

## **Declaration of Conformity of the Supervisory Board and the Management Board of SFC Energy AG Pursuant to Section 161 of the German Stock Corporation Act**

According to Section 161 of the German Stock Corporation Act (Aktiengesetz), the management board and the supervisory board of exchange-listed companies are required to declare annually that the company has complied, and will comply, with the recommendations of the Government Commission on the German Corporate Governance Code (the “Code”) published by the German Federal Ministry of Justice in the official Section of the Federal Gazette (Bundesanzeiger) and/or which recommendations the company has not applied and/or will not apply. This declaration has to be made accessible to the public on a permanent basis on the company’s website. Thus, companies may deviate from the recommendations of the Code but, if they do, they are required to disclose such deviations on an annual basis. This allows companies to take account of sector-specific or company-specific needs. Thus, the Code helps to make corporate governance of German companies more flexible and promotes their self-regulation.

On March 22, 2018, the Management Board and the Supervisory Board of SFC Energy AG made the following declaration of conformity pursuant to Section 161 AktG:

After due examination, the Management Board and the Supervisory Board of SFC Energy AG declare that, since March 28, 2017 (the date as of which the last declaration of conformity was made), the Company has complied and will comply with the recommendations of the German Corporate Governance Code (“Code” or “GCGC”) as amended on May 5, 2015 and as amended on February 7, 2017 (as from the date of its publication in the Federal Gazette on April 24, 2017) with the following exceptions:

- According to Section 3.8 para. 3 of the Code, a company taking out a D&O (directors’ and officers’ liability insurance) policy for the Supervisory Board must agree upon 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 individual Supervisory Board member. With resolution of May 7, 2015 the general meeting of SFC Energy AG granted the Supervisory Board pre-emptive safeguards against liability risks, in order to ease the recruitment of professional qualified and independent supervisory board members. The recruitment of professional qualified and independent supervisory board members is a key objective of SFC Energy AG, whose fulfillment entails special challenges given the Company’s geographically dispersed business operations, its orientation towards capital markets and its limited financial resources. According to this resolution, Section 16 para. 2 of the Articles of Association of the Company entitles the Supervisory Board Members to receive insurance coverage from the Company under a deductible-free D&O (directors’ and officers’ liability insurance) policy. As a result, the Company deviates from the recommendations set forth in the Code.
- According to Section 4.2.3 para. 2 sentence 6 of the Code, the amount of compensation of the Management Board shall be capped, both overall and for the variable compensation components. With the beginning of the 2014 financial year, the Supervisory Board of the Company has implemented a virtual stock option program that applies to any new Management Board member’s employment contract to become effective from January 1, 2014 on and that provides for the distribution of virtual stock options to the members of the Management Board. After the end of a waiting period, the virtual stock options confer the

right to cash pay out depending on the price of the share of SFC Energy AG at the date the right is exercised. Whereas the total number of stock options to be distributed is limited from the beginning, there is no limit to the amount in regards of a potentially increased share price during the exercise period. The Supervisory Board holds the opinion that a limitation of the increase potential of a share price-dependent compensation contradicts the principle behind this form of remuneration and would undermine its major incentive which is to work for and contribute to an increased company value. Since there is no complete limitation to the amount of any variable compensation component, no cap to the overall amount of compensation of the Management Board members exists. As a result, the Company deviates from the recommendations set forth in Sections 4.2.3 para. 2 sentence 6 of the Code.

- Pursuant to Section 5.1.2 para. 2 sentence 3 of the Code, an age limit for the members of the Management Board shall be specified. SFC Energy AG takes the view that the reaching of an age limit does not allow to draw conclusions as to the skills and expertise of a member of the Management Board. Therefore, no age limit for the members of the Management Board has been specified. As a result, the Company deviates from the recommendations set forth in Section 5.1.2. para 2 sentence 3 of the Code.
- According to Section 5.3.1 of the Code, the Supervisory Board shall, depending on the specifics of the enterprise and the number of its members, form committees with sufficient expertise. In particular, Section 5.3.2 of the Code recommends that an Audit Committee be set up. The Supervisory Board of SFC Energy AG comprises only three members. The Supervisory Board holds the view – which is consistent with the legal literature on this subject – that the efficiency of the advisory and controlling activities of a Supervisory Board made up of only three members cannot be increased meaningfully by setting up any committees. As a result, the Company deviates from the recommendations set forth in Sections 5.3.1 and 5.3.2 of the Code.
- According to Section 5.3.3 of the Code, the Supervisory Board shall form a Nominating Committee composed exclusively of shareholder representatives which will propose suitable candidates to the Supervisory Board for recommendation to the General Meeting. The Company's Supervisory Board has not set up a Nominating Committee. Consistent with the legal literature on this subject, the Supervisory Board supports the position that forming a Nominating Committee is irrelevant if no employees are represented on the Supervisory Board. As a result, the Company deviates from the recommendation set forth in Section 5.3.3 of the Code.
- According to Section 5.4.1 paras. 2 and 4 of the Code, the Supervisory Board shall specify concrete objectives regarding its composition and prepare a profile of skills and expertise for the entire Board. Within the company-specific situation the composition of the Supervisory Board shall reflect appropriately the international activities of the company, potential conflicts of interest, the number of independent Supervisory Board members within the meaning of number 5.4.2, an age limit and a regular limit to Supervisory Board members' term of office, both to be specified, as well as diversity. Proposals by the Supervisory Board to the General Meeting shall take these targets into account, while simultaneously aiming at fulfilling the overall profile of required skills and expertise of the Supervisory Board. The implementation status shall be published in the Corporate Governance Report. This report shall also provide information about what the Supervisory Board regards as the appropriate number of independent Supervisory Board members representing shareholders, and the names of these members. The Company deviates from the recommendation to lay down, take account of and publish such concrete objectives, to prepare a profile of skills and expertise for the entire Board, and to provide information about what the

Supervisory Board regards as the appropriate number of independent Supervisory Board members representing shareholders, and the names of these members. The composition of the Supervisory Board shall ensure that the Management Board is effectively advised and controlled, based on the Company's best interests. To ensure compliance with these statutory requirements the Supervisory Board will continue to base its proposals of candidates primarily on the knowledge, skills and experience of eligible candidates. In this respect, the Supervisory Board will also appropriately take account of the international activities of the Company, potential conflicts of interest, the number of independent members of the Supervisory Board, an age limit laid down in the Supervisory Board's Rules of Internal Procedure and diversity. Setting specific targets or quotas in advance that exceed the legally required target quota of women for the Supervisory Board under Section 111 para. 5 AktG, however, is something which the Supervisory Board considers to be neither necessary nor reasonable due to the fact that to do so would be to impose a sweeping restriction on the selection of suitable candidates particularly for SFC Energy AG, as a small, stock-listed German stock corporation (Aktiengesellschaft) with a supervisory board that is composed of only three members. Accordingly, the Corporate Governance Report does not mention any such objectives. As a result, the Company deviates from the recommendation set forth in Section 5.4.1 paras. 2 and 4 of the Code.

Brunnthal, March 22, 2018

The Management Board

Dr. Peter Podesser (Chairman), Hans Pol (Member), Marcus Binder (Member)

The Supervisory Board

Tim van Delden (Chairman)