

## **Declaration of Conformity for 2020 Issued by the Executive Board and Supervisory Board of Wacker Chemie AG**

### **1. General Declaration Pursuant to Section 161 of the German Stock Corporation Act**

The Executive Board and the Supervisory Board of Wacker Chemie AG issued their most recent declaration of conformity pursuant to Section 161 of the German Stock Corporation Act in December 2019. Since that time, Wacker Chemie AG has complied with the recommendations of the German Corporate Governance Code (the “Code”) as amended on February 7, 2017, with the exceptions listed below under 2 a), e), f), g), i), j), k) and l), and it will comply with the recommendations of the Code as amended on December 16, 2019, with the exceptions listed below under 2 a), b), c), d), e), f), g) and h).

### **2. Exceptions**

#### **a) Defining Concrete Objectives Regarding the Number of Independent Members of the Supervisory Board (Section 5.4.1, paragraph 2; Recommendation C.1)**

The shareholder representatives on the Supervisory Board of Wacker Chemie AG believe that the Supervisory Board, as it is composed at present, includes an adequate number of independent members when the ownership structure is considered. The Supervisory Board will continue to ensure that, in future elections, it recommends to the shareholders what it considers to be an appropriate number of independent candidates. Additionally defining a concrete objective in this regard would not only limit the choice of suitable candidates for the Supervisory Board, but also restrict the shareholders’ right to elect those Supervisory Board members whom they consider to be the most suitable. For these reasons, we do not comply with this recommendation.

#### **b) No Simultaneous Appointment of an Executive Board Member as Supervisory Board Chair of a Non-Group Listed Company (Recommendation C.5)**

Our Executive Board member Dr. Tobias Ohler is chair of the Supervisory Board of Siltronic AG. Prior to its deconsolidation in March 2017, Siltronic AG was a subsidiary and a business division of Wacker Chemie AG, and Dr. Ohler had specific responsibility for it on the Executive Board. The workload resulting from that function was at least as high then as the workload associated with his activity as Supervisory Board chair is now. We therefore have no reason to assume that Dr. Ohler cannot dedicate sufficient time to either of his two offices. Accordingly, we do not consider it reasonable for Dr. Ohler to step down as chair of the Supervisory Board of Siltronic AG prematurely, given that it is appropriate for the largest shareholder of Siltronic AG to appoint the chair of its Supervisory Board.

#### **c) More Than Half of Shareholder Representatives to Be Independent from the Company and Its Executive Board (Recommendation C.7)**

Pursuant to the new definition of “independent” in the Code, persons who have been members of the same supervisory board for more than 12 years are no longer considered independent from the company and its executive board. This “excessively long” membership criterion covers more than half of the shareholder representatives on the Supervisory Board of Wacker Chemie AG – with one shareholder representative covered

solely by attribution because, even though she herself just only joined the Supervisory Board, she is a close family member of another person who has been on the Supervisory Board for more than 12 years. We consider the principle behind this recommendation to be flawed. In our opinion, long membership of a supervisory board actually does not necessarily cause a substantial and not merely temporary conflict of interest - which should indeed remain a key criterion for assessing independence. Especially not when such a long membership is merely “attributed” by way of a family relationship. We hold the opposite to be true – namely that it is highly desirable for our Supervisory Board members to stay with us for a long time. When they do, they gain the indispensable in-depth understanding of the company and its business, competitive environment, opportunities and risks, which in turn fosters advisory and control activities aimed at sustainable, long-term objectives. We also do not consider it reasonable to now ask some of the shareholder representatives to resign their offices simply to comply with this Code recommendation. For this reason, we depart from this recommendation. None of the other criteria indicating lack of independence from the company and its Executive Board apply to any of the shareholder representatives.

**d) Independence of the Supervisory Board Chair, the Audit Committee Chair and the Executive Committee Chair (Recommendations C.10 and D.4)**

The chair of the Supervisory Board, who is also the chair of the Executive Committee, has been on the Supervisory Board for over 12 years and therefore, according to the Code recommendations, is not independent from the company and its Executive Board. The same is true for the chair of the Audit Committee, who has likewise been a Supervisory Board member for more than 12 years. To that extent, we declare a departure from Recommendations C.10 and D.4. We see no indications of impending substantial and not merely temporary conflicts of interest for either of the two Supervisory Board members and, accordingly, we consider the assumption of a lack of independence due to long membership of the Supervisory Board to be harmless in these two specific cases. In fact, the board and the two committees benefit from the many years of experience contributed by their chairs. Weighing all the circumstances, we believe that changing the chairs is unwarranted. For the sake of completeness, we state that the chair of the Audit Committee complies with all the other requirements provided for by statute and recommended by the Code. He is also independent of the controlling shareholder.

**e) CVs of Supervisory Board Members (Section 5.4.1, paragraph 5; Recommendation C.14)**

According to this recommendation, proposals for candidates for the supervisory board should be accompanied by a curriculum vitae, which should also be published on the company’s website. We fulfil the legal requirements regarding the proposals for candidates. Furthermore, the annual report includes the essential information on our Supervisory Board members. We believe that such information is sufficient. We do not see what additional merit a curriculum vitae could have – in particular when taking into account the rights of privacy of our Supervisory Board members.

**f) Time Limitation of Applications for Court-Ordered Appointment of a Supervisory Board Member (Section 5.4.3; Recommendation C.15)**

Pursuant to this recommendation, applications for the appointment of a supervisory board

member by the court should be limited in time up to the next annual shareholders' meeting. We do not comply with this recommendation. Proposals for candidates to be appointed by the court are in any case agreed with the majority shareholder beforehand. Given the majority situation, the election of this same candidate at the next Annual Shareholders' Meeting would merely constitute a confirmation of that candidate's appointment, which we consider redundant.

**g) Formation of a Nomination Committee within the Supervisory Board (Section 5.3.3; Recommendation D.5)**

A supervisory board is required to establish a nomination committee that is composed exclusively of shareholder representatives and whose task it is to name suitable candidates to the supervisory board for its proposals to the annual shareholders' meeting. We do not comply with this recommendation because, in view of our shareholder structure, we do not believe that the formation of such a committee is appropriate. Due to the majority situation, nominations to the Supervisory Board must in any case be agreed with the majority shareholder, so that an additional nomination committee would not serve to increase efficiency.

**h) Specification of Performance Criteria Governing Variable Compensation for the Forthcoming Fiscal Year (Recommendation G.7)**

We believe it makes sense to determine variable compensation for the forthcoming fiscal year at the same Supervisory Board meeting that decides on variable compensation for the past fiscal year. That meeting is the March meeting of the Supervisory Board. It is also the meeting at which the performance criteria governing variable compensation are specified. This procedure has proven its worth in the past, and we believe it is not efficient to deal with the decision on performance criteria and the decision on target and maximum variable compensation at two separate meetings. For this reason, we do not comply with the recommendation that the performance criteria for all variable compensation components should be specified for the forthcoming fiscal year.

**i) D&O Insurance Deductible for Supervisory Board Members (Section 3.8, paragraph 2)**

German law and a company's articles of association set clear limits with regard to a supervisory board's ability to exert influence on the business activities of a stock corporation. Pursuant to Section 76 (1) of the German Stock Corporation Act, the executive board has direct responsibility for managing the corporation. The supervisory board is instrumental in defining the main features of corporate strategy. However, beyond this contribution, the supervisory board's abilities are limited in terms of influencing the implementation of corporate strategy or operations. The same applies to measures taken to avert damage or loss to the company. Furthermore, since our Supervisory Board members receive only a relatively small amount for reimbursement of expenses compared with our Executive Board compensation, we do not consider it reasonable to stipulate a deductible for members of our Supervisory Board.

**j) Forward-Looking Assessment Basis for Variable Compensation of Executive Board Members (Section 4.2.3, paragraph 2)**

In the past, we did not comply with this recommendation, which is now no longer contained in the Code. Under the previously valid compensation system, the variable components of the Executive Board members' compensation were calculated on a three-year (= multi-year) assessment basis. Furthermore, 15% of variable compensation was paid in the form of shares that were subject to a holding period of two years. Even if the assessment basis was not essentially forward-looking, we considered our compensation system to be balanced and suitable for setting the right incentives for a sustainable corporate policy. Our compensation system ensured that our Executive Board members participated in positive and negative developments at the company over a longer period – by means of the share component on the one hand and the average assessment over a three-year period on the other.

**k) Limit to Supervisory Board Members' Term of Office (Section 5.4.1, paragraph 2)**

Pursuant to this old recommendation, the supervisory board was supposed to determine a general limit to its members' term of office. A generally applicable term limit of this sort is not required in our opinion, as we consider an individual analysis of our Supervisory Board members to be more effective. This applies in particular since the Code in any case provides for self-inspection of the supervisory board and its members, as part of its regular examination of efficiency. Furthermore, a general term limit would restrict the majority shareholder's freedom to choose representatives on the Supervisory Board at its own discretion in fulfillment of its corporate responsibility.

**l) Announcement of Proposed Candidates for the Chair of the Supervisory Board to Shareholders (Section 5.4.3)**

Pursuant to this old recommendation, shareholders were to be informed of the candidates for the supervisory board chair even though, as a rule, the supervisory board members were yet to be chosen. Under German law, the supervisory board chair must be elected by, and from among, the supervisory board members. There is no legal requirement to announce the candidates for the chair from among a yet-to-be-appointed group of supervisory board members. Furthermore, this would result in a de facto predetermination that is also not provided for under German law. For these reasons, we did not comply with this recommendation.

Munich, December 2020