

the clarification of the bribery allegations and on the compliance system and its enhancement, as well as the information provided in the Report of the Supervisory Board.

Risks resulting from compliance violations and other business risks were assessed under the risk management system and addressed in detail by the Executive Board and Supervisory Board, and in particular by the Audit Committee. Please refer to the description of MAN's risk management system and the risk report contained in the management report.

#### Reportable securities transactions

Section 15 a of the *Wertpapierhandelsgesetz* (WpHG—German Securities Trading Act) requires individuals with management tasks and certain related parties to report dealings in MAN shares and related financial instruments to the issuer and the *Bundesanstalt für Finanzdienstleistungsaufsicht* (BaFin—German Federal Financial Supervisory Authority). No transactions were reported in 2009. Any disclosures are published on the Company's website at [www.man.eu/MAN/en/Investor\\_Relations/Corporate\\_Governance/Meldepflichtige\\_Wertpapiergeschaefte/](http://www.man.eu/MAN/en/Investor_Relations/Corporate_Governance/Meldepflichtige_Wertpapiergeschaefte/).

According to the reports received, the Executive and Supervisory Board members' direct and indirect holdings of shares and derivatives on shares do not exceed 1% of the shares issued by the Company, either individually or in total.

#### Financial reporting

The year-end consolidated financial statements of the MAN Group are prepared by the Executive Board on the basis of the International Financial Reporting Standards (IFRSs), while the single-entity financial statements of MAN SE are prepared in accordance with the *Handelsgesetzbuch* (HGB—German Commercial Code). The financial statements are examined and approved by the Supervisory Board. All deadlines for the publication of financial statements and interim reports were met during the reporting period. In accordance with the new recommendation in section 7.1.2 of the Code as amended in 2008, the Audit Committee discusses MAN's half-yearly and quarterly financial reports with the Executive Board prior to their issue.

#### Audit of the financial statements

In the reporting period, the Supervisory Board proposed KPMG AG Wirtschaftsprüfungsgesellschaft, Munich, (KPMG) as auditors of the financial statements. The Annual General Meeting endorsed its proposal. In 2009, KPMG again provided MAN's Audit Committee with confirmation of its independence. It was also agreed that the Chairman of the Audit Committee would be immediately informed of any grounds for disqualifying the auditors or questioning their impartiality that might occur during the audit, unless such grounds could be immediately eliminated.

## Remuneration report for fiscal year 2009 <sup>2</sup>

#### Executive Board remuneration in 2009

In fiscal 2009, changes were made with regard to the responsibility for determining Executive Board remuneration. Following MAN AG's change of legal form to a *Societas Europaea* (SE) on May 19, 2009, this responsibility—which was previously held by the Personnel and Nomination Committee—was assigned to the newly created Presiding Committee of the Supervisory Board. The full Supervisory Board assumed responsibility for determining the total remuneration of the Executive Board when the *Gesetz zur Angemessenheit der Vorstandsvergütung* (VorstAG—German Act on the Appropriateness of Executive Board Remuneration) came into force on July 31, 2009. Supervisory Board resolutions are now prepared and proposed by the Presiding Committee. The corresponding amendments were made to the Supervisory Board's Rules of Procedure. As before, the full Supervisory Board regularly discusses the structure of the Executive Board remuneration system based on the Presiding Committee's proposals. It also resolves and regularly reviews the remuneration system in accordance with the recommendation in the German Corporate Governance Code that

<sup>2</sup> The remuneration report is part of the Group management report in accordance with section 315 of the HGB.

was slightly modified in 2009 (section 4.2.2). The next review of the remuneration system, in particular with regard to the new statutory requirements under the VorstAG, will take place in spring 2010.

The Supervisory Board's objective and duty is to set remuneration at an appropriate amount. The criteria for doing so include in particular the tasks of the respective Executive Board member, his personal performance, the economic situation, the performance and outlook of the Company and how customary the remuneration is when measured against its peer group, as well as the remuneration structure that applies to other areas of MAN.

#### Remuneration structure and components in 2009

The remuneration of Executive Board members comprises fixed salary payments and non-cash benefits, pension and other benefit contributions, and performance-related components. The variable performance-related components comprise annual components linked to business performance and long-term incentive components that entail an element of risk.

- The fixed remuneration is paid as a monthly salary. In addition, Executive Board members receive non-cash benefits that primarily comprise the provision of a company car and driver, and the payment of insurance premiums. The fixed remuneration is reviewed on a regular basis and adjusted where necessary.
- In accordance with the applicable bonus guidelines, the annual performance-related bonus is linked to MAN value added. This is calculated as operating profit minus the cost of capital employed. The cost of capital is the minimum return investors expect to receive on equity and debt employed. A weighted average cost of capital (WACC) is calculated; for equity, it is the rate of return on long-term, risk-free securities plus a specific risk premium, and for debt, it is the rate of return for risk-free securities plus a risk premium for long-term corporate securities. It is currently set at 11% before tax.

The Executive Board is not entitled to a bonus unless profit exceeds the cost of capital. The amount of the bonus is based on the extent to which a value added target previously set by the Supervisory Board is attained or exceeded. It is capped at an

amount also set by the Supervisory Board. Two-thirds of the bonus is paid as a cash bonus. One third must be used in the same way as under the MAN Stock Program (see below), with 50% invested in MAN shares. The shares are subject to a two-year lock-up.

- Since 2005, the component linked to long-term business performance has been awarded through the MAN Stock Program. Under this program, Executive Board members receive cash payments of 50% of their fixed remuneration, which are taxable annually. Half of the payment must be invested in MAN SE common shares. These are purchased and held in safekeeping centrally by MAN SE on behalf of and for the account of Executive Board members. Purchased shares may be freely disposed of after a lock-up period of three years. During the vesting period, the shares may not be sold, pledged, or hedged. If an Executive Board member retires or departs from the MAN Group, the lock-up period ends no later than one year after the date of departure.
- The Executive Board members' benefit entitlements comprise retirement, disability, and survivors' benefits. Entitlements to such benefits are accumulated under a defined contribution system, with the value of benefits dependent upon the performance of certain fund indices. Each year, MAN SE contributes an amount equal to 20% of an Executive Board member's fixed remuneration and the bonus paid to that member in the previous year into an MAN fund. Executive Board members may elect to make additional contributions out of their gross salary. Contributions and the returns thereon are held in individual capital accounts. The rate of return on the accumulated capital account balance depends upon the performance of selected capital market indices, which are weighted according to an Executive Board member's age. Contributions, the returns thereon, and any additional returns earned

by the fund together constitute the total amount of capital available. At retirement, the beneficiary may take the balance of the capital account, or at a minimum the total amount of the contributions, as a lump-sum payment, in installments, or as an annuity. In the event of disability or death, the beneficiary is paid the accumulated account balance, or at a minimum four times the fixed annual remuneration and bonus.

#### **Executive Board members' remuneration in 2009**

The remuneration awarded to active members of the Executive Board for their services in fiscal 2009 totaled €4,270 thousand plus €1,437 thousand for pensions (previous year: €13,523 thousand plus €1,321 thousand for pensions). Please see Note 33 to the Consolidated Financial Statements for details of the Executive Board members' individual remuneration, broken down into fixed, performance-related, and long-term incentive components.

A total of €21,064 thousand related to severance payments made or approved in respect of former Executive Board members. These payments are also described in detail in the above-mentioned Note to the Consolidated Financial Statements.

#### **Special contract provisions**

Under a provision that has been in effect since 2007, an Executive Board member receives his fixed remuneration, bonus, insurance premiums, and contributions to the pension system until the end of his normal term of office, but for no more than two years, in the event of the early termination of his contract without good cause and at the instigation of the Company. Income from his activities elsewhere is offset and the basis for calculating the amount of the contributions to the pension system reduced accordingly. MAN uses an Executive Board member's

average remuneration in the past three years as a basis for calculating the remuneration components that constitute his severance payment on leaving his position. However, this calculation method could lead to the severance payment cap calculated in accordance with section 4.2.3 of the Code being exceeded in exceptional cases; such cases were not foreseeable in the past but cannot be ruled out given current developments. The departure from the recommendation relating to the severance payment cap under section 4.2.3 of the Code is disclosed and justified in the Declaration of Conformity dated December 2009.

If a contract is terminated at the instigation of an Executive Board member (a member may do so, without having to cite his reasons, by giving 18 months' notice), remuneration is awarded only up until the end of the period of notice. There are no special change-of-control provisions in place.

### Supervisory Board remuneration

The structure and amount of the Supervisory Board's remuneration are determined by the Annual General Meeting and governed by Article 12 of the Articles of Association. It is based on the tasks and responsibilities of the Supervisory Board members as well as on the Group's economic performance.

The annual remuneration comprises the following components:

The annual remuneration comprises the following components:

- basic (fixed) remuneration of €35,000;
- variable remuneration (bonus). This is based on actual earnings per share as reported in the consolidated financial statements. The variable remuneration is €175 for every €0.01 by which earnings per share exceeds €0.50. It is capped at twice the basic remuneration.

Additional remuneration is paid to the chairman and deputy chairman of the Supervisory Board as well as to the chairmen and members of the Supervisory Board committees. The Supervisory Board chairman receives double and his deputy one and a half times the fixed and variable remuneration. Members of the Standing Committee, the Audit Committee, and the Personnel and Nomination Committee—or, after MAN AG's change of legal form to an SE, members of the Presiding Committee of the Supervisory Board and the Audit Committee—each receive an additional 50% and the chairman of the respective committee an additional 100% of the basic remuneration.

In addition, members of the Supervisory Board are reimbursed their expenses.

Supervisory Board remuneration does not include a component linked to long-term business performance, as it is almost impossible to measure the Supervisory Board members' individual contribution to the Company's long-term performance. The Company does not, therefore, follow the suggestion in section 5.4.6 of the Code.

The remuneration for the first Supervisory Board of MAN SE will be paid pro rata from May 19, 2009 in accordance with the Articles of Association; in line with the view taken in some of the legal literature, this remuneration is subject to the approval of the Annual General Meeting, which will be sought as a

precautionary measure at the 2011 Annual General Meeting when the Supervisory Board's first term of office ends as defined by the Articles of Association.

### Supervisory Board remuneration in 2009

The remuneration payable to the members of the Supervisory Board in 2009 totaled €941 thousand (previous year: €2,628 thousand). In addition, members of MAN AG's or MAN SE's Supervisory Board received remuneration totaling €39 thousand (previous year: €58 thousand) for serving on supervisory boards at Group companies in fiscal 2009. Please see Note 34 to the Consolidated Financial Statements for a breakdown of the individual remuneration of the Supervisory Board members in 2009.

### Additional information

In the reporting period, Supervisory Board members did not receive any additional remuneration or awards for personal services, particularly advisory or intermediary services.

Former Supervisory Board members who left the Board prior to January 1, 2009 do not receive any remuneration.