

Declaration of the Management Board and Supervisory Board of

KAP AG

– issued pursuant to Section 161 of the German Stock Corporation Act (Aktengesetz - AktG) –
on the recommendations of the “Government Commission on the German Corporate Governance Code”
(Regierungskommission Deutscher Corporate Governance Kodex), in the version of 7 February 2017 as published in the
Federal Gazette on 24 April 2017 (hereinafter referred to as “DCGK”)

- I. In December 2018, the Management Board and Supervisory Board of KAP AG (the “Company”) issued a Declaration of Conformity pursuant to Section 161 of the German Stock Corporation Act for the period since the submission of the Declaration of Conformity in December 2017. The Declaration issued was published on the Company’s website. This Declaration of Conformity is to now be corrected and replaced in its entirety by the following Declaration of Conformity.
- II. In the period since the submission of the penultimate Declaration of Conformity in December 2017 and since the submission of the last Declaration of Conformity in December 2018, KAP AG (formerly KAP Beteiligungs-AG) has complied with the recommendations set forth in the German Corporate Governance Code of the “Government Commission on the German Corporate Governance Code” (the version of 7 February 2017 and published in the Federal Gazette on 24 April 2017), with the exceptions specified and explained in Sections III.1 to III.7 below.
- III. KAP AG will in future comply with all recommendations set forth in the DCGK of the “Government Commission on the German Corporate Governance Code” (the version of 7 February 2017 and published in the Federal Gazette on 24 April 2017), with the following exceptions. Where forward-looking statements are made, this Declaration of Conformity partly takes into account the fundamentally revised draft of the German Corporate Governance Code published on 6 November 2018 (hereinafter referred to as “DCGK-E”).

1. Section 4.2.1 sentence 2 recommends that the Management Board’s rules of procedure serve in particular to regulate the departmental responsibilities of individual Management Board members.

The Management Board’s rules of procedure of 9 February 2018 do not regulate the departmental responsibilities of individual Management Board members. This is because between December 2017, when the Declaration of Conformity was submitted, and May 2018, the Company had only one Management Board member and because the departmental responsibilities are regulated in the employment contracts of the two Management Board members.

Because the DCGK-E provides for the deletion of this recommendation, the Company does not intend to amend the Management Board’s rules of procedure in this respect.

2. Section 5.1.2 (1) Sentence 2 recommends that the Supervisory Board also work to promote diversity when putting together the Management Board. The Supervisory Board shall set targets for the proportion of women to be represented on the Management Board.

Because the Management Board currently comprises two members, the Company does not yet implement measures to promote diversity when filling executive roles. It was for the same reason that the Supervisory Board had not yet set any targets regarding the proportion of women on the Management Board.

3. Sections 5.3.1, 5.3.2 and 5.3.3 recommend that the Supervisory Board put together qualified committees, in particular an audit committee and a nomination committee, depending on the Company’s specific circumstances and the number of Supervisory Board members.

Since, in the Company’s judgement, the five-member Supervisory Board can make decisions quickly and efficiently and therefore does not need to set up committees, no audit committees and no nomination committees have so far been formed.

However, the Supervisory Board does now intend to form an audit committee, and to do so at the latest during the first Supervisory Board meeting after the Annual General Meeting in July 2019. Due to the size of the Supervisory Board, a nomination committee was done without.

4. Section 5.4.1 (2) recommends that the Supervisory Board specify concrete objectives for its own composition and that it, in this regard, taking into account the Company's specific situation, give consideration to the Company's international operations, any potential conflicts of interest, the number of independent Supervisory Board members as per Section 5.4.2, an age limit and a standard length of service limit for Supervisory Board members, and the promotion of diversity. It also recommends that a competency profile be drawn up for the Supervisory Board as a whole. The Supervisory Boards of listed companies to which the German Codetermination Act (Mitbestimmungsgesetz), the German Coal and Steel Codetermination Act (Montan-Mitbestimmungsgesetz) or the German Supplementary Codetermination Act (Mitbestimmungsergänzungsgesetz) apply shall be made up of at least 30 per cent women and at least 30 per cent men. Where other companies covered by the German Equal Opportunities Act (Gleichstellungsgesetz) are concerned, the Supervisory Board shall set targets for the proportion of women.

We have so far diverged from these recommendations because, taking into account the Company's individual circumstances, setting specific targets for the Supervisory Board's composition and for the process of searching for and selecting suitable Supervisory Board candidates would have placed excessive restrictions on our Company and could have led to the exclusion of potential candidates. To fill positions on the KAP AG Supervisory Board, it was important for the Supervisory Board to, in accordance with the requirements of the German Stock Corporation Act, establish that the candidates concerned had the skills, knowledge and experience required to perform the Board's work. Because the KAP AG Supervisory Board is made up of so few members, KAP AG has so far believed that the process of putting together the Supervisory Board should be based primarily on professional suitability, irrespective of gender. KAP AG has therefore so far not set a target figure for the number of female Supervisory Board members. The Company was moreover of the opinion that setting a standard length of service limit for Supervisory Board members was not an appropriate criterion by which to search for or exclude Board members. Rather, and as already mentioned above, the Company feels that selection should be based on knowledge, skills and professional experience.

In March 2019, the Supervisory Board adopted a competency profile, a set of objectives on which to base the Board's composition, and a diversity concept. These can all be perused on the Company's Investor Relations website.

5. Section 5.4.1 (4) sentence 1 and sentence 2 recommend that proposals made by the Supervisory Board to the Annual General Meeting both take into account the Supervisory Board's composition objectives and strive to meet the competency profile established for the body as a whole. It moreover recommends that the corresponding progress status be published in the Corporate Governance Report.

Since no corresponding targets have yet been set, there were no targets to take into account for the candidate proposals made to the Annual General Meeting in 2018. Nor did any progress reporting have to be provided in the Corporate Governance Report.

The candidate proposals made to the Annual General Meeting in 2019 will take into account the objectives concerning the Supervisory Board's composition and also seek to complete the competency profile adopted for the Supervisory Board as a whole. A progress report in this regard will then be published in the 2020 Corporate Governance Report.

6. Section 5.4.1 (4) sentence 3 recommends that the Corporate Governance Report also specify the number of independent shareholder members deemed appropriate by the Supervisory Board, as well as the names of these members.

Due to the vagueness of the term "independent" and the associated potential for conflict, the independent members of the Supervisory Board are not named in the Corporate Governance Report. Nonetheless, the Supervisory Board considers that it has an appropriate number of independent members.

7. Section 7.1.2 sentence 3 recommends that the consolidated financial statements and the group management report be made publicly accessible within 90 days after expiry of the financial year, and that any financial information required to be provided during the year be made publicly accessible within 45 days of the end of the pertinent reporting period.

The Company did not submit the consolidated financial statements and the group management report for the 2017 financial year and the interim financial information for the 2018 financial year within the recommended deadlines,

but within the statutory deadlines. Such statutory deadlines will be deemed sufficient also for the 2019 financial year.

KAP AG

Frankfurt, 25. March 2019

The Management Board

The Supervisory Board