# *Forward Pharma A/S*

Østergade 24 A, 1., DK-1100 København K

# Annual Report for 1 January - 31 December 2022

CVR No 28 86 58 80

The Annual Report was presented and adopted at the Annual General Meeting of the Company on
/ 2023

Frederik B. Hasling
Chairman of the General Meeting

# Contents

# Management's Statement

The Executive Board and Board of Directors have today considered and adopted the Annual Report of Forward Pharma A/S for the financial year 1 January - 31 December 2022.

The Annual Report is prepared in accordance with the Danish Financial Statements Act.

In our opinion the Financial Statements give a true and fair view of the financial position at 31 December 2022 of the Company and of the results of the Company operations for 2022.

We recommend that the Annual Report be adopted at the Annual General Meeting.

Copenhagen, 2 May 2023

**Executive Board**



Claus Bo Søndergaard Svendsen
CEO

**Board of Directors**


Florian Schönharting


Florian Schönharting
Chairman


Torsten Goesch


Torsten Goesch



Jakob Mosegaard Larsen



Grant Hellier Lawrence



Duncan Moore

# Independent Auditor's Report

To the Shareholders of Forward Pharma A/S

## Opinion

We have audited the Financial Statements of Forward Pharma A/S for the financial year 1 January - 31 December 2022, which comprise income statement, balance sheet, statement of changes in equity and notes, including a summary of significant accounting policies. The Financial Statements are prepared in accordance with the Danish Financial Statements Act.

In our opinion, the Financial Statements give a true and fair view of the financial position of the Company at 31 December 2022 and of the results of the Company's operations for the financial year 1 January - 31 December 2022 in accordance with the Danish Financial Statements Act.

## Basis for Opinion

We conducted our audit in accordance with International Standards on Auditing (ISAs) and additional requirements applicable in Denmark. Our responsibilities under those standards and requirements are further described in the "Auditor's responsibilities for the audit of the financial statements" section of our report. We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our opinion.

### *Independence*

We are independent of the Company in accordance with the International Ethics Standards Board for Accountants' International Code of Ethics for Professional Accountants (IESBA Code) and the additional ethical requirements applicable in Denmark, and we have fulfilled our other ethical responsibilities in accordance with these requirements and the IESBA Code.

## Key Audit Matters

Key audit matters are those matters that, in our professional judgement, were of most significance in our audit of the financial statements for the financial year 2022. These matters were addressed during our audit of the financial statements as a whole and in forming our opinion thereon. We do not provide a separate opinion on these matters. For each matter below, our description of how our audit addressed the matter is provided in that context.

We have fulfilled our responsibilities described in the "Auditor's responsibilities for the audit of the financial statements" section, including in relation to the key audit matter below. Accordingly, our audit included the design and performance of procedures to respond to our assessment of the risks of material misstatement of the financial statements. The results of our audit procedures, including the procedures performed to address the matter below, provide the basis for our audit opinion on the financial statements.

### *Accounting for tax uncertainties*

As discussed in Note 6 to the financial statements, the German tax authorities have finalised their income tax audit on the Company's German corporate income tax returns covering multiple years through the year ended December 31, 2017 with primary focus on one intercompany transaction that occurred in 2017. On this basis, the German tax authorities disagree with the tax filing positions taken by the

# Independent Auditor's Report

Company and have assessed material additional tax payments, including interest and penalties, payable by the Company's German subsidiary, Forward Pharma GmbH. Management disagrees with the German tax authorities and has determined that it is probable (i.e. more likely than not) that the Company will not be required to pay additional taxes upon the ultimate resolution of the German tax dispute and no provision for tax uncertainties was recognized.

Auditing the Company's accounting for tax uncertainties was complex due to the fact that management's assessment of the tax rules and regulations is inherently subjective. The tax rules and regulations in Germany are complex and therefore there is uncertainty whether management's interpretation and application of these rules and regulations to determine tax filing positions in Germany will ultimately be accepted by the tax authorities upon resolution of the dispute.

To audit the Company's accounting for tax uncertainties as a result of the German tax dispute, our procedures included, among others, evaluating management's assessment of the position taken by the German tax authorities on the basis of their audit. For example, we assessed the most recent correspondence including the issued tax assessments with the German tax authorities. We evaluated the tax opinions and memorandums provided by the Company's third-party tax advisors. We involved tax professionals to assist in evaluating the accounting for the tax uncertainties and application of tax rules and regulations applied by management in their assessment. We assessed the adequacy of disclosures related to the German tax dispute included in Note 6 to the financial statements.

**Management's responsibilities for the Financial Statements**
Management is responsible for the preparation of financial statements that give a true and fair view in accordance with the Danish Financial Statements Act, and for such internal control as Management determines is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error.

In preparing the Financial Statements, Management is responsible for assessing the Company's ability to continue as a going concern, disclosing, as applicable, matters related to going concern and using the going concern basis of accounting in preparing the Financial Statements unless Management either intends to liquidate the Company or to cease operations, or has no realistic alternative but to do so.

**Auditor's responsibilities for the audit of the Financial Statements**
Our objectives are to obtain reasonable assurance about whether the Financial Statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes our opinion. Reasonable assurance is a high level of assurance, but is not a guarantee that an audit conducted in accordance with ISAs and the additional requirements applicable in Denmark will always detect a material misstatement when it exists. Misstatements can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of these Financial Statements.

As part of an audit conducted in accordance with ISAs and the additional requirements applicable in Denmark, we exercise professional judgement and maintain professional scepticism throughout the audit. We also:

# Independent Auditor's Report

- Identify and assess the risks of material misstatement of the Financial Statements, whether due to fraud or error, design and perform audit procedures responsive to those risks, and obtain audit evidence that is sufficient and appropriate to provide a basis for our opinion. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control.

- Obtain an understanding of internal control relevant to the audit in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Company's internal control.

- Evaluate the appropriateness of accounting policies used and the reasonableness of accounting estimates and related disclosures made by Management.

- Conclude on the appropriateness of Management's use of the going concern basis of accounting in preparing the Financial Statements and, based on the audit evidence obtained, whether a material uncertainty exists related to events or conditions that may cast significant doubt on the Company's ability to continue as a going concern. If we conclude that a material uncertainty exists, we are required to draw attention in our auditor's report to the related disclosures in the Financial Statements or, if such disclosures are inadequate, to modify our opinion. Our conclusions are based on the audit evidence obtained up to the date of our auditor's report. However, future events or conditions may cause the Company to cease to continue as a going concern.

- Evaluate the overall presentation, structure and contents of the Financial Statements, including the disclosures, and whether the Financial Statements represent the underlying transactions and events in a manner that gives a true and fair view.

We communicate with those charged with governance regarding, among other matters, the planned scope and timing of the audit and significant audit findings, including any significant deficiencies in internal control that we identify during our audit.

From the matters communicated with those charged with governance, we determine those matters that were of most significance in the audit of the Financial Statements of the current period and are therefore the key audit matters. We describe these matters in our auditor's report unless law or regulation precludes public disclosure about the matter or when, in extremely rare circumstances, we determine that a matter should not be communicated in our report because the adverse consequences of doing so would reasonably be expected to outweigh the public interest benefits of such communication.

**Statement on Management's Review**
Management is responsible for Management's Review.

Our opinion on the Financial Statements does not cover Management's Review, and we do not express any form of assurance conclusion thereon.

In connection with our audit of the Financial Statements, our responsibility is to read Management's Review and, in doing so, consider whether Management's Review is materially inconsistent with the Fi-

# Independent Auditor’s Report

nancial Statements or our knowledge obtained during the audit, or otherwise appears to be materially misstated.

Moreover, it is our responsibility to consider whether Management’s Review provides the information required under the Danish Financials Statements Act.

Based on the work we have performed, we conclude that the Management's review is in accordance with the Financial Statements and has been prepared in accordance with the requirements of the Danish Financial Statements Act. We did not identify any material misstatement in Management’s Review.

Copenhagen, 2 May 2023
**EY Godkendt Revisionspartnerselskab**

*CVR No 30 70 02 28*

DocuSigned by:
0E4E369F66E5452...
Jens Thordahl Nøhr
State Authorised Public Accountant
mne32212

# Company Information

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|---|---|
| **The Company** | Forward Pharma A/S<br>Østergade 24 A, 1.<br>DK-1100 København K<br><br>CVR No: 28 86 58 80<br>Financial period: 1 January - 31 December<br>Municipality of reg. office: København |
| **Board of Directors** | Florian Schönharting, Chairman<br>Torsten Goesch<br>Jakob Mosegaard Larsen<br>Grant Hellier Lawrence<br>Duncan Moore |
| **Executive Board** | Claus Bo Søndergaard Svendsen |
| **Auditors** | EY Godkendt Revisionspartnerselskab<br>Dirch Passers Allé 36<br>DK-2000 Frederiksberg |

# Management's Review

Forward Pharma A/S (the "Company") is a limited liability company incorporated and domiciled in Denmark. The Company's registered office is located in Copenhagen, Denmark. The Company's directly owned subsidiaries include Forward Pharma Operations ApS ("Operations") and Forward Pharma USA, LLC ("FP USA"). Operations' directly owned subsidiaries include Forward Pharma GmbH ("FP GmbH") and Forward Pharma FA ApS (Under frivillig likvidation) ("FP FA"), is under voluntary liquidation. FP GmbH has entered into a debitor-in-prossession ("DIP") proceeding. The Company and one or more of its directly or indirectly owned subsidiaries are referred to herein as the "Group."

The accompanying financial statements are those of the Company only. The Company's directly owned subsidiaries (LLC and Operations) are reflected in the accompanying financial statements as "Investments in subsidiaries."

In February 2017, the Company entered into a Settlement and License Agreement (the "License Agreement") with two wholly owned subsidiaries of Biogen Inc. (collectively "Biogen"). The License Agreement provided Biogen with a co-exclusive license in the United States, and an exclusive license outside the United States to defined intellectual property of the Company. In accordance with the License Agreement, Biogen paid the Company a non-refundable fee of $1.25 billion (8.7 billion DKK based on the prevailing exchange rate) in February 2017. The License Agreement provided for contingently payable royalties due the Group, as defined in the License Agreement, in the event the Group was successful in defending certain intellectual property in the United States and/or Europe (collectively "Patents").

After concluding lengthy legal proceedings in 2022, it was determined that the Patents were invalid and unenforceable, and as the result of the unsuccessful outcomes in the proceedings, no royalties will be due to the Group as provided for in the License Agreement.

As a result of entering into the License Agreement, the Company has permanently discontinued all research and development.

After considering the unsuccessful outcome in the patent proceedings and the lack of future business opportunities, the Company initiated steps to reduce costs and wind down activities to preserve capital until the tax matter in Germany (see Note 6) concludes. The cost reductions included the suspension of the Company's reporting obligations in the United States under the rules and regulations of the Securities and Exchange Commission. In January 2023, the Company's American Depositary Shares were officially delisted from the Nasdaq stock exchange in the United States and are now trading over-the-counter in the United States. Upon the conclusion of the tax matter in Germany, the Company's board of directors will evaluate strategic alternatives to maximize shareholder value that include discontinuing operations and liquidating the Company.

The income statement of the Company for the year ended December 31, 2022 shows a loss of DKK 31.5 million. This is in line with our expectations at the beginning of the year. The loss was impacted by impairment of investments in subsidiaries amounting to DKK 29.2 million (2021 DKK 11.2 million) due to losses incurred in subsidiaries. As of December 31, 2022, the Company held cash and cash equivalents of DKK 243.1 million and the Company's equity totaled DKK 430.4 million. The Company currently estimates that there will be adequate liquidity to continue as a going concern beyond the next twelve months. There are uncertainties that could negatively affect our estimated cash spend in 2023 including,

# Management's Review

but not limited to, an unforeseen negative outcome of the tax audit in Germany. For more detailed information, please see Note 6 to the accompanying financial statements.

We have no long-term financial commitments, such as lines of credit or guarantees, which are expected to affect our liquidity, other than an office rental lease, which we consider immaterial.

As discussed in more detail in Note 6 to the accompanying financial statements, the Company's indirectly owned subsidiary, FP GmbH, on 28 April 2022 submitted an application to the German insolvency court to enter into debtor-in-possession proceedings. As a result of FP GmbH entering into debtor-in-possession proceedings, the Company incurred a non-cash impairment loss on investments in subsidiaries of approximately 19.4 million DKK reflected in the Company's operating results for 2022.

We currently expect that our operating results, excluding the effect of the matter discussed in Note 5 to the accompanying financial statements will exhibit a lower net loss in 2023; however, unforeseen events can occur that could negatively affect our expactations.

# Income Statement 1 January - 31 December

| | Note | 2022 | 2021 |
|---|---|---|---|
| | | DKK | DKK |
| Other operating income | | 6,082,516 | 5,732,633 |
| Other external expenses | | -17,714,310 | -16,545,563 |
| **Gross loss** | | **-11,631,794** | **-10,812,930** |
| Staff expenses | 1 | -3,074,483 | -2,876,584 |
| Impairment of investments in subsidiaries | 6 | -29,183,473 | -11,189,750 |
| **Loss before financial income and expenses** | | **-43,889,750** | **-24,879,264** |
| Financial income | 2 | 13,549,919 | 13,734,503 |
| Financial expenses | 3 | -1,143,016 | -1,126,376 |
| **Loss before tax** | | **-31,482,847** | **-12,271,137** |
| Tax on profit/loss for the year | | 0 | 0 |
| **Net loss for the year** | | **-31,482,847** | **-12,271,137** |

# Distribution of profit

**Proposed distribution of profit**

| | | |
|---|---|---|
| Retained earnings | -31,482,847 | -12,271,137 |
| | **-31,482,847** | **-12,271,137** |

# Balance Sheet 31 December

## Assets

| | Note | 2022 | 2021 |
|---|---|---|---|
| | | DKK | DKK |
| Investments in subsidiaries | 4 | 278,702,097 | 305,177,531 |
| **Fixed asset investments** | | **278,702,097** | **305,177,531** |
| **Fixed assets** | | **278,702,097** | **305,177,531** |
| Receivables from group enterprises | | 5,040,807 | 1,114,554 |
| Other receivables | | 4,770 | 142,282 |
| Prepayments | | 3,005,221 | 3,195,252 |
| **Receivables** | | **8,050,798** | **4,452,088** |
| **Cash at bank** | | **243,125,591** | **251,430,660** |
| **Current assets** | | **251,176,389** | **255,882,748** |
| **Assets** | | **529,878,486** | **561,060,279** |

# Balance Sheet 31 December

## Liabilities and equity

| | Note | 2022 | 2021 |
|---|---|---|---|
| | | DKK | DKK |
| Share capital | | 998,766 | 982,644 |
| Other reserves | | 44,179,179 | 44,179,104 |
| Retained earnings | | 385,218,785 | 416,701,632 |
| **Equity** | | **430,396,730** | **461,863,380** |
| Trade payables | | 1,219,546 | 342,011 |
| Payables to group enterprises | | 97,245,185 | 96,284,833 |
| Other payables | | 281,177 | 47,631 |
| Accrued liabilities | | 735,848 | 2,522,424 |
| **Short-term debt** | | **99,481,756** | **99,196,899** |
| **Debt** | | **99,481,756** | **99,196,899** |
| **Liabilities and equity** | | **529,878,486** | **561,060,279** |
| Capital resources | 5 | | |
| Contingent assets, liabilities and other financial obligations | 6 | | |
| Intellectual Property Proceedings and the Settlement and License Agreement | 7 | | |
| Related parties | 8 | | |
| Subsequent events | 9 | | |
| Accounting Policies | 10 | | |

# Statement of Changes in Equity

| | Share capital | Other reserves | Retained earnings | Total |
|---|---|---|---|---|
| | DKK | DKK | DKK | DKK |
| **2022** | | | | |
| Equity at 1 January | 982,644 | 44,179,104 | 416,701,632 | 461,863,380 |
| Share issuance | 16,122 | 0 | 0 | 16,122 |
| Share-based compensation | 0 | 75 | 0 | 75 |
| Net loss for the year | 0 | 0 | -31,482,847 | -31,482,847 |
| **Equity at 31 December** | **998,766** | **44,179,179** | **385,218,785** | **430,396,730** |
| **2021** | | | | |
| Equity at 1 January | 964,876 | 44,169,038 | 428,972,769 | 474,106,683 |
| Share issuance | 17,768 | 0 | 0 | 17,768 |
| Share-based compensation | 0 | 10,066 | 0 | 10,066 |
| Net loss for the year | 0 | 0 | -12,271,137 | -12,271,137 |
| **Equity at 31 December** | **982,644** | **44,179,104** | **416,701,632** | **461,863,380** |

# Notes to the Financial Statements

| | | 2022 | 2021 |
|---|---|---|---|
| | | DKK | DKK |
| **1** | **Staff expenses** | | |
| | Wages and salaries | 2,896,220 | 2,847,345 |
| | Other social security expenses | 178,188 | 19,173 |
| | Warrants & share-based payments | 75 | 10,066 |
| | | **3,074,483** | **2,876,584** |
| | **Average number of employees** | **2** | **2** |

| | | 2022 | 2021 |
|---|---|---|---|
| **2** | **Financial income** | | |
| | Interest allowance, corporation tax | 0 | 284,565 |
| | Other financial income | 3,636,222 | 0 |
| | Exchange gains | 9,913,697 | 13,449,938 |
| | | **13,549,919** | **13,734,503** |

| | | 2022 | 2021 |
|---|---|---|---|
| **3** | **Financial expenses** | | |
| | Interest paid to group enterprises | 960,352 | 950,808 |
| | Other financial expenses | 152,043 | 152,580 |
| | Exchange losses | 30,621 | 22,988 |
| | | **1,143,016** | **1,126,376** |

# Notes to the Financial Statements

## 4 Investments in subsidiaries

| | 2022 | 2021 |
|---|---|---|
| | DKK | DKK |
| Cost at 1 January | 397,310,285 | 395,778,685 |
| Additions for the year | 2,708,039 | 1,531,600 |
| Cost at 31 December | 400,018,324 | 397,310,285 |
| Value adjustments at 1 January | -92,132,754 | -80,943,004 |
| Impairment losses for the year | -29,183,473 | -11,189,750 |
| Value adjustments at 31 December | -121,316,227 | -92,132,754 |
| **Carrying amount at 31 December** | **278,702,097** | **305,177,531** |

Investments in subsidiaries are specified as follows:

| Name | Place of registered office | Share capital | Votes and ownership | Equity | Net profit/loss for the year |
|---|---|---|---|---|---|
| Forward Pharma Operations ApS (currency DKK) | Copenhagen, DK | 50,000 | 100% | 278,082,931 | -27,022,415 |
| Forward Pharma USA, LLC (currency USD) | Montebello, New York, USA | 88,789 | 100% | 88,789 | -322,213 |

## 5 Capital resources

Management currently estimates that there will be sufficient liquidity to allow the Company to continue as a going concern for the next twelve months. As the result of the unsuccessful outcome in the patent proceedings, as discussed in note 7, the Company's and Group’s ability to generate operating income in the future is highly unlikely and uncertainty exists as to whether the Group and the Company can continue as a going concern long-term. After considering the unsuccessful outcome in the patent proceedings and the lack of future business opportunities, the Company and Group initiated steps to reduce costs and wind down activities to preserve capital until the tax matter in Germany (see Note 6) concludes. The cost reductions included the suspension of the Company’s reporting obligations in the United States under the rules and regulations of the Securities and Exchange Commission. Upon the conclusion of the tax matter in Germany, the Company’s board of directors will evaluate strategic alternatives to maximize shareholder value that include discontinuing operations and liquidating Operations. The long-term outlook for the Company and the Group is highly uncertain.

# Notes to the Financial Statements

## 6 Contingent assets, liabilities and other financial obligations

**Contingent liabilities**

The Company is part of a Danish joint tax group. Under Danish tax rules, the Company is jointly and severally liable, with other members of the Danish tax group, for the tax obligations of the Danish tax group. Any adjustment to the Danish tax group's taxable income could increase the Company's liability.

**Tax uncertainties**

*Income tax audits in Denmark and Germany*

The Danish and German tax authorities conducted a joint tax audit of the Group's Danish and German income tax returns covering multiple years through the year ended December 31, 2017. The joint tax audit focused primarily on one intercompany transaction (the "Transaction") that occurred in 2017 between the Company and FP GmbH to ensure the Transaction was conducted at fair value as determined in accordance with generally accepted arm's length principles applicable to taxing cross-border transactions. The Danish and German tax authorities were unable to reach agreement as to whether the Transaction was conducted at fair value and terminated the joint income tax audit in the second quarter of 2021.

The income tax audit in Denmark concluded with no changes proposed to the Group's Danish tax filings. As discussed in more detail below, the German tax authorities disagree with FP GmbH's determination of the fair value of the Transaction, have taken the position that FP GmbH's 2017 taxable income was materially understated and have assessed additional taxes and interest that are material.

*Income tax audit in Germany*

On May 21, 2021, the German tax authorities issued a preliminary audit assessment (the "Preliminary Assessment") that proposed an increase to FP GmbH's 2017 taxable income of 265.0 million EUR to a total income of 312.1 million EUR (2 billion DKK and 2.3 billion DKK, respectively, based on the December 31, 2022 exchange rate). The Preliminary Assessment alleges that the Transaction was not conducted at fair value. On July 1, 2022, FP GmbH received the tax audit report ("Report") from the German tax authorities dated June 16, 2022. The Report supersedes the Preliminary Assessment and represents the final findings of the German tax authorities from their audit of FP GmbH's tax filings for multiple years through the year ended December 31, 2017. The Report differs from the Preliminary Assessment as a result of the German tax authorities applying FP GmbH's available tax loss carryforwards to reduce the proposed increase to FP GmbH's 2017 taxable income from 265.0 million EUR to 252.9 million EUR (1.9 billion DKK based on the December 31, 2022 exchange rate). The Report, like the Preliminary Assessment, asserts that the Transaction was not conducted at fair value. The income tax obligation associated with an increase in FP GmbH's taxable income of 252.9 million EUR is 80.7 million EUR (600 million DKK, based on the December 31, 2022 exchange rate). The Company and FP GmbH continue to disagree with the positions taken by the German tax authorities and maintain their views that the Transaction was conducted at fair value, as determined in accordance with generally accepted arm's length principles, and no additional income taxes are due in Germany. FP GmbH, with the assistance from the Group's

# Notes to the Financial Statements

## 6 Contingent assets, liabilities and other financial obligations (continued)

tax advisors, has submitted formal responses to the Preliminary Assessment and the Report arguing that the Transaction was conducted at fair value and why the Preliminary Assessment and Report are incorrect. In August 2022, FP GmbH formally objected ("Objection Procedure") against the tax assessment notices described below. The Objection Procedure is pending at the Leipzig tax office's administrative appeals tribunal, an independent body within the Leipzig tax office.

Subsequent to the receipt of the Report, FP GmbH received tax and interest assessment notices (collectively, "Tax Levy") totaling 83.3 million EUR (620 million DKK, based on the December 31, 2022 exchange rate). The individual tax or interest notices were due and payable at various dates during the year ended December 31, 2022. The Tax Levy includes the tax assessment for 2017 of 80.7 million EUR, accrued interest on a portion of the Tax Levy for the period from April 2019 through July 2022, adjustments to FP GmbH's tax filings for the years 2018 through 2020 related to the reallocation of net operating carryforward losses between the years 2017 through 2020 as well as a related fee assessment from the City of Leipzig's Chamber of Industry and Commerce. Management expects to receive additional assessments ("Additional Assessments") from the German tax authorities for interest on the Tax Levy that remains to be assessed for the period April 2019 through July 2022 and further adjustments to FP GmbH's tax filings for the years 2021 and 2022. The Additional Assessments are estimated to total 2.4 million EUR (18 million DKK, based on the December 31, 2022 exchange rate). In addition to the Tax Levy and the Additional Assessments, beginning in July 2022, suspension interest charges will accrue on the Tax Levy and the Additional Assessments at a rate of 0.5% per month. The amount of suspension interest that will accrue through the conclusion of the tax dispute in Germany cannot be estimated but could be material.

FP GmbH does not have sufficient liquidity or any other assets enabling it to pay the Tax Levy, nor will it be able to pay the Additional Assessments when issued by the German tax authorities. Accordingly, the Tax Levy was not paid and continues to accrue interest in accordance with the terms discussed above. FP GmbH submitted applications to the German tax authorities requesting suspension of payment of the Tax Levy and will submit similar requests upon receipt of the Additional Assessments. FP GmbH received notices from the German tax authorities that such applications were accepted resulting in the suspension of payment of the Tax Levy until one month after the conclusion of the Objection Procedure and possibly longer as discussed in the following paragraph. While management believes that the German tax authorities will suspend payment of the Additional Assessments upon request, there is no assurance they will do so. See below for the discussion regarding FP GmbH entering preliminary debtor-in-possession proceedings for more information about the insolvency of FP GmbH.

An increase of FP GmbH's 2017 taxable income in Germany as discussed above without a corresponding offset to the Group's 2017 Danish tax filing, would result in double taxation. Relief from double taxation can be obtained through entering into a Mutual Agreement Procedure ("MAP"), comprising a government-to-government dispute resolution mechanism, and/or a successful outcome from the Objection Procedure, including any subsequent litigation, against the German tax authorities. If relief is sought through a MAP, double taxation will be eliminated; however, there is no assurance that a MAP and/or litigation would eliminate a net increase in the Group's and FP GmbH's combined total income tax expense. Entering into a MAP would continue the suspension of payment of the Tax Levy.

## 6 Contingent assets, liabilities and other financial obligations (continued)

After consultations with the Group’s tax advisors, management continues to believe that it is probable (i.e., more likely than not) that FP GmbH will not be required to pay additional income taxes to the German tax authorities upon the conclusion of a MAP and/or litigation against the German tax authorities. Such determination is inherently subjective and, if it is incorrect, then FP GmbH may be subject to significant additional tax and other expenses that could have a material negative effect on FP GmbH.

At the conclusion of a MAP and/or litigation, if the German tax authorities are successful in enforcing the Tax Levy and/or the Additional Assessments, in whole or in part, and if FP GmbH is unable to pay such obligation, there is the risk that the German tax authorities could commence litigation against the Group in Denmark to collect any unpaid portion of the Tax Levy and/or the Additional Assessments. If such a claim were to be made against the Group, it would likely be time consuming to resolve, very costly to the Group to defend and could have a material adverse effect on the Group’s and the Company's financial position, operating results and cash holdings.

Subject to the Group’s ability to get relief from double taxation through a MAP, an increase in FP GmbH’s taxable income would be taxed at the German effective tax rate of 31.9% while reducing the taxable income in Denmark that was taxed at 22.0%. FP GmbH has available tax loss carryforwards that could be used to partially mitigate an increase in FP GmbH’s taxable income from a transfer pricing adjustment. Therefore, an increase in FP GmbH’s taxable income, that is not covered by FP GmbH’s tax loss carryforwards and not subject to minimum taxation rules in Germany, would result in a net increase in the Group’s income tax expense at a rate of approximately 10 percentage points. Assuming FP GmbH’s taxable income is increased by 252.9 million EUR, as set out in the Report, subject to the Group’s ability to obtain relief from double taxation in Denmark of 58.3 million EUR (434 million DKK based on the December 31, 2022 exchange rate), it is estimated that the net increase in the Group’s and FP GmbH’s combined income tax expense, will be approximately 22.4 million EUR (167 million DKK based on the December 31, 2022 exchange rate) before applicable interest and/or penalties.

The cost to pursue litigation in Germany and/or a MAP individually, or in combination with any potential taxes, interest, and penalties due at the ultimate resolution of the litigation and/or MAP, could have a material adverse effect on the Group’s and the Company's financial position, operating results, and cash holdings.

The time period to ultimately settle the tax dispute with the German tax authorities discussed above, including the completion of a MAP and/or litigation against the German tax authorities, is currently unknown; however, management does not believe the dispute will conclude within the next twelve months and it could be three years or longer before the matter is finally resolved.

# Notes to the Financial Statements

## 6 Contingent assets, liabilities and other financial obligations (continued)

***FP GmbH enters preliminary debtor-in-possession proceedings***

In order to put the Group in the best position to defend the disputed tax filing position and protect the interests of the Company and FP GmbH, FP GmbH, on April 28, 2022, submitted an application to request that the German courts allow FP GmbH to enter into debtor-in-possession ("DIP") proceedings. DIP proceedings have been opened in a German insolvency court (the "Court") and are in the preliminary stage ("Preliminary DIP Proceedings") until the Court acts on FP GmbH's application to enter into DIP proceedings. At the time the Report was received, if FP GmbH was not in Preliminary DIP Proceedings, it was likely FP GmbH would have been forced into ordinary insolvency proceedings. While in Preliminary DIP Proceedings, FP GmbH's management continues to oversee the day-to-day operations of FP GmbH and retains the ability to initiate and manage a MAP and/or litigation against the German tax authorities, while a Court-appointed representative ("Representative") monitors the activities of FP GmbH.

Management is unable to predict when or if the Court will approve FP GmbH's application to enter DIP proceedings ("Ordinary DIP Proceedings"). If FP GmbH enters into Ordinary DIP Proceedings, FP GmbH's management, under the supervision of the Representative, continues to oversee the day-to-day operations of FP GmbH; if Ordinary DIP Proceedings are rejected, FP GmbH would likely enter into ordinary insolvency proceedings, at which time a Court-appointed insolvency administrator would take over the day-to-day operations of FP GmbH and management would no longer have any oversight over FP GmbH. The loss of oversight over FP GmbH could negatively impact management's ability to defend FP GmbH's 2017 tax filing position and dispute the allegations made by the German tax authorities in the Report. Subject to the Court's determination regarding entry into Ordinary DIP Proceedings, management of FP GmbH intends to take all available steps to avoid entering into ordinary insolvency proceedings; however, the Court, in its sole discretion, will make the final determination whether or not FP GmbH's application to enter Ordinary DIP Proceedings is accepted. Avoidance of ordinary insolvency proceedings is not under the control of management.

At the conclusion of a MAP and/or litigation, in the event FP GmbH is required and unable to pay a tax levy, FP GmbH would likely be deemed insolvent and insolvency proceedings would begin. Insolvency proceedings would likely lead to the orderly liquidation of FP GmbH and such proceedings would have a material negative effect on FP GmbH. In addition, as explained in more detail below, the insolvency of FP GmbH could expose the Group to claims made by a Court-appointed insolvency administrator and such claims could have a material negative effect on the Company's financial position, operating results, and cash holdings.

# Notes to the Financial Statements

## 6 Contingent assets, liabilities and other financial obligations (continued)

***Financial reporting implications of FP GmbH entering into preliminary debtor-in-possession proceedings***

Under Preliminary DIP Proceedings and Ordinary DIP Proceedings, FP GmbH's management is obligated to put the interest of creditors before the interest of shareholders when overseeing the day-to-day operations of FP GmbH. In addition, while in Preliminary DIP Proceedings, or Ordinary DIP Proceedings, the Representative is assigned to supervise all the activities taken by FP GmbH's management while managing the affairs of FP GmbH. FP GmbH's management is obligated to consult with, and take advice from, the Representative when making operating decisions on behalf of FP GmbH. In the event FP GmbH's management fails to adhere to the advice of the Representative, FP GmbH's management can be held personally liable to the creditors of FP GmbH for damages that result from not adhering to the advice of the Representative. The threat of personal liability against FP GmbH's management safeguards the interest of FP GmbH's creditors and provides some assurance that FP GmbH's management will comply with the advice of the Representative. For financial reporting purposes, the prioritization of the interest of creditors in managing the affairs of FP GmbH, combined with the influence the Representative has on management's decision-making capabilities, in substance, limits management's decision-making ability resulting in the Group losing control over FP GmbH. As a consequence of management losing control of FP GmbH, upon FP GmbH entering Preliminary DIP Proceedings, Operations' investment in FP GmbH, totaling 19.4 million DKK, was deemed impaired resulting in Operations incurring a nonrecurring impairment loss of 19.4 million DKK ("Impairment Loss"). The Impairment Loss was considered when management evaluated the carrying value of the Company's investment in Operations for impairment and is therefore, via the impairment of the Company's investment in Operations, included in the accompanying Income Statement, within the Impairment of investments in subsidiaries, for the year ended December 31, 2022.

In addition, the Group and the Company could be exposed to claims made by the German tax administration and/or to claims made by the Court-appointed administrator in the event the administrator believes the Company was unfairly benefited by the Transaction, or potentially other transactions and/or actions taken by the Company or another company within the Group, at the detriment of FP GmbH's creditors. Any claims against the Company, or another company within the Group, that are ultimately successful, could have a material adverse effect on the Group's and the Company's financial position, operating results and cash holdings.

## 7 Intellectual Property Proceedings and the Settlement and License Agreement

In February 2017, the Company entered into a Settlement and License Agreement (the "License Agreement") with two wholly owned subsidiaries of Biogen Inc. (collectively "Biogen"). The License Agreement provided Biogen with a co-exclusive license in the United States, and an exclusive license outside the United States to defined intellectual property of the Company. In accordance with the License Agreement, Biogen paid the Company a non-refundable fee of $1.25 billion (8.7 billion DKK based on the prevailing exchange rate) in February 2017. The License Agreement provided for contingently payable royalties due the Group, as defined in the License Agreement, in the event the Group was successful in defending certain intellectual property in the United States and/or Europe (collectively "Patents").

# Notes to the Financial Statements

## 7 Intellectual Property Proceedings and the Settlement and License Agreement (continued)

After concluding lengthy legal proceedings in 2022, it was determined that the Patents were invalid and unenforceable, and as the result of the unsuccessful outcomes in the proceedings, no royalties will be due to the Group as provided for in the License Agreement.

## 8 Related parties

**Cost Allocation Agreements**

The Company has entered into agreements with Operations whereby:
1. Costs incurred by the Company that benefit Operations are allocated to Operations, plus a 5% markup, and recognized as other operating income in the accompanying income statement; and
2. Costs incurred by Operations that benefit the Company are allocated to the Company, plus a 5% markup, and recognized as other external expenses in the accompanying income statement.

The table below summaries the amounts allocated to/from Operations, including the 5% markup, for each of the year ended December 31, 2022 and 2021:

| | 2022 | 2021 |
|---|---|---|
| | DKK | DKK |
| Other operating income (cost allocated to Operations) | 6,083,000 | 5,733,000 |
| Other external expenses (costs allocated from Operations) | 724,000 | 622,000 |

**Intercompany loan payable**
The Company has an outstanding loan payable to Operations that totals 96.6 million DKK at December 31, 2022.

The loan is due on demand and accrues interest at 1% per annum. Interest compounds quarterly.

The Company recognized interest expense in connection with the loan of 960,000 DKK for the year ended December 31, 2022 and 951,000 DKK for the year ended December 31, 2021.

# Notes to the Financial Statements

## 9 Subsequent events

Subsequent to December 31, 2022 the Company issued 1.5 million ordinary shares in connection with the exercise of warrants. Proceeds to the Company from the exercise of the warrants totaled 15,000 DKK.

Subsequent to December 31, 2022, there were no events that are required to be reported except for the above mentioned.

# Notes to the Financial Statements

## 10 Accounting Policies

The Annual Report of Forward Pharma A/S for 2022 has been prepared in accordance with the provisions of the Danish Financial Statements Act applying to enterprises of reporting class B as well as selected rules applying to reporting class C.

The Financial Statements included herein are presented in Danish kroner (DKK).

### Consolidated financial statements

The Company does note prepare consolidated financial statements in accordance with Section 110 of the Danish Financial Statements Act.

### Recognition and measurement

Revenues are recognised in the income statement as earned in accordance with International Financial Reporting Standard N015 *Revenues from Contracts with Customers*. Furthermore, financial assets and liabilities are measured at fair value or amortized. Expenses incurred to achieve the earnings for the year are recognised in the income statement, including depreciation, amortisation, impairment losses and provisions as well as adjustments related to changes in accounting estimates of amounts that have previously been recognised in the income statement.

Assets are recognized in the balance sheet when it is probable that the asset will provide future economic benefit that will flow to the Company and the value of the asset can be measured reliably.

Liabilities are recognised in the balance sheet when it is probable that future economic benefits will flow out of the Company, and the value of the liability can be measured reliably.

Assets and liabilities are initially measured at cost. Subsequently, assets and liabilities are measured as described for each item below under the caption "Balance Sheet."

### Translation policies

Transactions are measured in DKK.

Transactions in foreign currencies are initially recorded by the Company using the spot rate at the date the transaction first qualifies for recognition. Monetary assets and liabilities denominated in foreign currencies are translated to DKK based on currency spot rates at each reporting date. Differences arising on settlement or translation of monetary items denominated in foreign currency are recognized in the income statement. The Company does not hedge foreign exchange transactions.

Receivables, payables and other monetary items in foreign currencies that have not been settled at the balance sheet date are translated at the exchange rates at the balance sheet date. Any differences between the exchange rates at the balance sheet date and the rates at the time when the receivable or the debt arose are recognized in financial income and expenses in the income statement.

# Notes to the Financial Statements

**10 Accounting Policies** (continued)

Fixed assets acquired in foreign currencies are measured at the transaction date rates.

# Income Statement

**Revenue**

The Company had no revenue in 2022 or 2021.

**Other external expenses**

Other operating expenses include Management fee charged from other Group entities as well as service of a secondary nature to the main activities of the Company.

**Staff expenses**

Staff expenses comprise wages and salaries as well as payroll expenses and the fair value of share-based payment.

**Share-based payment**

Employees, board members and consultants (who provide services similar to employees) of the Company received remuneration in the form of equity settled awards whereby services are rendered as consideration for equity awards (warrants, deferred shares or share options). The fair value of these equity settled awards is determined at the date of grant resulting in a fixed fair value at grant date that is not adjusted for future changes in the fair value of the equity awards that may occur over the service period. Fair value of warrants and options is determined using the Black-Scholes model while fair value of deferred shares is determined as the fair value of the underlying shares less the present value of expected dividends.

The cost of share-based payments is recognized as an expense together with a corresponding increase in equity over the period in which the performance and/or service conditions are fulfilled.

**Other operating income**

Other operating income is comprised of Management fee charged to other Group entities. Management fee is recognized along with provision of related services.

**Financial income and expenses**

Finance income (expense) primarily include interest income on USD cash holdings offset by bank charges (negative interest) related to DKK and EUR cash holdings.

# Notes to the Financial Statements

**10 Accounting Policies** (continued)

### Tax on profit/loss for the year

Tax for the year consists of current tax for the year and changes in deferred tax for the year. The tax attributable to the result for the year is recognized in the income statement.

The Company is part of a Danish joint taxation group with NB FP Investment General Partner ApS, Forward Pharma Operations ApS and Forward Pharma FA ApS. The tax effect of the joint taxation is allocated to enterprises in proportion to their taxable income.

Management periodically evaluates positions taken in the tax returns with respect to situations in which applicable tax regulations are subject to interpretation or “uncertainty”. An income tax position taken in a tax filing is reflected in determination of income taxes if it considered probable that the position can be sustained.

At 31 December 2022 and 2021, the Company's ability to generate taxable profits in the future is not assured; therefore, the Company's deferred tax assets at 31 December 2022 and 2021 do not meet the criteria for financial statement recognition.

# Balance Sheet

### Investments in subsidiaries

Investments in subsidiaries are measured at cost less impairment losses.

Investment in subsidiaries is reviewed annually for indicators of impairment and written down to the higher of value in use and fair value less costs to sell if lower than the carrying amount.

### Receivables

Receivables are measured in the balance sheet at the lower of amortised cost and net realisable value, which corresponds to nominal value less provisions for bad debts.

### Prepayments

Prepayments include primarily prepaid insurance premiums.

# Notes to the Financial Statements

**10 Accounting Policies** (continued)

### Deferred tax assets and liabilities

Deferred tax is provided based on temporary differences arising between the tax bases of assets and liabilities and their carrying amounts for financial reporting purposes at the reporting date. Deferred tax assets and liabilities are measured at the tax rates that are expected to apply in the year when the asset is realized, or the liability is settled, based on tax rates (and tax laws) that have been enacted or substantively enacted at the reporting date. Deferred tax assets are recognized to the extent that it is probable that taxable profit will be available in the future against which the deductible temporary differences, unused tax credits and unused tax losses can be utilized. Deferred tax assets and deferred tax liabilities of the same tax jurisdiction are offset if a legally enforceable right exists to set off.

The carrying amount of deferred tax assets is reviewed at each reporting date and reduced to the extent that it is no longer probable that sufficient taxable profit will be available to allow all or part of the deferred tax asset to be utilized. Unrecognized deferred tax assets are re assessed at each reporting date and are recognized to the extent that it has become probable that future taxable profits will allow the deferred tax asset to be recovered.

Deferred tax relating to items recognized outside the profit or loss are recognized in correlation to the underlying transaction either in other comprehensive income or directly in equity.

### Current tax receivables and liabilities

Current tax liabilities and receivables are recognised in the balance sheet as the expected taxable income for the year adjusted for tax on taxable incomes for prior years and tax paid on account.

### Financial debts

Debts are measured at amortised cost, substantially corresponding to nominal value.

### Accrued liabilities

Accrued liabilities comprise payments received in respect of income in subsequent years.