



## **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, 2016, SAP has followed the recommendations in the May 5, 2015, version of the German Corporate Governance Code (Code), which was published in the Bundesanzeiger (German Federal Gazette) on June 12, 2015, except as set out in 1) to 5) below. In the future, SAP will follow the recommendations in the February 7, 2017, version of the Code (which was published in the Bundesanzeiger on April 24, 2017) except as set out in 1) and 2) 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.

Up to now, SAP had not set any age limits for members of the Executive Board so as not to put a general restriction on the Supervisory Board in its choice of suitable Executive Board members. We prefer not to regard people above a set age limit as generally unsuitable for Executive Board membership. SAP will however follow this Code recommendation in future by setting an appropriately defined standard age limit that reflects this philosophy and allows the SAP Supervisory Board to grant exceptions in justified individual cases.



**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.

Whether a person's candidacy is consistent with the Supervisory Board's defined composition objectives has always been an important criterion when selecting suitable candidates for the Supervisory Board. In SAP's view, however, this need not always be the decisive criterion for proposing a particular candidate. Though meeting these objectives should not be a pro forma matter, the Supervisory Board does intend to aim to fulfill them in the future and thereby comply with the Code's recommendation.

**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.

In SAP's view, the objective should be a supervisory board that can work effectively, with a healthy mix of both experienced and recently-elected members. In order not to contradict this principle, SAP had not previously applied a maximum limit for the term of membership on the Supervisory Board. The Code recommendation also calls for diversity in terms of length of service on the Supervisory Board and thus the experience of its members. SAP will comply with this Code recommendation in future by setting a maximum length of service on the Supervisory Board that facilitates this diversity while also allowing the Supervisory Board to grant exceptions in justified individual cases.

Walldorf, October 27, 2017

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