

# REPORT OF THE SUPERVISORY BOARD

The Supervisory Board herewith submits its report to the regular Annual General Meeting of Shareholders, in particular on its audit of the financial statements in accordance with the separate financial statements and Management Report on the company as at 31 December 2011 as well as the consolidated financial statements and Management Report on the Group drawn up pursuant provisions laid down under the German Commercial Code (HGB) and on its supervision of management during the financial year as well as in its statement on the report submitted by the independent auditor and the Executive Board's proposal on the unappropriated retained earnings.

## GENERAL INFORMATION

In the reporting year, the Supervisory Board held nine regular meetings, two of which were closed-door sessions, and one extraordinary meeting. In doing so, it fulfilled the tasks incumbent on it under the law, the Articles of Association and the bylaws of the company. Moreover, owing to the situation of the company, the Supervisory Board informed itself in nine telephone conferences on the development of the restructuring process and measures taken. In the case of urgent matters, the Supervisory Board passed resolutions by way of telephone conference or by written circular procedure, whenever necessary.

Following careful examination and discussion, the Supervisory Board gave its approval to the resolutions put forward by the Executive Board.

The Supervisory Board comprises six members: Members J. Michael Fischl (Chairman), Prof. Dr. Klaus Höfle, Dr. Patrick Schweisthal and Prof. Dr. Thomas Zinser were re-elected at the Annual General Meeting of Shareholders on 16 June 2010. Oliver Gosemann and Dr. Torsten Hass have been members of the Supervisory Board since the end of the Annual General Meeting of Shareholders on 16 June 2010. Dr. Patrick Schweisthal is the Vice Chairman of the Supervisory Board.

In order to carry out its tasks effectively, the Supervisory Board formed three committees, namely the Audit Committee, the Personnel Committee and the Nomination Committee, made up of members from its own ranks. These committees are tasked with preparing certain decisions for resolution and topics which are to be addressed by the Supervisory Board. As part of the decision-making powers entrusted to them within the scope permitted under the law, the committees made their own decisions. The chairmen reported on the work carried out in their committees at the next respective meeting of the Supervisory Board.

In eight meetings, five of which in the presence of the independent auditor, and one telephone conference the Audit Committee established key audit areas and discussed interim reports, as well as examining the financial statements and the management reports on the company and the Group. The Chief Financial Officer took part in all meetings. Furthermore, the committee concerned itself with issues relating to accounting, the risk management and the liquidity management, and kept itself abreast of the status of negotiations with the syndicate banks. In addition, it took cognizance of the reports on the audit activities of Internal Audit and gained an insight into IT and process management. In addition, the tender procedure initiated by the Audit Committee in 2010 for the selection of an auditor for the financial year 2011 was progressed and brought to completion. The Audit Committee members are Prof. Dr. Thomas Zinser (Chairman), Oliver Gosemann and Dr. Patrick Schweisthal.

The Personnel Committee comprises J. Michael Fischl (Committee Chairman), Dr. Torsten Hass and Prof. Dr. Klaus Höfle. It met four times in the period under review when it focused on renewing the employment contract of one of the members of the Executive Board member and dealt with issues of succession, as well as on agreeing goals and reviewing the extent to which goals were achieved by the members of the Executive Board.

The Nomination Committee is made up of the following members: J. Michael Fischl (Chairman), Prof. Dr. Klaus Höfle and Prof. Dr. Thomas Zinser. During the reporting period, the committee followed the discussion on the composition of the Supervisory Board and discussed this issue at the regular meetings of the Supervisory Board.

In accordance with the resolution passed by the Annual General Meeting of Shareholders, the Chairman of the Supervisory Board mandated Munich-based PricewaterhouseCoopers Aktiengesellschaft Wirtschaftsprüfungsgesellschaft on 14 July 2011 pursuant to Section 111 para. 2 sentence 3 of the German Stock Corporation Act with the audit of the separate financial statements and the Management Report on the company, and the consolidated financial statements and the Management Report on the Group, drawn up in accordance with IFRS / IAS standards as required by Section 315a of the German Commercial Code. The independent auditor submitted an Auditor's Independence Declaration to the Audit Committee on 27 June 2011 in accordance with Code Item 7.2.1 of the German Corporate Governance Code, the correctness of which the Supervisory Board does not doubt.

On 10 March 2012, the Supervisory Board agreed on the Corporate Governance Report, drawn up pursuant to the recommendations set out under the German Corporate Governance Code in the version dated 26 May 2010, and the Declaration of Conformity pursuant to Section 161 of the German Stock Corporation Act together with the Executive Board. The Declaration of Conformity was published on 16 March 2012 in accordance with the statutory provisions. The complete Corporate Governance Report, together with the Declaration of Conformity, is part of the Annual Report.

The Supervisory Board reviews the efficiency of its work on an ongoing basis. Key areas are the organisation and sequence of meetings, the optimisation of reporting by the Executive Board and resolutions passed on agenda items, as well as risk management. Over the course of the year, the members of the Supervisory Board took part in external continuous professional development in order to build on their expert qualifications.

#### REPORT ON THE SUPERVISION OF MANAGEMENT BY THE SUPERVISORY BOARD DURING THE COURSE OF THE FINANCIAL YEAR

The Supervisory Board met regularly, discussed the items on the agenda in depth and analysed the development of the company and the situation of the sector. The Supervisory Board consulted regularly with the Executive Board on the management of the company and supervised the latter's activities. The supervision of senior management was made primarily by taking cognizance of regular written and oral reports by the Executive Board and the discussion of these reports. The Executive Board reported in a timely fashion on the course of business, the strategic development and the current situation of the company and the Group. In addition to the Supervisory Board meetings, the Chairman of the Supervisory Board was in regular contact with the Executive Board and kept himself informed about the actual business situation and individual transactions.

Owing to the crisis experienced by the company, the turnaround experts partly attended the meetings to report on the status of analyses and the restructuring opinion. In addition, the Supervisory Board held monthly telephone conferences with the Executive Board to advise it on the progress of restructuring and on the discussions with the financing syndicate.

The Supervisory Board was therefore involved in a timely manner in all decisions of fundamental importance to the company and the Group.

The key areas of the supervisory and advisory activities throughout the period of this report are as follows:

- consolidation through sustainable restructuring to secure the company as a going concern in collaboration with the restructuring consultant;
- discussion and preparation of the next steps in the event of failure of consolidation and of discussions with the banks;
- reorganisation and securing of the financing base of the Group and the subsidiaries;
- personnel reduction, while safeguarding the company's competitive ability;
- cognizance of the development of instruments designed to optimise procurement and inventory management;
- concept for a sustainable market development and sales strategy;
- assessment of the consequences of the political discussions on lowering feed-in tariffs in the key regions, such as Germany, southern and southeast Europe and the US because of the phase-out of the "1603 cash grant" at the end of 2011, in respect of the corporate policy;
- analysis of alternatives and additional business lines to reduce the risk of the strong dependence on political decisions;
- acceptance and discussion of the reports of the Executive Board in accordance with Section 90 of the German Stock Corporation Act on the liquidity and financial position, the intended corporate policy and other fundamental issues relating to corporate planning (particularly financial, investment and personnel planning);
- monitoring the ongoing development of the internal control system (risk monitoring and early warning system pursuant to Section 91 para. 2 of the German Stock Corporation Act) and the information obtained therefrom;
- acceptance of reports submitted in the context of the compliance management system;
- monitoring the company's stock market value;
- discussion of the stage of development reached by the individual segments and subsidiaries;
- review and discussion of material contractual problems and projects;
- addressing the content of the German Corporate Governance Code;
- contractual regulations and changes in the Executive Board;
- size and structure of the Supervisory Board.

Conflicts of interest in respect of the members of the Executive Board and the Supervisory Board which must be reported without delay to the Supervisory Board and of which the Annual General Meeting of Shareholders should be informed did not arise.

## REPORT ON THE AUDIT OF THE SEPARATE AND CONSOLIDATED FINANCIAL STATEMENTS BY THE SUPERVISORY BOARD

Together with the members of the Audit Committee and the other members of the Supervisory Board, the Chairman of the Supervisory Board took receipt of the following in good time before the meeting of the Supervisory Board:

- the annual financial statements and the proposal of the Executive Board on the unappropriated retained earnings in the financial year 2011;
- the report by the Executive Board on the situation of the company in 2011;
- the consolidated financial statements for the year 2011 pursuant to the standards laid down under IFRS / IAS;
- the report by the Executive Board on the situation of the Group in 2011.

The separate financial statements and the Management Report on the company, and the consolidated financial statements and the Management Report on the Group were audited by PricewaterhouseCoopers Aktiengesellschaft Wirtschaftsprüfungsgesellschaft. The audits did not give rise to any objections; unqualified audit opinions were issued.

The Audit Committee examined the annual financial statements and management reports and discussed them with the Chief Financial Officer and the independent auditor. Similarly, the Supervisory Board examined the financial statements and management reports in its financial statements meeting on 12 May 2012, in which the Executive Board also participated and explained the financial statements it had prepared and the risk management system, and consulted with the independent auditor who reported on the main findings, the key areas and the scope of the audit and was available to give additional information. No significant weak points were ascertained in the internal control and risk management system in relation to the accounting process.

The Supervisory Board is satisfied that

- all the components of financial accounting are systematically correct in as much as they form the basis for the annual financial statements;
- the procedures for achieving the complete, accurate, timely and systematic storage, processing and recording of accounting data have been duly set in place;
- the system of documentation is well organised, and each individual business transaction can be traced through to its presentation in the annual financial statements and back again;
- having conducted sample checks of the substantiation underlying the assets and liabilities, that they accord with the carrying amounts disclosed;
- in connection with the assessment of uncompleted transactions and information in the Notes to the Consolidated Financial Statements, the contract register does not give the impression of being obscure or incomplete;
- the statutory rules governing recognition, disclosure and valuation have been complied with and the annual financial statements give a true and fair view of the net assets, financial position and result of the operations of the company.

The Supervisory Board declared its agreement with the findings of the audit conducted by the independent auditor. Following the concluding results of its audit, the Supervisory Board ascertained that there were no objections to be raised.

The Supervisory Board has ratified the financial statements of the company prepared by the Executive Board, which are thereby adopted. The Supervisory Board has also ratified the consolidated financial statements.

In its meeting on 12 May 2012, and following consultation with the independent auditor pursuant to Section 171 para. 2 of the German Stock Corporation Act, the Supervisory Board has resolved upon the following statement:

*Based on its own examination, the Supervisory Board accedes to the results of the audit carried out on the annual financial statements and the Management Report for 2011 at company level and at Group level by the independent auditor who has issued an unqualified audit opinion. Following the final result of the examination by the Supervisory Board, no objections were raised. Accordingly, the annual financial statements as at 31 December 2011 were ratified by the Supervisory Board in its meeting on 12 May 2012, and are thereby adopted.*

*The remaining accumulated loss will be carried forward to new account.*

*Furthermore, the Supervisory Board ratified the consolidated financial statements as at 31 December 2011 and the Management Report on the Group for the financial year 2011.*

Sulzemoos, 12 May 2011



**J. Michael Fischl**  
(Chairman of the Supervisory Board)