

# Corporate Governance Declaration

## pursuant to § 289a HGB with Declaration of Conformity with the German Corporate Governance Code

In our Corporate Governance Declaration, we report – alongside the Declaration of Conformity with the German Corporate Governance Code pursuant to § 161 of the German Stock Corporation Act (AktG) – on corporate governance practices applied at our company over and above legal requirements. According to § 289a of the German Commercial Code (HGB), the Corporate Governance Declaration must be published in the management report accompanying the separate financial statements or on the internet. To ensure maximum transparency of information, we have also included the Corporate Governance Declaration in our Corporate Governance Report. Here, we also explain the mode of operation of the Executive and Supervisory Boards, as well as the composition and mode of operation of Supervisory Board committees. The Corporate Governance Declaration was published on our internet site at [www.mvv-investor.de](http://www.mvv-investor.de) on 2 October 2012.

### **Declaration of Conformity with the German Corporate Governance Code (§ 161 AktG)**

The Executive and Supervisory Boards adopted the following Declaration of Conformity with the German Corporate Governance Code in September 2012: The Executive and Supervisory Boards of MVV Energie AG hereby declare that, apart from the one exception outlined below, the company complied in the past with the recommendations made by the German Corporate Governance Code Government Commission, and that the company now complies with all of the recommendations without exception. For the past, this Declaration refers to the version of the German Corporate Governance Code dated 26 May 2010 and published by the Federal Ministry of Justice in the official section of the electronic Federal Gazette on 2 July 2010. For the future, the Declaration refers to the recommendations made in the new version of the Code dated 15 May 2012 and published in the official section of the electronic Federal Gazette on 15 June 2012.

No application was made in the past of the following recommendation now withdrawn:

### **Performance-related compensation for members of the Supervisory Board – Point 5.4.6 (2)**

**Sentence 1:** “Members of the Supervisory Board shall receive fixed as well as performance-related compensation.”

The Articles of Association of MVV Energie AG provide for fixed compensation of Supervisory Board members, plus a meeting allowance. We consistently pointed out in the past that we were not convinced either by models linking the compensation of Supervisory Board members to the dividend or by models based on the share price. We therefore refrained from introducing any performance-related compensation components for Supervisory Board members. The withdrawal of the recommendation by the Government Commission now confirms us in this assessment.

### **Disclosures on corporate governance practices**

Good management is an expression of high-quality corporate culture. With our shared Management Guidelines, we have created a basis for managers and their employees within the MVV Energie Group to work together successfully and on a basis of trust. These provide a binding framework for the management of employees at our company and also enable us to safeguard the quality of management activities.

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To boost constructive cooperation between managers and their employees, we enable both sides to share their impressions and provide open feedback on management conduct. At our Mannheim location, we carried out a bottom-up appraisal of management staff by employees for the second time in April 2012. The measures introduced in support programmes following the previous survey have borne fruit. Overall, employees evaluated the conduct of management staff positively. Satisfaction levels have risen compared with the evaluation in the first bottom-up survey in 2008.

Our MVV Energie Compliance Management System (CMS), covering all of MVV Energie's business activities and processes, serves on the one hand to ensure compliance with legal requirements. On the other hand, it also assists us in implementing our in-company guidelines and ensuring compliance with those ethical standards to which we are committed. All directors and officers, managers and employees are integrated within our CMS. We have laid down the material contents, necessary organisational structures, processes and responsibilities, as well as the reporting system in an extensive Compliance Handbook absolutely mandatory for all MVV Energie group companies. As part of our Management Handbook, the Compliance Handbook is simultaneously available to all MVV Energie employees on the intranet. No severe infringements of compliance requirements were identified in the 2011/12 financial year. MVV Energie's compliance system is structured in such a way as to enable relevant processes to be reviewed in advance already. This way, corrective measures can already be taken on a preventative basis if need be.

The head of our group legal, compliance and materials division also acts as the Group Compliance Officer. The key tasks of our Compliance Officer include working together with the relevant business units to compile compliance-related regulations, documenting these, training managers and employees, performing or monitoring CMS processes and reporting on compliance with these. All management staff receive regular training concerning general compliance requirements and the specific legal requirements relevant to their business unit. Furthermore, the Compliance Officer supports the Executive Board in taking preventative measures to avoid and, where necessary, investigate any infringements of the law, corruption and deliberate acts harmful to the company.

We provide all employees working in sales, sales-related areas and procurement with specific additional corruption prevention training. We offer precise instruction as to which forms of behaviour are correct when offered non-monetary gifts and invitations. Gratuities and invitations are recorded and checked without exception. Adherence to compliance requirements is systematically and regularly checked in all business fields, divisions, group departments and subsidiaries. To enable us to receive information about misconduct anonymously as well, we have set up a "Whistleblower Hotline", via which employees can reach the Compliance Officer.

In an extensive, detailed Compliance Management Declaration, all managers must confirm at the end of each financial year that specific stipulated legal requirements have been complied with in their area of responsibility. They also declare that all employees have met the training requirements and have been instructed and trained as appropriate. We collect all relevant information using special questionnaires

taking particular account of circumstances at the respective business unit. We provide systematic instruction not only to newly appointed managing directors, but also to all upcoming management staff in all areas of responsibility. In a seminar jointly prepared to this end by the group compliance, personnel development, group organisation and technical divisions, we inform participants extensively about basic requirements for assuming management responsibility at the MVV Energie Group. Attendance at this seminar is obligatory for management staff on all levels from section manager upwards.

It is important to us that our suppliers and service providers should also comply with those forms of conduct to which we too accord priority. For major tenders and contracts, our procurement department works with supplier self-registration and supplier surveys. Among other questions, these enquire as to which compliance and anticorruption regulations are in place at the supplier, and whether these also apply for upstream suppliers and subcontractors. Furthermore, the information requested also includes enquiring whether working conditions are consistent with the relevant national laws and ordinances and whether internationally recognised working standards are complied with. We also enquire about non-monetary company objectives, such as voluntary environmental protection measures or educational, cultural or sports sponsorship activities.

Another important topic in our company management, and a particular focus of our Executive Board, involves ensuring that women are present on all hierarchical levels at the company. To this end, we motivate and support female employees systematically and comprehensively on all levels by offering them challenging tasks, accompanied by numerous development measures. Not only that, we are making targeted efforts to boost internal and external networks of women in management positions within MVV Energie.

#### **Composition and mode of operation of the Executive and Supervisory Boards and their committees**

All stock corporations in Germany are governed by the legally required dual management system, which is characterised in particular by a strict separation in terms of personnel between the Executive Board as the management body and the Supervisory Board as the supervisory body. The Executive and Supervisory Boards, each furnished with their own distinct duties and competencies, cooperate closely and on a basis of trust to the benefit of the company.

The **EXECUTIVE BOARD** is responsible for managing the company and its business. It manages the company independently and in the interests of the company with the objective of sustainable value creation. The Executive Board determines the company's strategic alignment and business policy, coordinates these with the Supervisory Board and ensures their implementation. In its decisions, it takes due account of the interests of the company's stakeholders – shareholders, employees and other groups associated with the company.

The Executive Board as a whole and each individual Executive Board member manage the company's business in accordance with the requirements of law, the Articles of Incorporation and the Code of Procedure. The Code of Procedure governing the work of the Executive Board is imposed by the Supervisory Board and sets out divisional responsibilities, the duties and decisions incumbent on the overall Executive Board, the duties of the Chief Executive Officer and the ways in which resolutions may be adopted.

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Furthermore, consistent with § 111 (4) Sentence 2 of the German Stock Corporation Act (AktG) the Code of Procedure includes a detailed catalogue of those transactions for which the Executive Board is obliged to seek Supervisory Board approval. The Executive Board of MVV Energie consists of four members. As Chief Executive Officer, Dr. Georg Müller coordinates the work of the Executive Board members and represents the Executive Board externally. All members of the Executive Board enjoy equal rights and bear joint responsibility for managing the company. Each Executive Board member nevertheless manages the division assigned to him under his own responsibility. Executive Board members are required to subordinate the specific interests of their division to the overriding interests of the company as a whole. They work together with the Supervisory Board and representatives of the company's employees on a basis of trust.

The Executive Board informs the Supervisory Board regularly, without delay and comprehensively of intended business policy and other fundamental matters of corporate planning (especially financial, investment and personnel planning). It also reports on the company's profitability, its business performance and situation, as well as providing information about the company's risk situation and risk management.

The Executive Board is appointed by the Supervisory Board of MVV Energie AG.

The **SUPERVISORY BOARD** is responsible for advising and monitoring the Executive Board in its management of the company and in decisions of fundamental significance for the company. The Supervisory Board of MVV Energie AG comprises 20 members, of which ten shareholder representatives and 10 employee representatives. Shareholder representatives are elected by the Annual General Meeting. The City of Mannheim delegates the Lord Chief Mayor and the relevant specialist head of department to the Supervisory Board, with such members being imputed to the ten Supervisory Board members to be elected by the Annual General Meeting, to the extent that MVV GmbH directly or indirectly holds more than half of the share capital. Ten members are elected by employees pursuant to the German 1976 Codetermination Act. The terms in office are identical. Three of the current Supervisory Board members are women.

The Supervisory Board Chairman, Dr. Peter Kurz, coordinates the work of the Supervisory Board. The Supervisory Board has a self-imposed Code of Procedure governing its activities. In its proposal to the Annual General Meeting held on 16 March 2012 in respect of the election of a Supervisory Board member, the Supervisory Board took due account of the knowledge, ability and specialist experience necessary to perform the duties involved. Extensive information about the tasks and activities of the Supervisory Board and its committees in the 2011/12 financial year can be found in the Supervisory Board Report. The current composition of the Supervisory Board and of the committees it has formed to enhance the efficiency of its activities has been presented in the Directors' & Officers chapter. The compensation of Supervisory Board members is presented in the Compensation Report.

The Supervisory Board of MVV Energie AG has formed four permanent **COMMITTEES**:

The **AUDIT COMMITTEE** consists of six members, with three shareholder and three employee representatives. This Committee is chaired by Heinz-Werner Ufer, while the Supervisory Board Chairman is a permanent guest. The Audit Committee deals with corporate planning and fundamental financial reporting issues. Furthermore, its duties also include preparing the selection of the auditor, advising on and discussing the annual and consolidated financial statements, as well as the interim consolidated financial statements prepared for each quarter and for the first half of the year. Moreover, it monitors the effectiveness of the internal control system, internal audit, organisational precautions to ensure compliance with legal requirements and internal company guidelines (compliance) and of the risk management system.

The **PERSONNEL COMMITTEE** also comprises six members, in this case the Supervisory Board Chairman, who also chairs the Committee, his deputy, and four Supervisory Board members, of which two shareholder and two employee representatives. The duties of the Personnel Committee relate in particular to preparing Supervisory Board resolutions concerning the conclusion, amendment and rescission of employment contracts with Executive Board members. The Executive Board compensation system has been restructured in line with the findings of the review of the compensation system by an external compensation expert and consistent with the requirements of the German Management Board Compensation Act (VorstAG).

The **NOMINATION COMMITTEE** also consists of six members, with the Supervisory Board Chairman as Committee Chairman and five further shareholder representative Supervisory Board members. The purpose of this committee is to propose suitable candidates to the Supervisory Board for its own election proposals to the Annual General Meeting, accounting as appropriate for legal requirements and the recommendations and suggestions made in the German Corporate Governance Code. The Nomination Committee should compile specific targets for the composition of the Supervisory Board, taking due account of the company's specific situation. To this end, it has presented a requirements profile for Supervisory Board members laying down specific requirements for the specialist knowledge, ability and experience, as well as for the personality of future Supervisory Board members. The following aspects are crucial in this respect: a good general understanding of the energy industry, and especially of the business fields in which MVV Energie operates, an ability to assess complex economic and technical matters, specialist knowledge in select areas of MVV Energie's activities and personal integrity. The members of the Supervisory Board should complement one another to ensure that the whole range of targeted expertise, abilities and experience are represented within the Supervisory Board. It is thus acknowledged that not every Supervisory Board member can meet the whole spectrum of specialist requirements. An upper age limit of 70 years should be complied with and the Supervisory Board should also include an adequate

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number of independent members. We already meet this objective. Both the Nomination Committee and subsequently the Supervisory Board have held detailed discussions about the recommendation made by the German Corporate Governance Code concerning the suitable level of participation by women. The Supervisory Board has set itself the target of ensuring that 20 % of its members are women by the beginning of the term in office following the expiry of the Supervisory Board's current term in office.

Furthermore, there is also a **MEDIATION COMMITTEE** pursuant to § 27 (3) of the German Codetermination Act (MitbestG). This Committee submits further personnel proposals to the Supervisory Board in cases where the two-thirds majority required to appoint and dismiss Executive Board members is not achieved in the 1<sup>st</sup> ballot.

The Audit Committee and Personnel Committee meet several times a year. The Mediation Committee and Nomination Committee are convened when necessary.

**Independence:** In respect of Point 5.4.2 of the new version of the Code, we are of the opinion that the Supervisory Board members assigned by the City of Mannheim and attributable to such in the broadest sense nevertheless constitute independent members pursuant to the German Corporate Governance Code, as these members do not maintain any personal or business, i.e. commercial, links with the company.

Mannheim, 2 October 2012

MVV Energie AG

The Executive Board