

# CORPORATE GOVERNANCE STATEMENT PURSUANT TO SECTIONS 289F AND 315D OF THE GERMAN COMMERCIAL CODE (HGB)

The corporate governance statement pursuant to section 289f and section 315d of the German Commercial Code (HGB) is part of the combined management report. With the following information, the Management Board and Supervisory Board of KAP AG report on corporate governance in accordance with Principle 22 of the German Corporate Governance Code (GCGC) and on the Company's corporate governance in accordance with section 289f and section 315d HGB.

## PRINCIPLES OF CORPORATE GOVERNANCE AND THE CORPORATE STRUCTURE

Corporate Governance comprises all the principles for the management and supervision of an enterprise. In this sense, corporate governance is a key component of KAP's management philosophy as an expression of good and responsible corporate management. The principles of corporate governance particularly concern cooperation in the Management Board, in the Supervisory Board and between the two boards, and between the boards and the shareholders, particularly in the general meeting. They also concern our Company's relationship with other people and institutions that have an economic relationship with us.

### **Commitment to the German Corporate Governance Code**

KAP AG is a listed stock corporation under German law. For KAP AG, the starting point for ensuring responsible management and supervision of the Company that is geared towards sustainable value enhancement - in addition to complying with the relevant legal standards - is the recognition of the German Corporate Governance Code on the basis of its version of 16 December 2019. The Code, which was adopted by the Government Commission on the German Corporate Governance Code, contains not only a reproduction of legal provisions on the management and supervision of German listed companies but also nationally and internationally recognised standards of good and responsible corporate governance in the form of recommendations and suggestions.

KAP AG's Management Board and Supervisory Board expressly commit to responsible corporate governance and identify with the Code's objectives. According to the Code's foreword, in the interests of good corporate governance and an active corporate-governance culture, this does not exclude non-compliance with Code requirements in individual aspects if the departures from the Code are appropriate due to the specifics of the company.

## 1. DECLARATION PURSUANT TO SECTION 161 OF THE GERMAN STOCK CORPORATION ACT (AKTG)

The Management Board and Supervisory Board of KAP AG have made the Declaration of Conformity pursuant to section 161 of the German Stock Corporation Act (AktG), which was adopted as of 21 April 2022, permanently accessible on KAP AG's website on <https://www.kap.de/en/investor-relations/corporate-governance/compliance-statement>.

Declaration by the Management Board and the Supervisory Board of KAP AG (hereinafter the Company) pursuant to section 161 AktG:

Since the submission of the last declaration of conformity of 15 April 2021, the Company has complied with the recommendations of the German Corporate Governance Code in the version of 16 December 2019, which was published in the Federal Gazette on 20 March 2020, with the following exceptions and will continue to comply with these to this extent in the future.

Pursuant to recommendation D.5 of the German Corporate Governance Code, the Supervisory Board should form a nomination committee, composed exclusively of shareholder representatives, which names suitable candidates to the Supervisory Board for its proposals to the General Meeting. In the 2021 financial year, the Company deviated from this recommendation and will also deviate from it in the 2022 financial year. Due to the number of Supervisory Board members (six members) and with a view to the fact that the Company's Supervisory Board consists exclusively of shareholder representatives, the Supervisory Board has decided against forming a nomination committee. In the Supervisory Board's view, forming such a nomination committee does not offer any additional increase in the efficiency of the Supervisory Board's work in the Company's specific situation. The Supervisory Board therefore leaves this function with the full Supervisory Board.

Pursuant to recommendation F.2 of the German Corporate Governance Code, the consolidated financial statements and the Group management report should be made publicly accessible within 90 days of the end of the financial year and any mandatory interim financial information should be made publicly accessible within 45 days of the end of the reporting period in question. In the 2021 financial year, the Company deviated from this recommendation and will also deviate from it in the 2022 financial year. The consolidated financial statements are not published within 90 days of the end of the financial year but rather within four months in accordance with current legal requirements. The interim reports are not published after 45 days but rather within the legal requirements or the requirements of the Exchange Rules for the Frankfurter Wertpapierbörse. The Company is of the view that these requirements are sufficient for fully informing shareholders.

Pursuant to recommendation G.3 of the German Corporate Governance Code, in order to assess whether the specific total remuneration of Management Board members is in line with usual levels compared to other enterprises, the Supervisory Board should determine an appropriate peer group of other enterprises and should disclose the composition of that group. In the 2021 financial year, the Company deviated from this recommendation. It will also deviate from it in the 2022 financial year. The Supervisory Board assesses the appropriateness of the remuneration of the Management Board members taking account of, among other things, the remuneration of the management boards of comparable companies. The Supervisory Board intentionally does not have a fixed and static definition of a peer group because the Supervisory Board is of the view that such a link with a firmly defined peer group may well lead to inappropriate results.

Pursuant to recommendation G.6 of the German Corporate Governance Code, the share of variable remuneration achieved as a result of reaching long-term targets should exceed the share from short-term targets. The Company deviated from this recommendation in one case in the 2021 financial year and will also deviate from it in this way in the 2022 financial year. Notwithstanding the recommendation, the contract with one Management Board member provides for an equal weighting of short- and long-term variable remuneration in the event of 100% target attainment. The Supervisory Board also considers equal weighting of the variable remuneration components in the case of a Management Board member who is not simultaneously the spokesperson of the Management Board to be a sensible arrangement that has proven a success. In the Supervisory Board's view, this current very slight deviation from the recommendation does not lead to wrong incentives and does not justify an intervention in existing contracts. Corresponding provisions can be considered in future contracts with Management Board members.

Pursuant to recommendation G.10 sentence 1 of the German Corporate Governance Code, the long-term variable remuneration amounts granted to the Management Board member should be predominantly invested in Company shares or should be granted as share-based remuneration accordingly. The Company deviated from this recommendation in a contract with a Management Board member in the 2021 financial year and will also deviate from it in the 2022 financial year. Each Management Board member receives share-based remuneration. Only in one case is the variable remuneration not granted predominantly as share-based remuneration but in equal parts in cash and as share-based remuneration. In the Supervisory Board's view, this current very slight deviation from the recommendation does not lead to wrong incentives and does not justify an intervention in existing contracts. Corresponding provisions can be considered in future contracts with Management Board members.

Pursuant to recommendation G.11 of the German Corporate Governance Code, variable remuneration of the Management Board can be retained or reclaimed by the Supervisory Board, if justified. In the 2021 financial year, the Company deviated from this recommendation and will also deviate from it in the 2022 financial year. The currently running contracts do not contain provisions under which variable remuneration components can be retained or reclaimed if justified (known as malus and clawback provisions). The Supervisory Board is of the view that provisions to retain or reclaim variable remuneration components are not needed at the Company to encourage the Management Board members to act in the Company's interest in a diligent, long-term and sustainable manner. The Supervisory Board remains free to assert claims for damages pursuant to section 93 of the German Stock Corporation Act (AktG) in the event of conduct culpably in breach of duty. Corresponding provisions can be considered in future contracts with Management Board members.

## 2. RELEVANT DISCLOSURES ON CORPORATE GOVERNANCE PRACTICES

### 2.1. Compliance management system & Code of Conduct

Economic success, integrity and social responsibility are objectives of our Group that cannot be separated - irrespective of whether we or companies controlled by us operate in Germany, Europe or other parts of the world. Based on awareness of the social, environmental and economic organisation of the entire value chain, we meet the challenges of a networked and global economy. Responsible and ethical conduct towards our employees, business partners and shareholders, and towards the environment is an integral part of KAP AG's system of values.

We have bundled the sets of rules that are important guidance for this in a compliance management system. As an important component of our compliance management system, which we have introduced across the Group, we have established a dedicated code of conduct for our employees, which is available on <https://www.kap.de/en/investor-relations/corporate-governance/code-of-conduct>. The code summarises the most important principles of conduct for all employees, including the Management Board, and sets minimum standards for collaboration characterised by respect within our Group and with our business partners.

Compliance refers to compliance with national and international legal requirements and internal rules. We see compliance as a Group-wide measure for compliance with laws and internal policies, and a key element of corporate governance and the corporate culture that must be observed in every area of daily business in the Group. The KAP Group is also interested in discovering any compliance violations in order to avoid possible damage to the Group. We have set up a corresponding whistle-blower system that gives employees as well as business partners and other third parties the opportunity to report, in a protected manner, suspected breaches of the law in relation to the Group.

The focus of the KAP Group's compliance management system is particularly on the areas of anti-corruption and the prevention of bribery. Competition law, sanction and export control, data protection and IT compliance are other relevant topics for the compliance management system. Complying with the compliance policies creates the basic prerequisite for confidence by our business partners, shareholders and the general public in the KAP Group's performance, system of values and integrity.

We are further developing our compliance management system and attempting to establish our values and compliance culture even better in the Group companies. In 2021, four companies were audited for compliance issues as part of the audit performed across the Group. In 2022, we plan to implement further measures resulting from this in the Group companies and continuously actively develop the KAP Group's compliance management system in the future.

We raise our employees' awareness of legally compliant behaviour through training sessions and other training measures. These measures also actively contribute to avoiding the occurrence of potential reputational risks as far as possible. The training sessions are offered as workshops, web-based modules and video content in the relevant national language. Participation in this training is mandatory for our employees and is checked. To communicate the importance of compliance, ethics and integrity for a lastingly successful corporate culture, we have set the strategic objective of expanding the compliance training sessions in a target-group-specific way in the future.

## **2.2. Working practices of the Management Board and Supervisory Board**

The German Stock Corporation Act is the legal basis of KAP AG's corporate constitution. It is defined in more detail by the Company's Articles of Association and the German Corporate Governance Code.

### **Management Board**

In accordance with statutory requirements, KAP AG is subject to a dual governance system. This is characterised by a strict separation of personnel between the Management Board as the management body and the Supervisory Board as the supervision body. The Management Board and Supervisory Board work closely together in the interests of the Group.

The Management Board manages KAP AG on its own responsibility and conducts KAP AG's business. The members of the Management Board conduct the Company's business together in accordance with the law, the Articles of Association and the rules of procedure issued by the Supervisory Board. The rules of procedure for the Management Board issued by the Supervisory Board set out the responsibilities in the Management Board and define the work of the committees in more detail. The rules of procedure also set out which Management Board decisions require the Supervisory Board's consent.

The Management Board's tasks include regular coordination of the Group's strategic direction with the Supervisory Board, implementation of the strategic direction and the exchange of information on the implementation status with the Supervisory Board at regular intervals. The Management Board regularly, promptly and comprehensively informs the Supervisory Board of all issues relevant for the Group regarding the Group's business development, financial situation and financial performance, planning and target achievement, the risk situation and risk management. Where the Group's business development diverges from the plans and objectives drawn up, this is explained and justified in detail. The Management Board's reporting also covers compliance topics, i.e. measures for compliance with legal requirements and internal policies.

The Management Board receives the information needed for corporate governance and decision-making through monthly financial reports from the units and regular conversations with the segment managers and the managing directors of the operating units, and on visits to sites in Germany and abroad. Where the Group's business development diverges from previously drawn up plans and objectives, this is explained and justified to the Supervisory Board in detail and discussed together with the Supervisory Board. The Management Board's actions and its decisions are guided by the Group's interests. It is committed to the aim of sustainably increasing the value of the company. The members of the Management Board are jointly accountable for all of the management. They work together cooperatively and inform each other about important measures and events in their areas of responsibility on an ongoing basis.

Management Board members are subject to comprehensive non-compete clauses throughout the duration of their work for the Company. They take on additional employment, particularly mandates in supervisory boards of companies that are not affiliated companies of KAP AG, only with the consent of the Supervisory Board. Every member of the Management Board is obliged to disclose any conflict of interest to the chair of the Supervisory Board and to inform the other Management Board member without delay. In the 2021 financial year, KAP AG's Management Board members did not have any conflicts of interest.

When making appointments to executive positions in the Group, the Management Board considers diversity and strives in particular to ensure appropriate consideration is given to women. The members of the Management Board should generally not be older than 63.

In the reporting year, KAP AG's Management Board consisted of Mr Eckehard Forberich (Spokesman of the Management Board) and Mr Marten Julius (CFO). Mr Forberich was responsible for strategy, business development, M&A and human resources. Mr Julius was responsible for finance, controlling, investor relations & corporate communications, IT and law.

### Long-term succession planning for the Management Board

Together with the Management Board, the Supervisory Board ensures that there is long-term succession planning. To this end, the Supervisory Board members regularly discuss the topic of succession planning in plenary session taking account of the current appointment time scales, the services of the Management Board members, the diversity strategy and the strategic direction. In addition, the Supervisory Board regularly communicates with the Management Board about suitable internal candidates and, where necessary, advises on potential external candidates.

### Supervisory Board

The Supervisory Board has set out its working practices in rules of procedure, which govern, among other things, the conduct of the meetings and the adoption of resolutions on business transactions requiring approval. The Supervisory Board currently consists of six members. It appoints the Management Board and advises it on the management of the Company, monitors its management and sets the remuneration of the Management Board members. The Supervisory Board's tasks are regulated not only by statutory requirements, but also by the Articles of Association and by the rules of procedure. Detailed information on the Supervisory Board's work in the reporting year can be found in the report of the Supervisory Board on page 16 of the 2021 Annual Report. The rules of procedure are available on <https://www.kap.de/en/company/boards-1/supervisory-board>.

The collaboration between the Supervisory Board and Management Board is in a spirit of mutual trust and based on regular exchange of information. Outside of the Supervisory Board meetings prescribed by law, the Supervisory Board is regularly provided with figures, and important developments and incidents are discussed by phone between the meetings. Additional information on the collaboration between the Management Board and Supervisory Board can be found in the report of the Supervisory Board.

The composition of the Supervisory Board has to ensure that its members collectively possess the knowledge, skills and professional expertise required to properly perform their duties. Supervisory Board members should not be members of governing bodies of, or exercise advisory functions at, significant competitors of the Group. No more than two former members of the Management Board should be members of the Supervisory Board. One former member of the Management Board has been elected to the Supervisory Board. Each member of the Supervisory Board ensures that they have sufficient time available to carry out their Supervisory Board mandate. Every member of the Supervisory Board is obliged to act in the best interests of the Group and must not pursue personal interests in their decision-making nor exploit for themselves business opportunities to which the Group is entitled. A member of the Supervisory Board must disclose any conflict of interest. The member is excluded from the decision-making at meetings of the Supervisory Board at which the matter presenting a conflict of interest is discussed.

The Supervisory Board has set targets for its composition that are taken into account in proposing resolutions to the Annual General Meeting:

- At least half the members of the Supervisory Board are to be independent, i.e. in particular not have any personal or business relationship with the Company, its Management Board or a controlling shareholder.

- An age limit of 75 years is taken into account for members of the Supervisory Board. Exceptions to this can only be made in justified individual cases.
- For members of the Supervisory Board, a limit on the length of membership of four terms in office or a total of twelve years is taken into account.
- When selecting candidates for election to the Supervisory Board, where candidates proposed are equally suitable, diversity must be taken into account.

The last adjustment of the objectives was made in March 2022. The current composition of the Supervisory Board meets all the objectives for the composition of the Supervisory Board.

Christoph Schoeller and Viktor Rehart were elected to the Supervisory Board at the Annual General Meeting on 30 September 2021. Both mandates terminate upon the end of the Annual General Meeting that passes the resolution on the formal approval of the Supervisory Board's actions for the 2021 financial year. In the reporting year, the Supervisory Board elected Mr Uwe Stahmer Deputy Chairman of the Supervisory Board. As of the reporting date of 31 December 2021, the Supervisory Board comprised Mr Christian Schmitz (Chairman), Mr Uwe Stahmer (Deputy Chairman), Mr Roy Bachmann, Mr Joachim Coers, Mr Viktor Rehart and Mr Christoph Schoeller. The Supervisory Board followed the recommendation of the German Corporate Governance Code and in addition to the objectives for its composition also prepared a profile of skills and expertise for the entire Board. It will base its proposals for the election of Supervisory Board members on this profile in future. Together, the objectives and the profile form the diversity strategy pursuant to section 289f (2) 6 and section 315d of the German Commercial Code (HGB).

In the Supervisory Board's assessment, taking into account the shareholder structure of the Company, an appropriate number of independent Supervisory Board members belong to the Supervisory Board if at least 50% of the members of the Supervisory Board are independent of the Company within the meaning of C.6 sentence 2 of the Code. Three members of the Supervisory Board currently fulfil the independence criterion. Two members of the Supervisory Board, namely Mr Coers and Mr Stahmer, have the professional expertise pursuant to section 100 (5) of the German Stock Corporation Act (AktG). As a whole, the members of the Supervisory Board are familiar with the sector in which KAP AG operates.

The Supervisory Board has formed an audit committee. The audit committee consists of three members: Joachim Coers (Chairman), Uwe Stahmer and Christian Schmitz. Mr Coers has expertise in the field of accounting and auditing. Mr Stahmer has expertise in the field of accounting and auditing. The Chairman is also independent and not a former member of the Company's Management Board. As a whole, the members of the audit committee are familiar with the sector in which the Company operates. In particular, the committee monitors the accounting, the accounting process, the effectiveness of the internal control system, the risk management system, the internal audit system and the audit of the financial statements.

An efficiency audit of the Supervisory Board's work was last conducted in 2021 with the aid of external consultancy, an evaluation questionnaire to be completed and structured interviews with each Supervisory Board member and the Management Board. Furthermore, the coronavirus restrictions temporarily changed the Supervisory Board's working practices.

### Disclosures on the setting of targets for the proportion of women

In accordance with section 111 (5) of the German Stock Corporation Act (AktG), the Supervisory Board has set itself the target of having women occupy at least 30% of its seats and has set a deadline of 31 December 2023 for reaching this target. The target for the proportion of women in the Management Board was set by the Supervisory Board at 30% from three Management Board members onwards. This applies from March 2022. There are no management levels below the Management Board at KAP AG for which disclosures would need to be made pursuant to section 76 (4) AktG.

The report of the Supervisory Board on 16 page of the 2021 Annual Report examines the work of the Supervisory Board and its committees in the past fiscal year.

## ADDITIONAL DISCLOSURES ON CORPORATE GOVERNANCE

### 1. REMUNERATION OF THE MANAGEMENT BOARD AND SUPERVISORY BOARD

The applicable remuneration system for the Management Board pursuant to section 87a (1) and (2) sentence 1 of the German Stock Corporation Act (AktG) and the last remuneration resolution on the remuneration of the Supervisory Board pursuant to section 113 (3) AktG are publicly accessible on the Company's website on [www.kap.de/en/investor-relations/general-meeting/agenda-documents](http://www.kap.de/en/investor-relations/general-meeting/agenda-documents). The remuneration report and the audit report pursuant to section 162 AktG are publicly accessible on [www.kap.de/en/investor-relations/reports-amp-presentations/financial-reports](http://www.kap.de/en/investor-relations/reports-amp-presentations/financial-reports).

### 2. SHAREHOLDERS AND TRANSPARENCY

The prompt and uniform provision of information to the public is an important building block of good corporate governance for KAP AG. According to Art. 17 MAR, KAP AG is required to publicly disclose inside information that directly concerns it immediately. Where there was an obligation to publish an ad hoc disclosure, the disclosures were ensured in accordance with the legal requirements and with the assistance of a specialist service company. Five ad hoc disclosures were published in the 2021 financial year.

Persons discharging managerial responsibilities at KAP AG (the issuer), as well as persons closely associated with them, are required under Art. 19 (1) MAR to notify the German Federal Financial Supervisory Authority (BaFin) and the issuer of so-called transactions conducted on their own account, i.e. transactions with financial instruments of the issuer, if the limit of €20,000 is exceeded within the calendar year.

KAP AG publishes a financial calendar in which relevant dates are entered in a timely manner in the Investor Relations section of its website [www.kap.de/en](http://www.kap.de/en). Moreover, all IR releases, press releases and ad hoc disclosures as well as directors' dealings disclosures and voting rights notifications are available online on [www.kap.de/en/investor-relations](http://www.kap.de/en/investor-relations).

Shareholders exercise their rights at the General Meeting. In the 2021 financial year, the Annual General Meeting was held virtually within the bounds of legal requirements due to the coronavirus pandemic.

### 3. RISK MANAGEMENT, COMPLIANCE, ACCOUNTING, AUDITING

We consider handling risks responsibly to be an important element of good corporate governance. KAP AG has a systematic risk management system that enables the Management Board to react immediately to relevant changes in the risk profile and to identify market trends early. The functionality of the early risk identification system is a subject of the annual audit. A detailed presentation is available in the Group management report on page 63 of the 2021 Annual Report.

Compliance with national and international legal and ethical principles in business dealings is an integral component of KAP AG's corporate culture. These include principles such as honesty and integrity towards our customers, suppliers, employees, shareholders and the public.

The Supervisory Board engaged Mazars GmbH & Co. KG Wirtschaftsprüfungsgesellschaft Steuerberatungsgesellschaft, with registered office in Hamburg, as the auditor for the 2021 financial year. It had previously made sure that the existing relations between the auditor and KAP AG and its boards do not give reason for any doubt regarding the auditor's independence. Furthermore, it is agreed that the Supervisory Board will be immediately informed of any grounds for disqualifying the auditors or questioning their impartiality occurring during the audit.

### 4. FUTURE DEVELOPMENTS OF THE GROUP'S CORPORATE GOVERNANCE

We see corporate governance as an ongoing process, the development of which we will continue to monitor closely in the future.

KAP AG

Fulda, 27 April 2022

The Management Board

The Supervisory Board