



## **Declaration of Conformity with the German Corporate Governance Code pursuant to Section 161 of the German Stock Corporation Act (AktG)**

The German Accounting Law Reform Act (BilMoG) also alters the legal framework for the Declaration of Conformity with the German Corporate Governance Code pursuant to Section 161 AktG. As a precautionary measure, the Board of Management and Supervisory Board of HORNBAACH-Baumarkt-Aktiengesellschaft therefore declare pursuant to the new version of Section 161 AktG that, since its previous Declaration of Conformity, the company has basically complied with the recommendations of the “German Corporate Governance Code” in the version dated June 6, 2008 and announced on August 8, 2008. Application has not been made and is not made of the recommendations included in Points 4.2.3 Paragraph 3, Sentences 2 and 4, Paragraphs 4 and 5, 5.3.3, 5.4.1 Sentence 2 and 5.4.6 Paragraph 3, Sentences 1 and 2.

The deviations mentioned have arisen on account of the following considerations:

### **a) Point 4.2.3 Paragraph 3, Sentence 2:**

In Point 4.2.3 Paragraph 3, Sentence 2, the Code recommends that share options and similar arrangements be based on sophisticated parameters of comparison. The share option plan established in 1999 for HORNBAACH-Baumarkt-AG does not include any parameters of comparison. It lays down a hurdle to exercising such options. Any future share option plans will take account of appropriate parameters of comparison.

### **b) Point 4.2.3 Paragraph 3, Sentence 4:**

In Point 4.2.3 Paragraph 3, Sentence 4, the Code further recommends that the Supervisory Board should agree a cap for any extraordinary unforeseen developments. Such a cap is not included in the share option plan dating from 1999 at HORNBAACH-Baumarkt-AG, as this in any case only provides for a relatively small allocation of options to members of the Board of Management.

### **c) Point 4.2.3 Paragraphs 4 and 5:**

Furthermore, no application has been or is made of the recommendations made in Point 4.2.3 Paragraphs 4 and 5 of the Code (“severance pay cap”). The legal enforceability of the new recommendations in Point 4.2.3 Paragraphs 4 and 5 is disputed. It will be necessary to await further developments in this respect. Moreover, the deviation from Point 4.2.3 Paragraphs 4 and 5 is also due to competition-related factors.

**d) Point 5.3.3:**

According to the recommendation in Point 5.3.3, the Supervisory Board should form a nomination committee composed exclusively of shareholder representatives which proposes suitable candidates to the Supervisory Board for its recommendations to the Annual General Meeting. The company's Supervisory Board has not formed such a committee. Based on our experience to date, the establishment of such a committee would not appear to be necessary.

**e) Point 5.4.1 Sentence 2:**

The recommendations in Point 5.4.1 Sentence 2 of the Code include the setting of an age limit for Supervisory Board members. In the interests of securing experience and competence to the benefit of the company, this recommendation has not been and is not followed.

**f) Point 5.4.6 Paragraph 3, Sentence 1:**

In Point 5.4.6, Paragraph 3, Sentence 1, the Code recommends that the compensation of the members of the Supervisory Board be reported in the corporate governance report on an individual basis and broken down into its constituent components. Given that the compensation of the Supervisory Board is governed by the Articles of Association, we do not consider the disclosure of individual compensation packages to be necessary.

**g) Point 5.4.6 Paragraph 3, Sentence 2:**

In Point 5.4.6 Paragraph 3, Sentence 2, the Code further recommends that any compensation paid or benefits granted by the company to members of the Supervisory Board for any services rendered personally, especially advisory and mediation services, are to be reported separately in the corporate governance report on an individual basis. HORNBAACH-Baumarkt-AG makes use in one case of the opportunity of drawing on the expertise of one member of the Supervisory Board in specific areas. Such cooperation is undertaken on the basis of symbolic compensation. We see no need to provide individual disclosures in this respect.

Bornheim bei Landau, May 19, 2009

HORNBAACH-Baumarkt-Aktiengesellschaft

The Supervisory Board            The Board of Management