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Dear Ladies and Gentlemen of the Regierungskommission

Proposed amendments to the German Corporate Governance Code

The undersigned investors have been long term investors in German corporations for many years. We currently manage assets for our clients and beneficiaries worth approximately euros1,504 billion, of which a sizeable proportion is invested in Germany. We recognise the many benefits which the Code has brought since it was first introduced, whilst also appreciating the importance of regular review to ensure the Code continues to meet the needs and expectations of companies and investors. Hence we welcome the opportunity to comment on the changes which are proposed for 2015.

In general terms, we welcome the proposals and the aim, as outlined in the accompanying Press Release, of further professionalisation of the work of the Supervisory Board. We would like to make the following specific comments as well as outlining some further improvements that we believe would be beneficial. Note that our comments regarding Supervisory Board members refer to shareholder representatives as we appreciate that employee representatives are nominated and elected using a different process.

Composition and Compensation

The changes under Number 5.4.1, relating to defining the maximum length of an individual director's board mandate and clarifying the expected time commitment, should have a positive impact on the functioning of the board. Setting an expectation regarding length of tenure on the board is important to help ensure regular refreshing of board membership which, in turn, brings a fresh perspective and can enhance board independence. Greater clarity on this will be helpful for the Supervisory Board, its directors and investors. As regards time commitment, previously the onus was on the individual to ensure he or she had sufficient time without any guidance as to what might be expected. Of course, circumstances may lead to increased time demands, which board candidates will understand, but setting initial expectations can only be helpful in ensuring board members have sufficient time to discharge their responsibilities.

The requirement to inform shareholders if a Supervisory Board member has attended less than half of the board meetings improves transparency and provides a means for shareholders to hold that director to account if required.

However, from our perspective, there is no improvement in overall transparency as regards the nominations process as a whole and there also appears to be scope for improvement in the process itself.

The Code says little about how Supervisory Boards should approach nominations - a Nominations Committee should be formed to propose suitable candidates to the General Meeting but the nominations process by which this is achieved is left to the discretion of the Supervisory Board.

Further, whilst there is clear reference in the Code to the role of the Supervisory Board in long term succession planning for the Management Board (Number 5.1.2), there is no reference to the need for succession planning for the Supervisory Board itself. However, succession planning is one of the key functions of the Supervisory Board and it is important to investors to know that this is receiving sufficient focus.

The Code's current requirements under Number 5.4.1, regarding setting objectives for the composition of the Supervisory Board, appear to take a narrow approach to board composition and we are aware that, for some companies, these objectives do not change over time even though the company's strategy and performance may change. We are also aware of instances where the Nominations Committee does not meet from one year to the next. Hence, we have concerns regarding whether board succession planning and the nominations process by which this is achieved, are, in fact, 'live' processes and whether companies are taking a holistic view of succession planning for the Supervisory Board as a whole. Succession planning is important for both the Management Board and the Supervisory Board and it would be beneficial to have explicit reference to the latter in the Code.

Improving transparency regarding the nominations process would help provide reassurance that the Supervisory Board is fulfilling its responsibilities in this area. It would be helpful for companies to explain the process which they followed in selecting board candidates e.g. whether an executive search firm was used or if the process was internal, and to provide some discussion of the board's overall mix of skills and experience.

It would also be helpful to refer to evolving practice whereby the Chairman of the Supervisory Board is available to shareholders to discuss succession planning and other matters reserved for the Supervisory Board. Many companies are open to this type of positive dialogue but not all. The Commission could play an active role in encouraging such engagement by referring to its benefits in the Foreword to the Code.

Formation of Committees

We are not clear regarding the intention of the change proposed under Number 5.3.2 and are concerned that this apparently small change may have a significant impact. The proposal seems to remove the need for an Audit Committee altogether, without clarifying which other committee would be entrusted with the Audit Committee's functions. This appears to be a retrograde step and also counter to international best practice. The role of the Audit Committee is very important in providing assurance to shareholders regarding oversight of financial reporting and controls as well as the relationship with the external auditor. We would suggest that the wording is unchanged.

We hope our views will be helpful to the Commission in its deliberations and would be happy to expand on any of the above points if that would be useful.

Yours faithfully,

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