

Declaration of Conformity with the German Corporate Governance Code: recommendations largely met

On April 14, 2010, the Executive and Supervisory Boards of VTG AG issued a declaration of conformity in accordance with § 161 of the German Stock Corporation Act. VTG AG complies to a large extent with the recommendations of the Commission of the German Corporate Governance Code as amended on June 18, 2009. The company has largely complied with this and with the recommendations of the previous version of June 6, 2008 since the issue of the last declaration of conformity on April 1, 2009. The following recommendations have not been/are not being implemented:

1. Section 3.8 sentence 4 of the Code
The directors' and officers' liability insurance taken out by the company for the members of the Executive Board and Supervisory Board does not provide for any deductible for those persons.
From contractual agreements concluded prior to August 5, 2009, the company is obliged to grant directors' and officers' liability insurance without a deductible for members of the Executive Board. The company shall continue to meet these obligations in accordance with § 23 of the Introductory Law to the German Stock Corporation Act (AktG) for the term of these contracts. For new executive board contracts, a deductible will be included in accordance with § 93 (2) sentence 3 of the German Stock Corporation Act.
No deductible is planned in future for the members of the Supervisory Board. In the view of the company, no deductible is necessary to increase the feeling of responsibility and motivation of the members of the Supervisory Board in the performance of their duties.
2. Section 4.2.3 of the Code
The existing executive board contracts do not include a "severance payment cap". In future too, the Supervisory Board cannot rule out concluding executive board contracts with provisions that in this respect do not accord with the code. The Supervisory Board is of the opinion that, in the interest of finding the optimal candidates for membership of the Executive Board, the existing freedom in the formulation of such contracts should not be restricted in advance in terms of individual elements thereof.
3. Section 4.2.4 of the Code
As a result of a resolution to this effect of the Annual General Meeting of May 22, 2007, the company has not published individual reports on the remuneration of the members of the Executive Board. With regard to the changed provisions of § 286 (5) and § 314 (2) of the German Commercial Code, the Executive Board and Supervisory Board shall propose to the Annual General Meeting of the company in 2010 that the resolution of May 22, 2007 be repealed and a new resolution passed relating to the exemption from the requirement for individual disclosure.
4. Section 5.3.2 of the Code
The company has decided, instead of setting up an audit committee, to entrust the Supervisory Board with all monitoring activities, since this is a central task of the Supervisory Board. Moreover, the company is of the opinion that the setting up of an audit committee with at least 3 members would hardly relieve the existing Supervisory Board of any work, as it has only 6 members.

5. Section 5.3.3 of the Code

In view of the small size of the Supervisory Board, the company has refrained from setting up its own nomination committee. The tasks of the nomination committee as provided for in the Code have been assigned to the Executive Committee, which, as with the Supervisory Board, comprises only representatives of the shareholders.

6. Section 5.4.1 sentence 2 of the Code

In making nominations for election as supervisory board members, the company has borne in mind that candidates should have the knowledge, skills and specialist experience necessary for performing their tasks. The company does not set any age limit in this respect. The company is of the opinion that age is not a suitable criterion for selecting qualified candidates. In the view of the company, no deductible is necessary to increase the feeling of responsibility and motivation of the members of the Supervisory Board in the performance of their duties.

7. Section 5.4.6 sentence 4 of the Code

The company considers that a fixed remuneration amount for supervisory board members is more suitable than a performance-related type of remuneration in terms of properly exercising the control function of the Supervisory Board independently of the company's success.

8. Section 7.1.2 sentence 2 of the Code

The company's Supervisory Board is of the opinion that, due to the continuous reporting received by the Supervisory Board on all important events and due to the constant development of the business, discussion of the half-year and quarterly reports prior to publication is not absolutely necessary in order to properly exercise its function of monitoring and control.

9. Section 7.1.2 sentence 4 of the Code

The legal requirements are being observed. The company intends to come closer to meeting the deadlines set out in the Code in order to meet this recommendation as soon as possible.