt is an Irish public limited company, the Companies Act only permits Mallinckrodt to pay the costs or discharge the liability of a director or the Secretary where judgment is given in his/her favor in any civil or criminal action in respect of such costs or liability, or where an Irish court grants relief because the director or Secretary acted honestly and reasonably and ought fairly to be excused. The Indemnification Agreements provide for Sucampo to advance the indemnitee's expenses subject to an undertaking by the indemnitee to repay amounts advanced if and to the extent it is ultimately determined that such person is not entitled to indemnification by Sucampo on the terms and conditions set forth in the Indemnification Agreements. The Deeds of Indemnification provide that in the event the indemnitee receives judgment in his or her favor or the Proceeding is otherwise disposed of in a manner that allows Mallinckrodt to indemnify such indemnitee under its articles of association as then in effect, Mallinckrodt will reimburse Sucampo for any indemnification payments or expense advancements previously made by Sucampo. Indemnification and advancement of expenses will not be made under the Indemnification Arrangements in connection with Proceedings initiated by the indemnitee against Mallinckrodt or any of its subsidiaries or any director, officer or employee of Mallinckrodt or any of its subsidiaries, except in specified circumstances.

The foregoing is only a general summary of certain aspects of Irish law, the articles of association of Mallinckrodt and the Indemnification Arrangements and does not purport to be complete. It is qualified in its entirety by reference to the provisions of Irish law, the articles of association of Mallinckrodt filed as Exhibit 4.2 hereto and the form of Deed of Indemnification and form of Indemnification Agreement filed as Exhibit 10.14, Exhibit 10.15 and Exhibit 10.16, respectively, to Mallinckrodt's Current Report on Form 8-K filed with the Commission on June 22, 2022.

**ITEM 7. EXEMPTION FROM REGISTRATION CLAIMED.**

Not Applicable.

**ITEM 8. EXHIBITS.**

- [4.1 Certificate of Incorporation of Mallinckrodt plc \(incorporated by reference to Exhibit 3.1 to the Registrant's Current Report on Form 8-K filed July 1, 2013\).](#)
- [4.2 Memorandum and Articles of Association of Mallinckrodt plc, adopted on June 16, 2022 \(incorporated by reference to Exhibit 3.1 to the Registrant's Current Report on Form 8-K filed June 22, 2022\).](#)
- [4.3 Mallinckrodt Pharmaceuticals 2022 Stock and Incentive Plan, effective June 16, 2022 \(incorporated by reference to Exhibit 10.13 to the Registrant's Current Report on Form 8-K filed June 22, 2022\).](#)
- [5.1 Opinion of Arthur Cox, counsel to the Registrant.\\*](#)
- [23.1 Consent of Arthur Cox \(included in Exhibit 5.1\).\\*](#)
- [23.2 Consent of Deloitte & Touche LLP, independent registered public accounting firm of the Registrant.\\*](#)
- [24.1 Power of Attorney.\\*](#)
- [107 Calculation of Filing Fee Table.\\*](#)

\* Filed herewith.

**ITEM 9. UNDERTAKINGS.**

(a) The undersigned Registrant hereby undertakes:

(1) To file, during any period in which offers or sales are being made, a post-effective amendment to this Registration Statement:

(i) To include any prospectus required by Section 10(a)(3) of the Securities Act;

(ii) To reflect in the prospectus any facts or events arising after the effective date of the Registration Statement (or the most recent post-effective amendment thereof) which, individually or in the aggregate, represent a fundamental change in the information set forth in the Registration Statement. Notwithstanding the foregoing, any increase or decrease in volume of securities offered (if the total dollar value of securities offered would not exceed that which was registered) and any deviation from the low or high end of the estimated maximum offering range may be reflected in the form of prospectus filed with the Commission pursuant to Rule 424(b) if, in the aggregate, the changes in volume and price represent no more than a 20% change in the maximum aggregate offering price set forth in the "Calculation of Registration Fee" table in the effective Registration Statement; and

(iii) To include any material information with respect to the plan of distribution not previously disclosed in the Registration Statement or any material change to such information in the Registration Statement;

*provided, however*, that paragraphs (a)(1)(i) and (a)(1)(ii) above do not apply if the information required to be included in a post-effective amendment by those paragraphs is contained in reports filed with or furnished to the Commission by the Registrant pursuant to Section 13 or Section 15(d) of the Exchange Act that are incorporated by reference in this Registration Statement.

(2) That, for the purpose of determining any liability under the Securities Act, each such post-effective amendment shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.

(3) To remove from registration by means of a post-effective amendment any of the securities being registered which remain unsold at the termination of the offering.

(b) The undersigned Registrant hereby undertakes that, for purposes of determining any liability under the Securities Act, each filing of the Registrant's annual report pursuant to Section 13(a) or Section 15(d) of the Exchange Act (and, where applicable, each filing of an employee benefit plan's annual report pursuant to Section 15(d) of the Exchange Act) that is incorporated by reference in this Registration Statement shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.

(c) Insofar as indemnification for liabilities arising under the Securities Act may be permitted to directors, officers and controlling persons of the Registrant pursuant to the foregoing provisions, or otherwise, the Registrant has been advised that in the opinion of the Commission such indemnification is against public policy as expressed in the Securities Act and is, therefore, unenforceable. In the event that a claim for indemnification against such liabilities (other than the payment by the Registrant of expenses incurred or paid by a director, officer or controlling person of the Registrant in the successful defense of any action, suit or proceeding) is asserted by such director, officer or controlling person in connection with the securities being registered, the Registrant will, unless in the opinion of its counsel the matter has been settled by controlling precedent, submit to a court of appropriate jurisdiction the question whether such indemnification by it is against public policy as expressed in the Securities Act and will be governed by the final adjudication of such issue.

**SIGNATURES**

Pursuant to the requirements of the Securities Act of 1933, the Registrant certifies that it has reasonable grounds to believe that it meets all of the requirements for filing on Form S-8 and has duly caused this Registration Statement to be signed on its behalf by the undersigned, thereunto duly authorized, in Hampton, New Jersey, on July 1, 2022.

MALLINCKRODT PLC

By: /s/ Mark J. Casey

Name: Mark J. Casey

Title: Executive Vice President, Chief Legal Officer and Company Secretary

Pursuant to the requirements of the Securities Act of 1933, this Registration Statement has been signed by the following persons in the capacities and on the dates indicated.

<u>Signature</u>	<u>Title</u>	<u>Date</u>
* Sigurdur Olafsson	President, Chief Executive Officer and Director (Principal Executive Officer)	July 1, 2022
* Bryan M. Reasons	Executive Vice President and Chief Financial Officer (Principal Financial and Accounting Officer)	July 1, 2022
* Paul M. Bisaro	Director	July 1, 2022
* Riad El-Dada	Director	July 1, 2022
* Dr. Woodrow Myers	Director	July 1, 2022
* Daniel Celentano	Director	July 1, 2022
* Neal P. Goldman	Director	July 1, 2022
* James R. Sulat	Director	July 1, 2022

\* Mark J. Casey, by signing his name hereto, does hereby sign this Registration Statement on behalf of the directors and officers of the Registrant above in front of whose name asterisks appear, pursuant to powers of attorney duly executed by such directors and officers and filed with the Commission.

By: /s/ Mark J. Casey

Name: Mark J. Casey

Title: Executive Vice President, Chief Legal Officer and Company Secretary, as Attorney-in-Fact

ARTHUR COX

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1 July 2022

**To:** Board of Directors  
 Mallinckrodt plc  
 College Business & Technology Park  
 Cruiserath  
 Blanchardstown  
 Dublin 15  
 Ireland

**Re: Mallinckrodt plc - Form S-8 Registration Statement**

Dear Sirs,

1. **Basis of Opinion**

We are acting as Irish counsel to Mallinckrodt plc, registered number 522227, a public company limited by shares, incorporated under the laws of Ireland, with its registered office at College Business & Technology Park, Cruiserath, Blanchardstown, Dublin 15, Ireland (the “**Company**”), in connection with the registration statement on Form S-8 (the “**Registration Statement**”), to be filed with the United States Securities and Exchange Commission (the “**SEC**”) on 1 July 2022 under the Securities Act of 1933, as amended (the “**Securities Act**”) with respect to ordinary shares with a nominal value of US\$0.01 per share of the Company (the “**Shares**”) that may be delivered pursuant to the Mallinckrodt Pharmaceuticals 2022 Stock and Incentive Plan (the “**Plan**”).

- 1.1 This Opinion is confined to and given in all respects on the basis of the laws of Ireland (meaning Ireland exclusive of Northern Ireland) in force as at the date hereof as currently applied by the courts of Ireland. We have made no investigation of and we express no opinion as to the laws of any other jurisdiction or the effect thereof. This Opinion speaks only as of its date.
- 1.2 This Opinion is also strictly confined to the matters expressly stated herein at paragraph 2 below and is not to be read as extending by implication or otherwise to any other matter.

Grainne Hennessy · Séamus Given · Caroline Devlin · Sarah Cunniff · Elizabeth Bothwell · William Day · Andrew Lenny · Orla O’Connor (Chair) · Brian O’Gorman Mark Saunders · John Matson · Kevin Murphy · Cormac Kissane · Kevin Langford · Eve Mulconry · Philip Smith · Kenneth Egan · Alex McLean · Glenn Butt · Níav O’Higgins Fintan Clancy · Rob Corbet · Ultan Shannon · Dr Thomas B Courtney · Aaron Boyle · Rachel Hussey · Colin Kavanagh · Kevin Lynch · Geoff Moore (Managing Partner) Chris McLaughlin · Maura McLaughlin · Joanelle O’Cleirigh · Richard Willis · Deirdre Barrett · Cian Beecher · Ailish Finnerty · Robert Cain · Connor Manning · Keith Smith John Donald · Dara Harrington · David Molloy · Stephen Randalow · Gavin Woods · Simon Hannigan · Niamh Quinn · Colin Rooney · Aiden Small · Phil Cody · Karen Killoran Richard Ryan · Danielle Conaghan · Brian O’Rourke · Cian McCourt · Louise O’Byrne · Michael Twomey · Cormac Commins · Tara O’Reilly · Michael Coyle · Darragh Geraghty Patrick Horan · Maeve Moran · Deirdre O’Mahony · Deirdre Sheehan · Ian Dillon · Matthew Dunn · David Kilty · Siobhán McBean · Conor McCarthy · Olivia Mullooly Laura Cunningham · Mairéad Duncan-Jones · Ryan Ferry · Imelda Shiels · Brendan Wallace · Ruth Lillis · Sarah McCague · Niamh McGovern · Ciara Buckley · Ian Duffy Sophie Frederix · Orlaith Kane · Aisling Kelly · David Vos

1.3 As Irish counsel to the Company in connection with the registration of the Shares, we have examined:

- (a) the documents listed in the schedule (the “**Schedule**”) to this opinion (the “**Documents**”);
- (b) the searches listed at paragraph 1.5 below; and
- (c) such other documents and records as we have deemed necessary to enable us to render the opinions set forth below.

We express no opinion, and make no representation or warranty, as to any matter of fact or in respect of any documents which may exist in relation to the Plan other than the Documents.

1.4 In giving this Opinion, we have examined and relied on copies of the Documents sent to us by email in pdf or other electronic format.

1.5 For the purpose of giving this Opinion, we have caused to be made the following legal searches against the Company on 1 July 2022:

- (a) on the file of the Company maintained by the Irish Registrar of Companies in Dublin for mortgages, debentures or similar charges or notices thereof and for the appointment of any receiver, examiner or liquidator;
- (b) in the Judgments Office of the High Court of Ireland for unsatisfied judgments, orders, decrees and the like for the twelve years immediately preceding the date of the search; and
- (c) in the Central Office of the High Court in Dublin for any proceedings and petitions filed in respect of the Company.

## 2. **Opinion**

Subject to the assumptions set out in this Opinion and to any matters not disclosed to us, we are of the opinion that:

- 2.1 the Company is a public company limited by shares and is duly incorporated and validly existing under the laws of Ireland; and
- 2.2 when the Shares have been issued pursuant to and in accordance with the terms and conditions referred to or summarised in the Plan, the Shares will be validly issued, fully paid up and non-assessable (which term means when used herein that no further sums are required to be paid by the holders thereof in connection with the issue of such shares).

## 3. **Assumptions**

For the purpose of giving this Opinion, we assume the following without any responsibility on our part if any assumption proves to have been untrue as we have not verified independently any assumption:

### *Constitution*

- 3.1 that the joint plan of reorganization relating to the Company under Chapter 11 of the US Bankruptcy Code and the scheme of arrangement confirmed pursuant to an Irish High Court order (the “**Scheme**”) following the Company's examinership proceedings under Part 10 of the Companies Act 2014 (the “**Act**”) have become effective, as a consequence of which the Constitution of the Company appended to the Scheme is in effect (the “**Constitution**”);



*Registration Statement and the Plan*

- 3.2 that when filed with the SEC, the Registration Statement will not differ in any material respect from the drafts that we have examined;
- 3.3 that the Shares will be allotted and issued in the manner stated in the Plan;
- 3.4 that the Company will receive consideration equal to the aggregate of the nominal value and any premium required to be paid up on the Shares issued pursuant to awards under the Plan and that such consideration will be in cash and/or otherwise provided in accordance with Irish law;
- 3.5 that the filing of the Registration Statement with the SEC has been authorised by all necessary actions under all applicable laws other than Irish law;
- 3.6 that the exercise of any options granted under the Plan and the issue of the Shares upon exercise of such options (and the issue of the Shares in connection with any other awards granted under the Plan) will be conducted in accordance with the terms and the procedures described in the Plan and the applicable award agreement;
- 3.7 that the Company has sufficient share capital to issue the required number of Shares to be delivered to recipients of any awards granted under the Plan and the directors have sufficient authority pursuant to Section 1021 of the Act to issue such Shares, and to the extent applicable, have been authorised to issue such Shares without the application of pre-emption rights pursuant to Section 1023 of the Act;
- 3.8 that where treasury shares are being re-issued, the maximum and minimum price of re-issue shall have been determined in advance at a general meeting of the Company in accordance with the requirements of Section 1078 of the Act;
- 3.9 that the maximum number of Shares issued pursuant to awards granted under the Plan shall not exceed the amount authorized under the authority granted under Article 8(c) of the Constitution (the “**Constitution Authorisation**”) or any renewal or extension thereof when aggregated with all other Shares issued pursuant to or in reliance upon, as the case may be, the Constitution Authorisation or the applicable renewal or extension thereof;
- 3.10 that the maximum number of Shares issued pursuant to awards granted under the Plan to persons that are not employees or former employees of the Company or any subsidiary of the Company shall not exceed the amount authorized under the Constitution Authorisation and any renewal or extension thereof when aggregated with all other Shares issued pursuant to or in reliance upon, as the case may be, the Constitution Authorisation or the applicable renewal or extension thereof;
- 3.11 with respect to Shares issued pursuant to awards granted on or after the date of expiry of the Constitution Authorisation, the Company shall have renewed its authority to issue Shares and dis-apply pre-emption rights on the same terms as the Constitution Authorisation (modified only in respect of the extension of the expiry date), and such renewal or extension of the Constitution Authorisation shall be in effect at the time of such grant;

*Authenticity and bona fides*

- 3.12 the completeness and authenticity of all Documents submitted to us as originals or copies of originals (and in the case of copies, conformity to the originals of such copies), the genuineness of all signatories, stamps and seals thereon and where incomplete Documents have been submitted to us that the originals of such Documents are identical to the last draft of the complete Documents submitted to us;
- 3.13 that the copies produced to us of minutes of meetings and/or of resolutions correctly record the proceedings at such meetings and/or the subject matter which they purport to record and that any meetings referred to in such copies were duly convened, duly quorate and held, that those present at any such meetings were entitled to attend and vote at the meeting and acted bona fide throughout and that no further resolutions have been passed or other action taken which would or might alter the effectiveness thereof;
- 3.14 that there is, at the relevant time of the allotment and issue of the Shares, no matter affecting the authority of the directors to issue and allot the Shares, not disclosed by the Company's constitution or the resolutions produced to us, which would have any adverse implications in relation to the opinions expressed in this Opinion;
- 3.15 that the Constitution is the current Constitution, is up to date and has not been amended or superseded and that there are no other terms governing the Shares other than those set out in the Constitution;

*Accuracy of searches and warranties*

- 3.16 the accuracy and completeness of the information disclosed in the searches referred to in paragraph 1.5 above and that such information has not since the time of such search or enquiry been altered. It should be noted that searches at the Companies Registration Office, Dublin, do not necessarily reveal whether or not a prior charge has been created or a resolution has been passed or a petition presented or any other action taken for the winding-up of or the appointment of a receiver or an examiner to the Company;
- 3.17 the truth, completeness and accuracy of all representations and statements as to factual matters contained in the Documents; and

*Commercial Benefit*

- 3.18 that the Documents have been entered into for *bona fide* commercial purposes, on arm's length terms and for the benefit of each party thereto and are in those parties' respective commercial interest and for their respective corporate benefit.

4. **Disclosure**

This Opinion is addressed to you in connection with the registration of the Shares with the SEC. We hereby consent to the inclusion of this Opinion as an exhibit to the Registration Statement. In giving this consent we do not thereby admit that we are in a category of person whose consent is required under Section 7 of the Securities Act.

The opinion is governed by and is to be construed in accordance with the laws of Ireland as interpreted by the courts of Ireland at the date hereof.

**ARTHUR COX**

Yours faithfully,

**ARTHUR COX LLP**

**SCHEDULE**

**The Documents**

1. A copy of the Registration Statement to be filed by the Company with the SEC.
2. A copy of the Plan.
3. Copies of the resolutions of the board of directors of the Company dated 15 June 2022 and 16 June 2022 approving the Plan.
4. A certificate of the secretary of the Company dated on or about the date hereof, including extracts of the resolutions of the board of directors of the Company dated 15 June 2022 and 16 June 2022 regarding the approval of and adoption of, among other things, the Plan and all other matters contemplated thereby and the approval and filing of the Registration Statement with the SEC.
5. A copy of the Constitution of the Company effective on the date hereof, adopted pursuant to an Irish High Court order (the “**Order**”) following the Company’s examinership under Part 10 of the Act confirming a scheme of arrangement relating to the Company pursuant to Sections 541 and 542 of the Act (the “**Scheme of Arrangement**”).
6. A copy of the Order and the Scheme of Arrangement.
7. A copy of the Certificate of Incorporation of the Company on registration as public limited company dated 9 January 2013 and the Company’s certificate of entitlement to do business dated 18 January 2013.
8. Letter of status from the Irish Companies Registration Office dated 1 July 2022.

**CONSENT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM**

We consent to the incorporation by reference in this Registration Statement on Form S-8 of our reports dated March 15, 2022, relating to the consolidated financial statements of Mallinckrodt plc (Debtor-in-Possession) (in examination under Part 10 of the Irish Companies Act 2014) and the effectiveness of Mallinckrodt plc's internal control over financial reporting, appearing in the Annual Report on Form 10-K of Mallinckrodt plc for the year ended December 31, 2021.

/s/ Deloitte & Touche LLP

St. Louis, Missouri  
July 1, 2022

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## POWER OF ATTORNEY

Each of the undersigned officers or directors of Mallinckrodt plc (the “Company”) whose signature appears below constitutes and appoints Mark J. Casey and any other person holding the position of Chief Legal Officer or Secretary of the Company from time to time, and each of them, as his or her true and lawful attorney-in-fact and agent, with full power of substitution and resubstitution, for him or her and in his or her name, place and stead, in any and all capacities, to sign a Registration Statement on Form S-8 with respect to the registration under the Securities Act of 1933, as amended, of ordinary shares of the Company issuable under the Mallinckrodt Pharmaceuticals 2022 Stock and Incentive Plan, and any and all amendments to such Registration Statement, including post-effective amendments, and to file the same with all exhibits thereto, and other documents in connection therewith, with the Commission, granting unto said attorney-in-fact and agent full power and authority to do and perform each act and thing requisite and necessary to be done, as fully to all intents and purposes as he or she might or could do in person, hereby ratifying and confirming all that said attorney-in-fact and agent, or his or her substitute or substitutes, may lawfully do or cause to be done by virtue hereof.

IN WITNESS WHEREOF, the following persons in their said capacities have signed their names hereto on the dates indicated:

Signature	Title	Date
<u>/s/ Sigurdur Olafsson</u> Sigurdur Olafsson	President, Chief Executive Officer and Director (Principal Executive Officer)	June 30, 2022
<u>/s/ Bryan M. Reasons</u> Bryan M. Reasons	Executive Vice President and Chief Financial Officer (Principal Financial and Accounting Officer)	June 30, 2022
<u>/s/ Paul M. Bisaro</u> Paul M. Bisaro	Director	June 30, 2022
<u>/s/ Riad El-Dada</u> Riad El-Dada	Director	June 30, 2022
<u>/s/ Dr. Woodrow Myers</u> Dr. Woodrow Myers	Director	June 30, 2022
<u>/s/ Daniel Celentano</u> Daniel Celentano	Director	June 30, 2022
<u>/s/ Neil P. Goldman</u> Neil P. Goldman	Director	June 30, 2022
<u>/s/ James R. Sulat</u> James R. Sulat	Director	June 30, 2022

## Calculation of Filing Fee Table

Form S-8  
(Form Type)Mallinckrodt plc  
(Exact Name of Registrant as Specified in its Charter)

Table 1: Newly Registered Securities

Security Type	Security Class Title	Fee Calculation Rule (2)	Amount Registered (1)	Proposed Maximum Offering Price Per Unit (2)	Maximum Aggregate Offering Price (2)	Fee Rate	Amount of Registration Fee
Equity	Ordinary Shares, par value \$0.01 per share	Other	1,829,068 shares	\$ 28.25	\$ 51,671,171.00	\$ 0.0000927	\$ 4,789.92
	Total Offering Amounts				\$ 51,671,171.00		\$ 4,789.92
	Total Fee Offsets						\$ (4,789.92)
	Net Fee Due						\$ —

- (1) This registration statement on Form S-8 (the “Registration Statement”) registers shares of ordinary shares, par value \$0.01 per share (“Ordinary Shares”) of Mallinckrodt plc (the “Registrant”) to be issued under the Mallinckrodt Pharmaceuticals 2022 Stock and Incentive Plan. In addition to the shares set forth in the table, pursuant to Rule 416 of the Securities Act of 1933, as amended (the “Securities Act”), this Registration Statement covers additional securities to be offered or issued upon any adjustment or change made to the registered securities by reason of any stock split, stock dividend, recapitalization or similar transaction.
- (2) Estimated solely for the purpose of calculating the registration fee pursuant to Rule 457(c) and Rule 457(h) under the Securities Act. The fee is calculated on the basis of the average of the high and low trading prices for the Ordinary Shares on the OTC Pink Current Information Unsolicited market on June 28, 2022, which was \$28.25.

Table 2: Fee Offset Claims and Sources

Registrant or Filer Name	Form or Filing Type	File Number(1)	Initial Filing Date	Filing Date	Fee Offset Claimed(2)	Security Type Associated with Fee Offset Claimed	Security Title Associated with Fee Offset Claimed	Unsold Securities Associated with Fee Offset Claimed	Unsold Aggregate Offering Amount Associated with Fee Offset Claimed	Fee Paid with Fee Offset Source(3)
Fee Offset Claims	Mallinckrodt plc	333-230234	03/13/2019		\$ 4,789.92	Equity	Ordinary Shares, par value \$0.20 per share	9,000,000	\$ 190,170,000.00	
Fee Offset Sources	Mallinckrodt plc	S-8		03/13/2019						\$ 23,048.60

- (1) Effective as of June 17, 2022, the Registrant terminated the offering that included 9,000,000 shares of ordinary shares, par value \$0.20 per share, issuable pursuant to the Mallinckrodt Pharmaceuticals Stock and Incentive Plan, under its registration statement on Form S-8 (Registration No. 333-230234) (the “2019 Registration Statement”) by filing a post-effective amendment to such registration statement deregistering all ordinary shares registered but unsold. None of such shares have been used and none are subject to outstanding awards granted under the Mallinckrodt Pharmaceuticals Stock and Incentive Plan.
- (2) Represents a portion of the unused registration fee of \$23,048.60 previously paid by the Registrant in connection with the 2019 Registration Statement, with Registrant’s remaining balance in the amount of \$18,258.68 to be applied to future filings.
- (3) Pursuant to Rule 457(p) under the Securities Act, the Registrant expects to offset the registration fee due under this Registration Statement by a portion of the fees previously paid with respect to the number of shares of ordinary shares, par value \$0.20 per share, of the Registrant that remained unsold under the 2019 Registration Statement as of June 17, 2022. The registration fee previously paid under the 2019 Registration Statement was \$23,048.60, of which \$23,048.60 is available to be claimed as a fee offset, \$4,789.92 of which is being applied to the registration fee due under this Registration Statement.