

# **H O R N B A C H B a u m a r k t A G**

## **Rules of Procedure for the Supervisory Board**

### **§ 1 General Provisions, Composition**

- (1) The Supervisory Board performs its activities in accordance with the requirements of the law, the company's Articles of Association and these Rules of Procedure. In discharging its duties, it works together with the company's other governing bodies on a basis of trust.
- (2) Taking due account of the recommendations made by the German Corporate Governance Code, the Supervisory Board states specific objectives for its composition and compiles a competency profile for the overall board. As a general rule, only candidates who at the time of their election are younger than 70 and have not already been members for four full terms should be proposed for election as members of the Supervisory Board.
- (3) To ensure that the advice and supervision provided by the Supervisory Board to the Board of Management is independent, at least half of the shareholder representatives in the Supervisory Board should be independent within the meaning of the German Corporate Governance Code.
- (4) Supervisory Board members are obliged to assist the Supervisory Board in satisfying the duties incumbent on it. In this, they are solely bound by the company's best interests. Supervisory Board members are not dependent on any assignments or instructions. In their decisions, they may not pursue personal interests or exploit business opportunities available to the company for their own interests.
- (5) Each Supervisory Board member is obliged to disclose any conflicts of interest to the Supervisory Board Chair, especially any such conflicts arising due to their performing any consultant or directorship function at customers, suppliers, lenders, or other business partners of the company.
- (6) If a member of the Supervisory Board is subject to material conflicts of interest that are not merely temporary, he/she will stand down from his/her position.
- (7) Advisory and other service agreements and contracts for work between a Supervisory Board member and the company require approval by the Supervisory Board.

### **§ 2 Confidentiality**

- (1) Each Supervisory Board member is obliged to maintain confidentiality in respect of all confidential disclosures and company secrets, namely operating and business secrets, confidential reports received and confidential discussions of which he/she gains awareness as a result of his/her activities in the Supervisory Board. This obligation extends beyond his/her term of office in the Supervisory Board. Upon retiring from the Supervisory Board, all confidential documents must be returned to the Supervisory Board Chair.
- (2) If a Supervisory Board member would like to pass on to third parties any information obtained in his/her capacity as a Supervisory Board member, he/she must inform the Supervisory Board Chair in advance, and with sufficient advance notice to allow the latter to prohibit the passing on of such information.

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### **§ 3 Election of Chair and Deputy Chair**

- (1) The Supervisory Board elects a Supervisory Board Chair and Deputy Chair from among its members. The Supervisory Board may elect a further Deputy Chair from among its members. The Supervisory Board Chair has the duties, rights, and obligations conferred and imposed by the law, the company's Articles of Association, and these Rules of Procedure. The Deputy Chair has the duties, rights, and obligations of the Chair when he/she is unavailable. The further Deputy has the duties, rights, and obligations of the Chair when both he/she and the Deputy Chair are unavailable.
- (2) The oldest member of the Supervisory Board chairs the election and determines the results.

### **§ 4 Convening of Meetings**

- (1) The Supervisory Board is convened when necessary. It must meet twice in each half of the calendar year. As a general rule, it should be convened once in each quarter of the calendar year. The Supervisory Board should also be convened if so requested by the Supervisory Board member or the Board of Management, with the purpose of and reasons for such being stated in the request.
- (2) Meetings of the Supervisory Board are convened by the Supervisory Board Chair in writing with a notice period of 3 weeks. When convening the meeting, the Chair may stipulate that the meeting be held as a telephone or video conference call. The day on which the invitation is sent out and the day of the meeting itself are not included in the calculation of the notice period. In urgent cases, the Supervisory Board Chair may reduce the notice period and, as appropriate, convene the meeting orally, by telephone, electronically, or by fax. The 3-week notice period does not apply for meetings convened pursuant to § 110 (1) and (2) of the German Stock Corporation Act (AktG).
- (3) The agenda items are communicated together with the invitation to the meeting. Where possible, draft resolutions should be communicated with sufficient notice and in such a way that absent Supervisory Board members have the possibility to cast their votes in writing.
- (4) Supervisory Board meetings are held at the company's legal domicile unless the Supervisory Board Chair stipulates a different venue when convening the respective meeting.
- (5) If compelling reasons apply, the Supervisory Board Chair may cancel or postpone a meeting already convened.

### **§ 5 Meetings, Resolutions**

- (1) Supervisory Board meetings are prepared and chaired by the Supervisory Board Chair, who also determines the person who is to take the minutes.
- (2) The Supervisory Board Chair determines the order in which the agenda items are to be addressed, as well as the nature and order of voting procedures. He/she may postpone the discussion and adoption of resolutions on individual agenda items due to compelling reasons.
- (3) The members of the Board of Management attend Supervisory Board meetings unless the Supervisory Board Chair stipulates otherwise, the Supervisory Board resolves otherwise, or such attendance is prohibited by statutory provisions.

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- (4) The Supervisory Board Chair may stipulate that persons who are not members of the Supervisory Board or the Board of Management may be invited for the discussion of individual agenda items.
- (5) Resolutions are adopted based on a simple majority of votes cast unless otherwise required by law, the company's Articles of Association, or these Rules of Procedure. Abstentions are not counted.
- (6) The Supervisory Board Chair determines the results of voting procedures and the resolutions thereby adopted.
- (7) Resolutions may also be adopted outside meetings, in this case in writing, by telephone, by fax, or by e-mail, provided that the requirements of § 13 (4) Sentence 2 of the company's Articles of Association are met. The Chair determines the specific details of such procedure.

### **§ 6 Information and Transactions Requiring Approval**

- (1) The Rules of Procedure for the Board of Management require the Board of Management to report to the Supervisory Board:
  - a) Regularly, and at least once a year, unless changes in the situation or new issues require immediate report, on the intended business policy, real estate strategy, and corporate planning
  - b) As a minimum in connection with the discussion of the annual financial statements in the Supervisory Board on the company's profitability
  - c) Regularly, and at least once a quarter, on the course of business, and in particular on the company's sales and earnings position
  - d) Regularly, and at least once every half-year, on the company's risk management and risk situation
  - e) On transactions that may be of material significance for the company's profitability or liquidity, and in this case with sufficient notice, where possible, for the Supervisory Board to respond to the information prior the execution of the transaction
  - f) In all other cases in which such information is specifically required by law, the company's Articles of Association, these Rules of Procedure, or a Supervisory Board resolution.
- (2) In its reports to the Supervisory Board, the Board of Management must address any variances in actual developments to previous reports and state the reasons for such variances.
- (3) As a general rule, the reports by the Board of Management to the Supervisory Board should be compiled in writing.
- (4) The following measures on the part of the Board of Management basically require prior approval by the Supervisory Board:
  - a) Acquisition or disposal of properties, plant, machinery, or other assets with a value of more than EUR 100 million in the individual case
  - b) Acquisition, increase, reduction, or sale of participating interests, or foundation or closure of companies in Germany or abroad, with a value or outlay of more than EUR 100 million in the individual case
  - c) Taking up and granting of loans with a volume of more than EUR 100 million in the individual case
  - d) Entering into or otherwise granting guarantees, assumptions of liability, letters of comfort, or similar

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statements giving rise to liability with a value or risk of more than EUR 100 million in the individual case or aggregately with one contractual partner, creditor, or beneficiary; should such measure be agreed to the benefit of an affiliated company, the relevant threshold amounts to EUR 200 million

- e) Rental agreements concluded for real estate used for operations with affiliated and associated, non-affiliated companies in cases in which the agreed annual rent is not customary to the market
  - f) Material transactions with persons or enterprises closely related to a member of the Board of Management.
- (5) In urgent cases in which, due to objective reasons, prior approval cannot be obtained from the Supervisory Board without exposing the company to the risk of disproportionate damages, the Board of Management may also execute the transaction without approval by the Supervisory Board, provided that all members of the Board of Management agree to such measure. In such case, the Supervisory Board must be informed without delay of the transaction thereby executed and of the reasons as to why prior approval could not be obtained from the Supervisory Board. The provisions of this paragraph do not apply to the cases set out in (4) f).
- (6) The list of transactions requiring approval may be extended or limited at any time by resolution of the Supervisory Board.

### **§ 7 Committees**

- (1) The Supervisory Board should form committees to assist it in appropriately discharging its duties and to prepare its deliberations or resolutions. To the extent permitted by law, it may assign individual or specified types of tasks and resolutions for discussion and the adoption of resolutions on behalf of the Supervisory Board. The Supervisory Board appoints a member of a given committee as chair of that committee.
- (2) The Supervisory Board should form from among its members: a Personnel Committee (§ 8), an Audit Committee (§ 9), a Nomination Committee (§ 10), and a Mediation Committee (§ 11).
- (3) Committee members are appointed for the duration of their terms in office.
- (4) The provisions applicable to the Supervisory Board by law, the company's Articles of Association, or these Rules of Procedure apply by analogy to the internal organization of the committees, unless specifically stipulated otherwise in the following provisions.

### **§ 8 Personnel Committee**

- (1) The Personnel Committee comprises the Supervisory Board Chair, his/her Deputy, and up to three further Supervisory Board members to be elected to the committee.
- (2) The Personnel Committee discusses and adopts resolutions on behalf of the Supervisory Board in respect of
- a) the granting of loans to the group of persons listed in § 89 and § 115 of the German Stock Corporation Act (AktG)
  - b) approvals of contracts concluded with Supervisory Board members pursuant to § 114 of the German Stock Corporation Act (AktG).

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- (3) The Personnel Committee submits proposals to the Supervisory Board in respect of its decisions pursuant to § 84 (1) Sentences 1 and 3, (2) and (3) Sentence 1 of the German Stock Corporation Act (AktG) and pursuant to § 87 (1) and (2) Sentences 1 and 2 of the German Stock Corporation Act (AktG). In this context, it also addresses the terms of the employment contract and of any amendment or termination of such. The appointment and employment relationship of a member of the Board of Management should expire at the latest upon such member reaching the age of 65. In its proposals in respect of the appointment of a member of the Board of Management, the Personnel Committee should also consider diversity in the composition of the Board of Management.
- (4) The Supervisory Board regularly reviews the remuneration of the Board of Management and its development and underlying system; the Personnel Committee prepares this process in each case by compiling a report and a draft resolution.

### **§ 9 Audit Committee**

- (1) The Audit Committee comprises a minimum of three and a maximum of eight members to be elected by the Supervisory Board. These may also include the Supervisory Board Chair or his/her Deputy.
- (2) The Audit Committee prepares the discussions and resolutions to be adopted by the Supervisory Board for all matters relating to financial reporting, and specifically for the annual financial statements. It should also address matters of risk management and compliance, the necessary independence of the auditor, the granting of the audit assignment to the auditor, and the determination of key audit matters and fee agreements, as well as with the other tasks incumbent on it pursuant to § 107 (3) Sentence 2 of the German Stock Corporation Act (AktG). Furthermore, the Audit Committee should submit a recommendation to the Supervisory Board in respect of the proposal to be made by the Supervisory Board for the appropriation of profit. It should also submit a recommendation if the Supervisory Board is required to adopt the company's annual financial statements or approve the consolidated financial statements. To prepare the election proposal for the auditor, the Audit Committee should obtain a declaration from the auditor envisaged for election to ascertain whether any, and if so, which professional, financial, or other relationships which could give reason to doubt the independence of the auditor exist between the auditor and its governing bodies and audit managers on the one hand and the company and its directors and officers on the other. The declaration submitted by the auditor should include information about the extent to which other services, and in particular consulting services, were performed for the company in the previous financial year or have been contractually agreed for the following year. It should be agreed with the auditor that the Audit Committee Chair should be informed immediately of any grounds for disqualification or partiality arising during the audit to the extent that such issues cannot be immediately resolved.
- (3) Meetings of the Audit Committee are attended by the Chair of the Board of Management and the member of the Board of Management responsible for financial reporting, unless the Audit Committee Chair stipulates otherwise.
- (4) The auditor must report to the Audit Committee on the key findings of its audit, and in particular on any significant weaknesses in the internal control and risk management system in respect of the financial reporting process and participate in the discussions of the documents audited by the auditor.

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### **§ 10 Nomination Committee**

- (1) The Nomination Committee comprises the Supervisory Board Chair and up the three further Supervisory Board members to be elected by shareholder representatives from among their number. The Supervisory Board Chair should also chair the Nomination Committee.
- (2) The Nomination Committee submits the names of suitable candidates to the Supervisory Board for its own proposals to the Annual General Meeting concerning the election of Supervisory Board members. In proposing candidates for election by the Annual General Meeting as new Supervisory Board members, it should ascertain that the respective candidates have sufficient time available to discharge the their duties.
- (3) Furthermore, it should report to the Supervisory Board on the personal and business relationships between each candidate and the company, the governing bodies of the company, and any shareholders with a material interest in the company.

### **§ 11 Mediation Committee**

- (1) The Mediation Committee comprises the Supervisory Board Chair, his/her Deputy, and two further members, one of which elected with a majority of the votes cast by employee representatives and the other elected with a majority of the votes cast by shareholder representatives on the Supervisory Board. The Supervisory Board Chair should also chair the Mediation Committee.
- (2) Should the appointment of members of the Board of Management by the Supervisory Board pursuant to § 31 (2) of the German Codetermination Act (MitbestG) not succeed, the Mediation Committee is required to submit to the Supervisory Board a proposal concerning the appointment within one month of the voting procedure in which the required majority for the appointment of members of the Board of Management was not achieved. This proposal does not exclude other proposals.

### **§ 12 Minutes**

The meetings of and resolutions adopted by the Supervisory Board must be documented in minutes which are signed by the Chair of the respective meeting. Resolutions adopted outside the meeting framework must be recorded in the minutes of the next meeting.

### **§ 13 Efficiency Assessment, Amendments**

- (1) The Supervisory Board should review the efficiency of its activities on a regular basis, and at least once a calendar year.
- (2) The Supervisory Board may at any time amend or supplement these Rules of Procedure. The Board of Management may propose to the Supervisory Board that amendments be made to the Rules of Procedure if it views such amendments to be necessary or expedient, for example due to legislative amendments.