

German Stock Corporation Act, Section 161

Declaration by the Executive and Supervisory Boards

Concerning SAP SE's Implementation of the German Corporate Governance Code

Pursuant to the German Stock Corporation Act, section 161, the Executive Board and the Supervisory Board of SAP SE (SAP) declare as follows:

Since its last Declaration, made on October 29, 2015, SAP has followed the recommendations in the May 5, 2015, version of the German Corporate Governance Code (the Code), which was published in the *Bundesanzeiger* (German Federal Gazette) on June 12, 2015, except as set out in 1) to 6) below, and will continue to follow them except as set out in 1) to 5) below:

1. Supervisory Board directors' and officers' liability insurance policies do not provide for a deductible

The third paragraph in section 3.8 of the Code recommends that if a company takes out directors' and officers' (D&O) liability insurance for its supervisory board members, a deductible should be agreed. SAP does not believe that the motivation and responsibility that the members of the Supervisory Board bring to their duties would be improved by such a deductible element.

2. Executive Board appointment contracts do not cap severance payments on premature termination

The fourth paragraph in section 4.2.3 of the Code recommends that when executive board appointment contracts are concluded, care should be taken to ensure that any severance payments, including additional benefits, on premature termination, are capped at two times the annual compensation or, if less, compensation for the remaining contract term. SAP does follow the recommendation in the fifth paragraph in section 4.2.3 of the Code concerning the maximum amount payable in the event of a change of control. However, we do not believe the uniform cap on severance pay stipulated in the fourth paragraph in section 4.2.3 of the Code is appropriate for all of the circumstances the recommendation covers. In our view, aside from a change of control, there may also be other circumstances in which a contract might be terminated and in which an affected Executive Board member could have a justifiable claim to better severance terms. Moreover, we do not believe it would be feasible to apply the recommendation in the most likely circumstances, namely when the seat on the Executive Board is vacated by agreement under a termination contract. In such cases, a cap on severance pay stipulated in the appointment contract would, in practice at least, be difficult for the Company to enforce unilaterally. Also, an agreement in this respect that had been concluded in advance might not make adequate provision for the particular facts and surrounding circumstances that later actually give rise to an agreement to end an Executive Board member's work before completion of the full term.

However, we do follow the thinking behind the recommendation in the Code in that it remains our policy to negotiate severance pay that is reasonable in the circumstances if we terminate an Executive Board member's service by agreement before full term. We also have measures in place to ensure we would not pay severance to an Executive Board

member whose appointment contract was terminated for breach.

3. SAP has not set an age limit for members of the Executive Board

The second paragraph, third sentence of section 5.1.2 in the Code recommends that an age limit be set for executive board members. SAP does not set any age limits for members of the Executive Board because this would be a general restriction on the Supervisory Board in its choice of suitable Executive Board members and we prefer not to regard people above a set age limit as generally unsuitable for Executive Board membership.

Moreover, in view of the decision by the German Federal Supreme Court (*Bundesgerichtshof*) of April 23, 2012 (case no. II ZR 163/10), on the application of the German General Equal Treatment Act (*Allgemeines Gleichbehandlungsgesetz*) which prohibits age discrimination of a managing director of a German limited liability company, we believe that the setting of an age limit for executive board members would create legal uncertainties.

4. When our Supervisory Board recommends candidates for its own membership to the competent election bodies, it is not required to have regard to the concrete objectives it has adopted for its own composition

The Code recommends (in section 5.4.1, third paragraph, first sentence) that recommendations by a supervisory board to the competent election bodies should take into account the concrete objectives it has adopted regarding its own composition. Our Supervisory Board will have regard to its adopted objectives when seeking to identify suitable persons for candidacy and when choosing which candidates to propose to the General Meeting of Shareholders. In the interest of SAP, however, the Supervisory Board must be in a position to recommend to the General Meeting of Shareholders those candidates it believes are best suited for the vacant Supervisory Board seats. Ordinarily, one of the suitability criteria will be whether a person's candidacy is consistent with the concrete objectives. However, that need not always be the decisive criterion for proposing a particular candidate. Company law, which empowers the General Meeting of Shareholders to elect members to the Supervisory Board, requires neither that the Meeting adhere to the Supervisory Board's objectives nor that it elect the Supervisory Board's proposed candidates.

5. No maximum length of service on the Supervisory Board

The second paragraph, first sentence of section 5.4.1 in the Code recommends that a maximum length of service be set for supervisory board members. We do not consider it good practice to set such a maximum. In our view, the objective should be a supervisory board that can work effectively, with a healthy mix of both experienced and recently-elected members. Experienced and long-serving members are no less independent and no less in touch with new ideas, particularly

because supervisory board work takes up only a limited amount of their time. The diversity recommended in the Code must also apply to length of service on the supervisory board and thus encourage a range in the degree of members' experience. Setting a maximum length of service applying equally to all members would be contrary to that principle because it would by implication count unjustifiably against members who serve on the supervisory board for longer.

6. The long-term variable compensation element will be capped starting 2016

The Code recommends (in section 4.2.3, second paragraph, sixth sentence) a cash cap on executive board members' variable compensation elements and overall compensation. SAP already followed this recommendation in principle with respect to its RSU Milestone Plan 2015. However, the RSU Milestone Plan 2015 only imposed a cap on the number of virtual shares granted thereunder, and not on the amount that is ultimately paid out (which is based on the performance of SAP stock), because in our view, capping the payout is counter to the thinking behind share-based compensation. If the Code recommendation requires that the payout on share-based compensation plans also be capped, SAP did not follow this recommendation in the past.

The long-term variable compensation element for SAP SE Executive Board members that is applicable as of fiscal year 2016, however, also caps the payout of virtual shares. Consequently, SAP follows the recommendation in section 4.2.3, second paragraph, sixth sentence of the Code in each case.

Walldorf, October 29, 2016



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