

## PRESS RELEASE

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### **Reformed Code submitted for review to the German Ministry of Justice and Consumer Protection**

- **New Code approved**
- **Code aligned with ARUG II**
- **Mainly editorial adjustments to the draft code as of 22 May 2019**
- **Code will enter into force upon publication in the electronic Federal Gazette**

On 23 January 2020, the Government Commission on the German Corporate Governance Code (*Regierungskommission Deutscher Corporate Governance Kodex*) submitted the new version of the Code – resolved on 16 December 2019 – to the Federal Ministry of Justice and Consumer Protection (*Bundesministerium der Justiz und für Verbraucherschutz – “BMJV”*). The new Code will enter into force upon subsequent publication by the Ministry in the electronic Federal Gazette; until this point of time, the version dated 7 February 2017 will form the basis for Declarations of Compliance.

The Commission had already submitted the draft Code on 22 May 2019, after several months of intensive consultations, awaiting conclusion of the respective legislative procedure before finalising the new Code. The Commission was thus able to carry out potentially necessary adjustments in line with the final new version of the German Stock Corporation Act, as amended by the Implementing Act to the Second Shareholder Rights Directive (*Umsetzungsgesetz der zweiten Aktionärsrechterichtlinie – “ARUG II”*). As it turns out, this was an expedient decision, since the legislator changed stipulations regarding Management Board remuneration in ARUG II which entered into force as of 01 January 2020; these changes had to be implemented in the Code. Material changes to the draft Code were not necessary; instead the Commission has contributed to clarity and comprehensibility through editorial adjustments and shortenings when compared to the version dated 22 May 2019.

The Code submitted to the BMJV was published together with an explanatory statement on the Commission’s website.

“The aim of the comprehensive reform was to create a modern and practically applicable Code in line with international standards. Against this background, the Code stands for appropriate transparency forming the basis for stakeholders being able to form a sound opinion”, says Rolf Nonnenmacher,

Chairman of the Government Commission on the German Corporate Governance Code.

Material changes compared to the version dated 7 February 2017 particularly cover

- the introduction of principles to inform about material legal requirements on responsible governance;
- the specification of the independence requirement regarding shareholder representatives on the Supervisory Board, which is a focus for the Government Commission;
- a catalogue of criteria providing guidance to the question in which cases a shareholder representative in the Supervisory Board can no longer be regarded as independent. Another focus is set on the restatement of the recommendations regarding Management Board remuneration. The new recommendations reflect international best practices and meet the standards of ARUG II.
- Finally, corporate governance reporting is simplified by placing it exclusively into the Corporate Governance Statement.

“Initial reactions from supervisory boards, management boards, investor representatives and many other stakeholders at the Code Conference in November 2019, for example, show us that the reform was the right way to go”, concludes Rolf Nonnenmacher.

Concerning the sample tables of Management Board remuneration, the Commission had explained at its Conference in November 2019 that the current sample tables cannot fulfil the new legal requirements for remuneration reports. The Commission does not wish to pre-empt the legislator and develop recommendations on the implementation format of statutory reporting obligations. As such, the Commission consciously refrained from creating new sample tables, referring to the guidelines discussed by the EU Commission. Where the previous Code is no longer applicable, and the new ARUG II provisions are not yet applicable, it is up to enterprises to report appropriately and not let any transparency gaps occur.

**Note to editors:**

*Regierungskommission Deutscher Corporate Governance Kodex*

*The Government Commission convened by the German Federal Minister of Justice in September 2001 approved the German Corporate Government Code on 26th February 2002, which gained legal recognition by virtue of the Declaration of Conformity in accordance with §161 AktG. The German Corporate*

*Governance Code is intended to make the rules applicable in Germany for company management and supervision transparent to national and international investors in order to strengthen trust in the management of German companies*

*Members to the Commission are: Prof. Dr Rolf Nonnenmacher (Chairman), Prof. Dr Dres h.c. Theodor Baums, Dr Joachim Faber, Michael Guggemos, Dr Margarete Haase, Dr Thomas Kremer, Claudia Kruse, Dr-Ing. Michael Mertin, Prof. Dr Klaus-Peter Naumann, Prof. Dr Wulf von Schimmelmann, Dr Stefan Schulte, Marc Tüngler, Daniela Weber-Rey, Jens Wilhelm.*

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