

# Declaration of Compliance

with the German Corporate Governance Code pursuant to Section 161 AktG  
(German Stock Corporation Act)

(1) Since the submission of the last Declaration of Compliance in November 2019 until 20 March 2020, the recommendations of the “German Corporate Governance Code Commission” in the version of 7 February 2017 – announced in the *Bundesanzeiger* (Federal Gazette) on 24 April 2017 – have been complied with, except for the following recommendations:

**Number 4.2.1** of the Code recommends that rules of procedure should govern the work of the Board of Managing Directors, including the allocation of duties among individual board members. The Board of Managing Directors has adopted rules of procedure with the approval of the Supervisory Board. The Board of Managing Directors defines the allocation of duties among the board member, however, outside the rules of procedure. In this way the necessary flexibility is ensured if changes are needed and hence an efficient division of responsibilities in the Board of Managing Directors. The Supervisory Board is informed about all changes and included in this way in the allocation of duties. The rules of procedure of the Board of Managing Directors including the allocation of duties amongst the individual members of the Board of Managing Directors are published on the website of Commerzbank.

According to **Number 4.2.3 Para 2 Sentence 6** of the Code the total remuneration and the variable remuneration components of the members of the Board of Managing Directors shall be limited to a maximum amount. The core components of the remuneration system of the Bank for members of the Board of Managing Directors are a fixed annual basic salary and a variable remuneration with a uniform target amount. After expiry of the financial year, the Supervisory Board determines for the variable remuneration an overall target achievement amount on the basis of targets agreed in advance. For this overall target achievement amount a cap in the amount of the 1.4-fold of the fixed remuneration determined in accordance with the provisions of the German Remuneration Regulation for Institutions applies. Up to 50% the overall target achievement amount are paid in the form of Commerzbank phantom shares, most of which are subject to a retention period of five years and a waiting period of another 12 months. At the end of the waiting period the value of the Commerzbank phantom shares is paid out in cash, subject to various checks to ensure sustainability. Fluctuations in the share price during this period do not affect the number of phantom shares to be granted, but change the amount paid out which is not capped. According to the concept of the remuneration

system, the members of the Board of Managing Directors are to bear the risk regarding the performance of the phantom shares after the determination of the overall target achievement amount as a component of a sustainable remuneration. A limitation of the opportunity to benefit from a positive share price development would not be appropriate, especially as no floor applies in the event of share price losses.

According to **Number 4.2.3 Para 2 Sentence 8** of the Code subsequent amendments to the performance targets or comparison parameters of the remuneration of the Board of Managing Directors shall be excluded. However, according to the German Stock Corporation Act, the Supervisory Board shall agree on the possibility of limiting the variable remuneration of the Board of Managing Directors in the event of extraordinary developments. Consequently, the Supervisory Board of Commerzbank is entitled to adjust the target values and other parameters of the variable remuneration components in the event of extraordinary developments to neutralise both positive and negative effects on the achievability of the target values appropriately, whereby the cap of the variable remuneration must be observed in all cases at the determination.

The Code recommends in **Number 4.2.3 Para 3** that the Supervisory Board shall establish the target level of pension benefits for every pension commitment for the Board of Managing Directors based on the duration of membership of the Board and shall consider the resulting annual and long-term expense incurred by the company. The pension scheme of the Board of Managing Directors is based on a contribution-oriented system of benefits for which no specific benefit level is defined. Each member of the Board of Managing Directors rather is entitled to an annual pension module whose amount is determined as a percentage of the pensionable basic annual salary of the individual Board member. In this way the Supervisory Board is given an idea of the annual and long-term expense for the company, which – with regard to reserve building – also depends on actuarial effects. The waiving of the definition of a targeted pension benefit level in connection with the changeover to a contribution-based defined benefit scheme corresponds largely to corporate practices.

According to **Number 4.2.3 Para 4 Sentence 3** of the Code the severance cap of members of the Board of Managing Directors shall be calculated on the basis of the total remuneration paid for the previous financial

year and, if appropriate, take into account the expected total remuneration for the current financial year. At Commerzbank, the variable remuneration is taken into account when calculating the cap in accordance with the employment contracts for Board Members on the basis of the average of the three financial years preceding the end of the membership of the executive body. The longer period is to avoid random results and take into account a more representative average for the variable remuneration in the cap calculation. Since the submission of the last Declaration of Compliance, this deviation has, however, not been applied.

In accordance with **Number 4.2.5 Sentence 5 and Sentence 6** of the Code the remuneration report shall provide specific information about the remuneration of the Board of Managing Directors in defined model tables. However, the model tables in the Code do not take into account the particularities of the German Remuneration Regulation for Institutions (Institutsvergütungsverordnung) and are, therefore, less appropriate for institutions such as Commerzbank. Commerzbank, therefore, has deviated from this recommendation since the remuneration report for 2017. Commerzbank has drawn up its own tables which provide a transparent and comprehensible representation of its remuneration system for the Board of Managing Directors.

Commerzbank has refrained from using the model tables of the Code – in addition to the tables prepared by the Bank as well as the tables required by the accounting rules – because this would contradict the desired transparency and comprehensibility of the remuneration report.

According to **Number 5.3.3** of the Code the Supervisory Board shall form a nomination committee, composed exclusively of shareholder representatives. According to Section 25d Para 11 Sentence 2 No 1 German Banking Act, the nomination committee has also been assigned tasks in which a participation of employee representatives is usual and necessary. The nomination committee shall support the Supervisory Board, for instance, in determining the candidates for positions in the executive management of banks. At Commerzbank, this task was formerly performed by the Chairman's Committee, which also includes employee representatives. In order to maintain the established practice of Commerzbank of involving employer and employee representatives in the selection of candidates for the Board of Managing Directors, two members of the nomination committee of the Supervisory Board of Commerzbank are employee representatives.

- (2) Since 20 March 2020 the recommendations of the “German Corporate Governance Code Commission” in the version of 16 December 2019 – announced in the *Bundesanzeiger* (Federal Gazette) on 20 March 2020 – have been complied with, except for the following recommendations:

According to **Recommendation G. 10 Sentence 1** of the Code the variable remuneration amounts of the member of the Board of Managing Directors shall – taking into consideration the respective tax burden – be predominantly invested in company shares or granted predominantly as share-based remuneration. The remuneration scheme provides that half of the variable remuneration is granted on a share basis. With this percentage the members of the Board of Managing Directors are sufficiently participating in the value development of the Commerzbank share. In this way they are effectively urged to orient their activities towards the long-term development of Commerzbank Aktiengesellschaft.

According to **Recommendation C. 15 Sentence 2** of the Code an application for the appointment of a member of the Supervisory Board by court decision shall be limited until the next General Meeting. Commerzbank Aktiengesellschaft has deviated from this recommendation in its application with the court for the appointment by the court of Mr Hans-Jörg Vetter. Mr Vetter was appointed, based on the corresponding application, for the remaining term of the resigned member, Dr. Stefan Schmittmann, as a member of the Supervisory Board – i.e. until the end of the General Meeting deciding about the discharge for the financial year 2022. Against the background of upcoming strategic decisions and adjustments, continuity in the composition of the Supervisory Board was of particular importance for Commerzbank Aktiengesellschaft and its bodies. Consequently, this constitutes a non-recurring deviation from this recommendation.

According to **Recommendation B. 3** of the Code the first-time appointment of Management Board members shall be for a period of not more than three years. Commerzbank Aktiengesellschaft has deviated from this with the appointment of two members of the Board of Managing Directors who were each appointed for a period of five years. Based on the individual qualifications and experience of these Board members, which were acquired in many years of executive positions, a longer appointment than the recommended three years appeared to be appropriate. Moreover, in the current situation of Commerzbank Aktiengesellschaft against the background of upcoming long-term strategic decisions and their implementation, the statutory maximum term of five years was of particular importance, in particular in view of the appointment of the new Chairman of the Board of Managing Directors.

Within the meaning of comprehensive transparency, the following is hereby declared in addition:

According to **Recommendation G. 13 Sentence 1** of the Code any payments made to a Management Board member due to early termination of their Management Board activity shall not exceed twice the annual remuneration

(severance cap) whereby according to the rationale of this recommendation the calculation of the severance cap is based on the total remuneration paid for the previous financial year and, if appropriate, takes into account the expected total remuneration for the current financial year. At Commerzbank the variable remuneration is taken into account at the cap calculation according to the employment contract for members of the Board of Managing Directors on the basis of the average of the three fiscal years preceding the end of the position as a member of the executive body. The longer period shall avoid random results and take into account a more representative average amount for the variable remuneration in the cap calculation. With a view to the changed wording of the Code, we do not see any deviation from a recommendation in this provision. Moreover, this provision has not been applied since the entry into force of the new Code on 20 March 2020.

Frankfurt am Main, November 2020

The Board of Managing Directors      The Supervisory Board