

# German Corporate Governance Code

(as amended on May 13, 2013)

with proposals from the plenary meeting of May 13, 2013)

Government Commission

German Corporate Governance Code



## 1 Foreword

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The German Corporate Governance Code (the "Code") presents essential statutory regulations for the management and supervision (governance) of German listed companies and contains internationally and nationally recognized standards for good and responsible governance. The Code aims to make the German Corporate Governance system transparent and understandable. Its purpose is to promote the trust of international and national investors, customers, employees and the general public in the management and supervision of listed German stock corporations.

The Code clarifies the obligation of the Management Board and the Supervisory Board to ensure the continued existence of the enterprise and its sustainable creation of value in conformity with the principles of the social market economy (interest of the enterprise).

A dual board system is prescribed by law for German stock corporations.

The Management Board is responsible for managing the enterprise. Its members are jointly accountable for the management of the enterprise. The Chairman of the Management Board coordinates the work of the Management Board.

The Supervisory Board appoints, supervises and advises the members of the Management Board and is directly involved in decisions of fundamental importance to the enterprise. The chairman of the Supervisory Board coordinates the work of the Supervisory Board.

The members of the Supervisory Board are elected by the shareholders at the General Meeting. In enterprises having more than 500 or 2 000 employees in Germany, employees are also represented in the Supervisory Board, which then is composed of employee representatives to one third or to one half respectively. For enterprises with more than 2 000 employees, the Chairman of the Supervisory Board, who, for all practical purposes, is a representative of the shareholders, has the casting vote in the case of split resolutions. The representatives elected by the shareholders and the representatives of the employees are equally obliged to act in the enterprise's best interests.

Alternatively the European Company (SE) gives enterprises in Germany the possibility of opting for the internationally widespread system of governance by a single body (board of directors).

The form that codetermination takes in the SE is established generally by agreement between the company management and the employee side. All employees in the EU member states are included.

The accounting standards of German enterprises are oriented on the "true and fair view" principle and must present a fair picture of the actual conditions of the asset, financial and earnings situations of the enterprise.

The **recommendations** of the Code are marked in the text by use of the word "**shall**". Companies can deviate from them, but are then obliged to disclose this annually and to justify the deviations (comply or explain). This enables companies to reflect sector and enterprise-specific requirements. A well justified deviation from a Code recommendation may be in the interest of good corporate governance. Thus, the Code contributes to more flexibility and more self-regulation in the German corporate constitution. Furthermore, the Code contains **suggestions** which can be deviated from without disclosure; for this the Code uses the term "should". The remaining passages of the Code not marked by these terms contain descriptions of legal regulations and explanations.

For Code stipulations relating to not only the listed company itself but also its group companies, the term "enterprise" is used instead of "company".

Primarily, the Code addresses listed corporations and corporations with capital market access pursuant to Section 161 (1) sentence 2 of the Stock Corporation Act. It is recommended that companies not focused on the capital market also respect the Code.

As a rule the Code will be reviewed annually against the background of national and international developments and be adjusted, if necessary.

## 2 Shareholders and the General Meeting

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### 2.1 Shareholders

2.1.1 To the extent provided for in the Articles of Association the shareholders exercise their rights before or during at the General Meeting and, in this respect, vote.

2.1.2 In principle, each share carries one vote. There are no shares with multiple voting rights, preferential voting rights (golden shares) or maximum voting rights.

### 2.2 General Meeting

2.2.1 The Management Board submits to the General Meeting the Annual Financial Statements, the Management Report, the Consolidated Financial Statements and the Group Management Report. The General Meeting resolves on the appropriation of net income and the discharge of the acts of the Management Board and of the Supervisory Board and, as a rule, elects the shareholders' representatives to the Supervisory Board and the auditors.

Furthermore, the General Meeting resolves on the Articles of Association, the purpose of the company, amendments to the Articles of Association and essential corporate measures such as, in particular, inter-company agreements and transformations, the issuing of new shares and of convertible bonds and bonds with warrants, and the authorization to purchase own shares. It can resolve on the authorization of the remuneration system for the members of the Management Board.

2.2.2 When new shares are issued, shareholders, in principle, have pre-emptive rights corresponding to their share of the equity capital.

2.2.3 Each shareholder is entitled to participate in the General Meeting, to take the floor on matters on the agenda and to submit materially relevant questions and proposals.

2.2.4 The chair of the meeting provides for the expedient running of the General Meeting. In this, the chair should be guided by the fact that an ordinary general meeting is completed after 4 to 6 hours at the latest.

### 2.3 Invitation to the General Meeting, Postal Vote, Proxies

2.3.1 At least once a year the shareholders' General Meeting is to be convened by the Management Board giving details of the agenda. A quorum of shareholders is entitled to demand the convening of a General Meeting and the extension of the agenda. The convening of the meeting, as well as the reports and documents, including the Annual Report, required by law for the General Meeting are to be made easily accessible to the shareholders on the company's

internet site together with the agenda, unless they are sent directly to the shareholders. If a postal vote is offered, the same shall apply to the forms which are to be used for it.

2.3.2 The company shall facilitate the personal exercising of shareholders' voting rights and the use of proxies. The Management Board shall arrange for the appointment of a representative to exercise shareholders' voting rights in accordance with instructions; this representative should also be reachable during the General Meeting.

2.3.3 The company should make it possible for shareholders to follow the General Meeting using modern communication media (e.g. Internet).

### **3 Cooperation between Management Board and Supervisory Board**

3.1 The Management Board and Supervisory Board cooperate closely to the benefit of the enterprise.

3.2 The Management Board coordinates the enterprise's strategic approach with the Supervisory Board and discusses the current state of strategy implementation with the Supervisory Board at regular intervals.

3.3 For transactions of fundamental importance, the Articles of Association or the Supervisory Board specify provisions requiring the approval of the Supervisory Board. They include decisions or measures which fundamentally change the asset, financial or earnings situations of the enterprise.

3.4 Providing sufficient information to the Supervisory Board is the joint responsibility of the Management Board and Supervisory Board.

The Management Board informs the Supervisory Board regularly, without delay and comprehensively, of all issues important to the enterprise with regard to strategy, planning, business development, risk situation, risk management and compliance. The Management Board points out deviations of the actual business development from previously formulated plans and targets, indicating the reasons therefor.

The Supervisory Board shall specify the Management Board's information and reporting duties in more detail. The Management Board's reports to the Supervisory Board are, as a rule, to be submitted in writing (including electronic form). Documents required for decisions are to be sent to the members of the Supervisory Board, to the extent possible, in due time before the meeting.

3.5 Good corporate governance requires an open discussion between the Management Board and Supervisory Board as well as among the members within the Management Board and

the Supervisory Board. The comprehensive observance of confidentiality is of paramount importance for this.

All Board members ensure that the staff members they appoint to support them observe the confidentiality obligation accordingly.

3.6 In Supervisory Boards with codetermination, representatives of the shareholders and of the employees can prepare the Supervisory Board meetings separately, possibly with members of the Management Board.

If necessary, the Supervisory Board shall meet without the Management Board.

3.7 In the event of a takeover offer, the Management Board and Supervisory Board of the target company must submit a statement of their reasoned position so that the shareholders can make an informed decision on the offer.

After the announcement of a takeover offer, the Management Board may not take any actions, until publication of the result, that could prevent the success of the offer, unless such actions are permitted under legal regulations. In making their decisions, the Management and Supervisory Boards are bound to the best interests of the shareholders and of the enterprise.

In the case of a takeover offer, the Management Board should convene an extraordinary General Meeting at which shareholders discuss the takeover offer and may decide on corporate actions.

3.8 The Management Board and Supervisory Board comply with the rules of proper corporate management. If they violate the due care and diligence of a prudent and conscientious Managing Director or Supervisory Board member, they are liable to the company for damages. In the case of business decisions an infringement of duty is not present if the member of the Management Board or Supervisory Board could reasonably believe, based on appropriate information, that he/she was acting in the best interest of the company (Business Judgment Rule).

If the company takes out a D&O (directors' and officers' liability insurance) policy for the Management Board, a deductible of at least 10 % of the loss up to at least the amount of one and a half times the fixed annual compensation of the Management Board member must be agreed upon.

A similar deductible shall be agreed upon in any D&O policy for the Supervisory Board.

3.9 Extending loans from the enterprise to members of the Management and Supervisory Boards or their relatives requires the approval of the Supervisory Board.

3.10 The Management Board and Supervisory Board shall report each year on Corporate Governance (Corporate Governance Report) and publish this report in connection with the statement on Corporate Governance. Comments should also be provided on the Code's suggestions. The company shall keep previous declarations of conformity with the Code available for viewing on its website for five years.

## 4 Management Board

### 4.1 Tasks and Responsibilities

4.1.1 The Management Board is responsible for independently managing the enterprise in the interest of the enterprise, thus taking into account the interests of the shareholders, its employees and other stakeholders, with the objective of sustainable creation of value.

4.1.2 The Management Board develops the enterprise's strategy, coordinates it with the Supervisory Board and ensures its implementation.

4.1.3 The Management Board ensures that all provisions of law and the enterprise's internal policies are abided by and works to achieve their compliance by group companies (compliance).

4.1.4 The Management Board ensures appropriate risk management and risk controlling in the enterprise.

4.1.5 When filling managerial positions in the enterprise the Management Board shall take diversity into consideration and, in particular, aim for an appropriate consideration of women.

### 4.2 Composition and Compensation

4.2.1 The Management Board shall be comprised of several persons and have a Chairman or Spokesman. By-Laws shall govern the work of the Management Board, in particular the allocation of duties among individual Management Board members, matters reserved for the Management Board as a whole, and the required majority for Management Board resolutions (unanimity or resolution by majority vote).

4.2.2 The full Supervisory Board determines the respective total compensation of the individual Management Board members. If there is a body which deals with Management Board contracts, it shall submit its proposals to the full Supervisory Board. The full Supervisory Board resolves the Management Board compensation system and reviews it regularly.

The total compensation of the individual members of the Management Board is determined by the full Supervisory Board at an appropriate amount based on a performance assessment, taking

into consideration any payments by group companies. Criteria for determining the appropriateness of compensation are both the tasks of the individual member of the Management Board, his/her personal performance, the economic situation, the performance and outlook of the enterprise as well as the common level of the compensation taking into account the peer companies and the compensation structure in place in other areas of the company. The Supervisory Board shall consider the relationship between the compensation of the Management Board and that of senior management and the staff overall, particularly in terms of its development over time. The Supervisory Board shall determine how senior managers and the relevant staff are to be differentiated.

If the Supervisory Board calls upon an external compensation expert to evaluate the appropriateness of the compensation, care must be exercised to ensure that said expert is independent of respectively the Management Board and the enterprise.

4.2.3 The total compensation of Management Board members comprises the monetary compensation elements, pension awards, other awards, especially in the event of termination of activity, fringe benefits of all kinds and benefits by third parties which were promised or granted in the financial year with regard to Management Board work.

The compensation structure must be oriented toward sustainable growth of the enterprise. The monetary compensation elements shall comprise fixed and variable elements. The Supervisory Board must make sure that the variable compensation elements are in general based on a multi-year assessment. Both positive and negative developments shall be taken into account when determining variable compensation components. All compensation components must be appropriate, both individually and in total, and in particular must not encourage to take unreasonable risks. The amount of compensation shall be capped, both overall and for individual compensation components. The variable compensation components shall be related to demanding, relevant comparison parameters. Changing such performance targets or the comparison parameters retroactively shall be excluded.

For pension schemes, the Supervisory Board shall establish the level of provision aimed for in each case - also considering the length of time for which the individual has been a Management Board member - and take into account the resulting annual and long-term expense for the company.

In concluding Management Board contracts, care shall be taken to ensure that payments made to a Management Board member on premature termination of his/her contract, including fringe benefits, do not exceed the value of two years' compensation (severance pay cap) and compensate no more than the remaining term of the employment contract. If the employment contract is terminated for a serious cause for which the Management Board member is responsible, no payments are made to the Management Board member. The severance payment cap shall be calculated on the basis of the total compensation for the past full financial year and if appropriate also the expected total compensation for the current financial year.



Payments promised in the event of premature termination of a Management Board member's contract due to a change of control shall not exceed 150 % of the severance payment cap.

The Chairman of the Supervisory Board shall outline once to the General Meeting the salient points of the compensation system and then any changes thereto.

4.2.4 The total compensation of each one of the members of the Management Board is to be disclosed by name, divided into fixed and variable compensation components. The same applies to promises of benefits that are granted to a Management Board member in case of premature or statutory termination of the function of a Management Board member or that have been changed during the financial year. Disclosure is dispensed with if the General Meeting has passed a resolution to this effect by three-quarters majority.

4.2.5 Disclosure shall be made in the Notes or the Management Report. A compensation report as part of the Management Report outlines the compensation system for Management Board members. The outline shall be presented in a generally understandable way.

The compensation report shall also include information on the nature of the fringe benefits provided by the company.

In addition, for financial years starting after 31 December 2013, and for each Management Board member, the compensation report shall present:

- the benefits granted for the year under review including the fringe benefits, and including the maximum and minimum achievable compensation for variable compensation components;
- the allocation of fixed compensation, short-term variable compensation and long-term variable compensation in/for the year under review, broken down into the relevant reference years;
- for pension provisions and other benefits, the service cost in/for the year under review.

The model tables provided in the appendix shall be used to present this information.

#### 4.3 Conflicts of Interest

4.3.1 During their employment for the enterprise, members of the Management Board are subject to a comprehensive non-competition obligation.

4.3.2 Members of the Management Board and employees may not, in connection with their work, demand nor accept from third parties payments or other advantages for themselves or for any other person nor grant third parties unlawful advantages.

4.3.3 Members of the Management Board are bound by the enterprise's best interests. No

member of the Management Board may pursue personal interests in his decisions or use business opportunities intended for the enterprise for himself.

4.3.4 All members of the Management Board shall disclose conflicts of interest to the Supervisory Board without delay and inform the other members of the Management Board thereof. All transactions between the enterprise and the members of the Management Board as well as persons they are close to or companies they have a personal association with must comply with standards customary in the sector. Important transactions shall require the approval of the Supervisory Board.

4.3.5 Members of the Management Board shall take on sideline activities, especially Supervisory Board mandates outside the enterprise, only with the approval of the Supervisory Board.

## 5 Supervisory Board

### 5.1 Tasks and Responsibilities

5.1.1 The task of the Supervisory Board is to advise regularly and supervise the Management Board in the management of the enterprise. It must be involved in decisions of fundamental importance to the enterprise.

5.1.2 The Supervisory Board appoints and dismisses the members of the Management Board. When appointing the Management Board, the Supervisory Board shall also respect diversity and, in particular, aim for an appropriate consideration of women. Together with the Management Board it shall ensure that there is a long-term succession planning. The Supervisory Board can delegate preparations for the appointment of members of the Management Board, as well as for the handling of the conditions of the employment contracts including compensation, to committees.

For first time appointments the maximum possible appointment period of five years should not be the rule. A re-appointment prior to one year before the end of the appointment period with a simultaneous termination of the current appointment shall only take place under special circumstances. An age limit for members of the Management Board shall be specified.

5.1.3 The Supervisory Board shall issue Terms of Reference.

### 5.2 Tasks and Authorities of the Chairman of the Supervisory Board

The Chairman of the Supervisory Board coordinates work within the Supervisory Board and chairs its meetings and attends to the affairs of the Supervisory Board externally.

The Chairman of the Supervisory Board shall not be Chairman of the Audit Committee.

Between meetings, the Chairman of the Supervisory Board shall regularly maintain contact with the Management Board, in particular, with the Chairman or Spokesman of the Management Board, and consult with it on issues of strategy, planning, business development, risk situation, risk management and compliance of the enterprise. The Chairman of the Supervisory Board will be informed by the Chairman or Spokesman of the Management Board without delay of important events which are essential for the assessment of the situation and development as well as for the management of the enterprise. The Chairman of the Supervisory Board shall then inform the Supervisory Board and, if required, convene an extraordinary meeting of the Supervisory Board.

### 5.3 Formation of Committees

5.3.1 Depending on the specifics of the enterprise and the number of its members, the Supervisory Board shall form committees with sufficient expertise. The respective committee chairmen report regularly to the Supervisory Board on the work of the committees.

5.3.2 The Supervisory Board shall set up an Audit Committee which, in particular, handles the monitoring of the accounting process, the effectiveness of the internal control system, risk management system and internal audit system, the audit of the Annual Financial Statements, here in particular the independence of the auditor, the services rendered additionally by the auditor, the issuing of the audit mandate to the auditor, the determination of auditing focal points and the fee agreement, and - unless another committee is entrusted therewith - compliance. The chairman of the Audit Committee shall have specialist knowledge and experience in the application of accounting principles and internal control processes. He should be independent and not be a former member of the Management Board of the company whose appointment ended less than two years ago.

5.3.3 The Supervisory Board shall form a nomination committee composed exclusively of shareholder representatives which proposes suitable candidates to the Supervisory Board for recommendation to the General Meeting.

### 5.4 Composition and Compensation

5.4.1 The Supervisory Board has to be composed in such a way that its members as a group possess the knowledge, ability and expert experience required to properly complete its tasks.

The Supervisory Board shall specify concrete objectives regarding its composition which, whilst considering the specifics of the enterprise, take into account the international activities of the enterprise, potential conflicts of interest, the number of independent Supervisory Board

members within the meaning of number 5.4.2, an age limit to be specified for the members of the Supervisory Board and diversity. These concrete objectives shall, in particular, stipulate an appropriate degree of female representation.

Recommendations by the Supervisory Board to the competent election bodies shall take these objectives into account. The concrete objectives of the Supervisory Board and the status of the implementation shall be published in the Corporate Governance Report.

In its election recommendations to the General Meeting, the Supervisory Board shall disclose the personal and business relations of each individual candidate with the enterprise, the executive bodies of the company and with a shareholder holding a material interest in the company.

The recommendation to disclose is limited to those circumstances which, in the appraisal of the Supervisory Board, a shareholder judging objectively would consider authoritative for his election decision.

Within the meaning of this recommendation, shareholders holding a material interest are shareholders who directly or indirectly hold more than 10 % of the voting shares of the company.

5.4.2 The Supervisory Board shall include what it considers an adequate number of independent members. Within the meaning of this recommendation, a Supervisory Board member is not to be considered independent in particular if he/she has personal or business relations with the company, its executive bodies, a controlling shareholder or an enterprise associated with the latter which may cause a substantial and not merely temporary conflict of interests. Not more than two former members of the Management Board shall be members of the Supervisory Board and Supervisory Board members shall not exercise directorships or similar positions or advisory tasks for important competitors of the enterprise.

5.4.3 Elections to the Supervisory Board shall be made on an individual basis. An application for the judicial appointment of a Supervisory Board member shall be limited in time up to the next General Meeting. Proposed candidates for the Supervisory Board chair shall be announced to the shareholders.

5.4.4 Management Board members may not become members of the Supervisory Board of the company within two years after the end of their appointment unless they are appointed upon a motion presented by shareholders holding more than 25 % of the voting rights in the company. In the latter case appointment to the chairmanship of the Supervisory Board shall be an exception to be justified to the General Meeting.

5.4.5 Every member of the Supervisory Board must take care that he/she has sufficient time

to perform his/her mandate. Members of the Management Board of a listed company shall not accept more than a total of three Supervisory Board mandates in non-group listed companies or in supervisory bodies of non-group companies which make similar requirements.

The members of the Supervisory Board shall on their own take on the necessary training and further education measures required for their tasks. They shall be supported by the company appropriately.

5.4.6 Compensation of the members of the Supervisory Board is specified by resolution of the General Meeting or in the Articles of Association. Also to be considered here shall be the exercising of the Chair and Deputy Chair positions in the Supervisory Board as well as the chair and membership in committees.

Members of the Supervisory Board receive compensation which is in an appropriate relation to their tasks and the situation of the company. If members of the Supervisory Board are promised performance-related compensation, it shall be oriented toward sustainable growth of the enterprise.

The compensation of the members of the Supervisory Board shall be reported individually in the Notes or the Management Report, subdivided according to components. Also payments made by the enterprise to the members of the Supervisory Board or advantages extended for services provided individually, in particular, advisory or agency services, shall be listed separately on an individual basis.

5.4.7 If a member of the Supervisory Board took part in less than half of the meetings of the Supervisory Board in a financial year, this shall be noted in the Report of the Supervisory Board.

## 5.5 Conflicts of Interest

5.5.1 All members of the Supervisory Board are bound by the enterprise's best interests. No member of the Supervisory Board may pursue personal interests in his/her decisions or use business opportunities intended for the enterprise for himself/herself.

5.5.2 Each member of the Supervisory Board shall inform the Supervisory Board of any conflicts of interest, in particular those which may result from a consultant or directorship function with clients, suppliers, lenders or other third parties.

5.5.3 In its report, the Supervisory Board shall inform the General Meeting of any conflicts of interest which have occurred together with their treatment. Material conflicts of interest and those which are not merely temporary in respect of the person of a Supervisory Board member shall result in the termination of his mandate.

5.5.4 Advisory and other service agreements and contracts for work between a member of the Supervisory Board and the company require the Supervisory Board's approval.

5.6 Examination of Efficiency

The Supervisory Board shall examine the efficiency of its activities on a regular basis.

## **6 Transparency**

6.1 The company's treatment of all shareholders in respect of information shall be equal. All new facts made known to financial analysts and similar addressees shall also be disclosed to the shareholders by the company without delay.

6.2 Any information which the company discloses abroad in line with corresponding capital market law provisions shall also be disclosed domestically without delay.

6.3 Beyond the statutory obligation to report and disclose dealings in shares of the company without delay, the ownership of shares in the company or related financial instruments by Management Board and Supervisory Board members shall be reported if these directly or indirectly exceed 1 % of the shares issued by the company. If the entire holdings of all members of the Management Board and Supervisory Board exceed 1 % of the shares issued by the company, these shall be reported separately for the Management Board and Supervisory Board in the Corporate Governance Report.

6.4 As part of regular information policy, the dates of essential regular publications (including the Annual Report, interim financial reports) and the date of the General Meeting shall be published sufficiently in advance in a "financial calendar".

## **7 Reporting and Audit of the Annual Financial Statements**

7.1 Reporting

7.1.1 Shareholders and third parties are mainly informed by the Consolidated Financial Statements and the Group Management Report. During the financial year they are additionally informed by means of a half-year financial report and, in the first and second halves, by interim reports or quarterly financial reports. The Consolidated Financial Statements and the Condensed Consolidated Financial Statements in the half-year financial report and the quarterly financial report are prepared under observance of internationally recognised accounting principles.

7.1.2 The Consolidated Financial Statements must be prepared by the Management Board and examined by the auditor and Supervisory Board. Half-year and any quarterly financial reports shall be discussed with the Management Board by the Supervisory Board or its Audit Committee prior to publication. In addition, the Financial Reporting Enforcement Panel and the Federal Financial Supervisory Authority are authorized to check that the Consolidated Financial Statements comply with the applicable accounting regulations (enforcement). The Consolidated Financial Statements shall be publicly accessible within 90 days of the end of the financial year; interim reports shall be publicly accessible within 45 days of the end of the reporting period.

7.1.3 The Corporate Governance Report shall contain information on stock option programmes and similar securities-based incentive systems of the company, unless this information is already provided in the Annual Financial Statements, the Consolidated Financial Statements or the compensation report.

7.1.4 The company shall publish a list of third party companies in which it has a shareholding that is not of minor importance for the enterprise. The trading portfolios of banks and financial services companies, on which voting rights are not exercised, are disregarded in this context. The following shall be provided: name and headquarters of the company, the amount of the shareholding, the amount of equity and the operating result of the past financial year.

7.1.5 Notes on the relationships with shareholders considered to be "related parties" pursuant to the applicable accounting regulations shall be provided in the Consolidated Financial Statements.

## 7.2 Audit of Annual Financial Statements

7.2.1 Prior to submitting a proposal for election, the Supervisory Board or, respectively, the Audit Committee shall obtain a statement from the proposed auditor stating whether, and where applicable, which business, financial, personal and other relationships exist between the auditor and its executive bodies and head auditors on the one hand, and the enterprise and the members of its executive bodies on the other hand, that could call its independence into question. This statement shall include the extent to which other services were performed for the enterprise in the past year, especially in the field of consultancy, or which are contracted for the following year.

The Supervisory Board shall agree with the auditor that the Chairman of the Supervisory Board or, respectively, the Audit Committee will be informed immediately of any grounds for disqualification or partiality occurring during the audit, unless such grounds are eliminated immediately.

7.2.2 The Supervisory Board commissions the auditor to carry out the audit and concludes an

agreement on the latter's fee.

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7.2.3 The Supervisory Board shall arrange for the auditor to report without delay on all facts and events of importance for the tasks of the Supervisory Board which arise during the performance of the audit.

The Supervisory Board shall arrange for the auditor to inform it and/or note in the Auditor's Report if, during the performance of the audit, the auditor comes across facts which show a misstatement by the Management Board and Supervisory Board on the Code.

7.2.4 The auditor takes part in the Supervisory Board's deliberations on the Annual Financial Statements and Consolidated Financial Statements and reports on the essential results of its audit.



## **Appendix**

### **Model table 1 relating to 4.2.5 para. 2 (1<sup>st</sup> bullet point)**

#### **Value of benefits granted for the year under review**

This table shows the value of benefits granted for the year under review. It also shows the minimum and maximum values that can be achieved.

For the one-year variable compensation, rather than giving details of the amount disbursed (Table 2), the target value (i.e. the value in the event of 100% goal achievement) granted for the year under review is stated. If no target value is available in the system, e.g. as part of direct profit sharing, a comparable value for an "average probability scenario" is stated.

In addition, the multi-year variable compensation granted in the year under review is broken down into different plans and the relevant periods of time are stated. For subscription rights and other share-based payments, the fair value of the compensation at the time it is granted is calculated and reported as previously. If the multi-year variable components comprise non-share-based payments, the target value or a comparable value for an "average probability scenario" must be stated at the time of confirmation (if available). For plans that are not granted annually but in a regular, multi-year rhythm, a prorated value must be recorded and stated on an annual basis.

For pension schemes and other benefits, the benefit expense, i.e. the service cost, is shown in accordance with IAS 19 (as revised in 2011) (hereinafter: IAS 19R). This is included as a component of the total compensation, even if strictly speaking there is no newly granted benefit but rather a decision made by the Supervisory Board in the past is still having an effect.

The information in the table does not replace other obligatory information in the remuneration report and notes.

a	Benefits granted	I				II				III				IV				
		Name								Name								
		Function								Function								
		Date joined/left								Date joined/left								
		n-1	n	n (min)	n (max)	n-1	n	n (min)	n (max)	n-1	n	n (min)	n (max)	n-1	n	n (min)	n (max)	
1	Fixed compensation																	
2	Fringe benefits																	
3	<b>Total</b>																	
4	One-year variable compensation																	
5	Multi-year variable compensation																	
5a	Plan description (plan term)																	
...	Plan description (plan term)																	
6	<b>Total</b>																	
7	Service cost																	
8	<b>Total</b>																	

Notes:

a Name of the Management Board member

b Function of the Management Board member, e.g. CEO, CFO

c Date on which the member joined/left the Management Board, if in the financial year under consideration n (year under review) or n-1

d Financial year under consideration n (year under review) or n-1

I Benefits granted in financial year n-1

II Benefits granted in financial year n (year under review)

III Minimum value of granted compensation components that can be achieved in financial year n (year under review), e.g. Zero

IV Maximum value of granted compensation components that can be achieved in financial year n (year under review)

1 Non-performance-based components, e.g. fixed salary, fixed annual one-off payments (amounts correspond to amounts in "Allocation" table); values in columns II, III and IV are identical

2 Non-performance-based components, e.g. benefits in kind and fringe benefits (amounts correspond to amounts in "Allocation" table); values in columns II, III and IV are identical

3 Total of non-performance-based components (1+2) (amounts correspond to amounts in "Allocation" table); values in columns II, III and IV are identical

4 One-year variable compensation, e.g. bonus, short-term incentive (STI), share in profits

5 Multi-year variable compensation (total of rows 5a-...), e.g. multi-year bonus, deferred components from one-year variable compensation, long-term incentive (LTI), subscription rights, other share-based compensation

5a-... Multi-year variable compensation, broken down into plans and stating the period of time

6 Total of non-performance-related and variable components (1+2+4+5)

7 Service cost in accordance with IAS 19R from pension schemes and other benefits (amounts correspond to amounts in "Allocation" table); values in columns II, III and IV are identical

8 Total of non-performance-related and variable components and service cost (1+2+4+5+7)

## Model table 2 relating to 4.2.5 para. 2 (2<sup>nd</sup> bullet point)

### Allocation in/for the year under review

This table contains the same values for fixed compensation and fringe benefits as Table 1, which shows the value of the benefits granted for the year under review. For the fixed compensation and the one-year variable compensation, as previously, the allocation for the year under review (amount disbursed) is entered.

The table also shows the actual amount allocated in the year under review, i.e. the payments of multi-year variable compensation. The amounts are broken down into different plans and periods of time. For subscription rights and other share-based payments that have been issued in actual shares, the time of allocation and the allocation amount is deemed to be the relevant time and value under German tax law.

Bonus/penalty regulations must be taken into account both in the one-year and in the multi-year variable compensation in the amount disbursed.

Clawbacks are entered in the "Other" row as a negative amount, with reference to previous disbursements, and must be explained separately in the compensation report, particularly if previous members of the Board of Managing Directors who have now left Commerzbank are affected.

For pension schemes and other benefits, the benefit expense, i.e. the service cost, are shown in accordance with IAS 19R, as in Table 1. This is not an allocation strictly speaking, but is included in order to make the total compensation clearer.

The information in the table does not replace other obligatory information in the remuneration report and notes.

	Allocation	Name		Name		Name		Name	
		Function		Function		Function		Function	
		Date joined/left		Date joined/left		Date joined/left		Date joined/left	
		n	n-1	n	n-1	n	n-1	n	n-1
1	Fixed compensation								
2	Fringe benefits								
3	<b>Total</b>								
4	One-year variable compensation								
5	Multi-year variable compensation								
5a	Plan description (plan term)								
...	Plan description (plan term)								
6	Other								
7	<b>Total</b>								
8	Service cost								
9	<b>Total</b>								

#### Notes:

- a Name of the Management Board member
- b Function of the Management Board member, e.g. CEO, CFO
- c Date on which the member joined/left the Management Board, if in the financial year under consideration n (year under review) or n-1
- d Financial year under consideration n (year under review) or n-1
- 1 Non-performance-related components, e.g. fixed salary, fixed annual one-off payments (amounts correspond to amounts in the "Benefits granted" table)
- 2 Non-performance-related components, e.g. benefits in kind and fringe benefits (amounts correspond to amounts in the "Benefits granted" table)
- 3 Total of non-performance-related components (1+2) (amounts correspond to the amounts in "Benefits granted" table)
- 4 One-year variable compensation, e.g. bonus, short-term incentive (STI)
- 5 Multi-year variable compensation (total of rows 5a-...), e.g. multi-year bonus, deferral, long-term incentive (LTI)
- 5a-... Multi-year variable compensation, broken down into plans (amounts correspond to the amounts in column IX of the "Multi-year variable compensation" table)
- 6 Other, e.g. clawbacks, which are entered as a negative amount with reference to previous disbursements
- 7 Total of non-performance-related and variable components (1+2+4+5+6)
- 8 Service cost in accordance with IAS 19R from pension schemes and other benefits (amounts correspond to amounts from row 4 of the "Commitments in the case of normal termination of employment" table and row 7 of the "Allocation" table); this is not an allocation in the financial year
- 9 Total of non-performance-related and variable components and service cost (1+2+4+5+6+8)