

# **Corporate Governance Report 2009 of RHI AG**

## **Abstract of the RHI Annual Report 2009**

# Corporate Governance

Since 1 October 2002, the Austrian Code of Corporate Governance has given Austrian companies a framework for the management and supervision of a company.

The Corporate Governance Code advocates a system of management and supervision of companies aimed at achieving accountability and creating long-term, sustainable value. This is intended to provide a company's stakeholders with a high degree of transparency and to serve as an important guide for national and international investors. The Code is based on Austrian stock corporation law, stock exchange and capital market regulations, important EU recommendations, and its principles follow the OECD's guidelines for Corporate Governance.

RHI supports the Code's objectives to strengthen the confidence of domestic and foreign investors in the Austrian capital market by providing more transparency and uniform standards. In addition, RHI advocates the statutory provisions to prevent insider trading and has implemented the Securities Issuer Compliance Regulation which is currently in force in the company.

RHI's Boards meet regularly to intensively discuss the Corporate Governance Code as amended, the Code's regulations and recommendations are met to a very great extent by RHI. RHI ensures transparency as required by Figure 60 of the Code by preparing a Corporate Governance Report in the context of the annual report and by publishing it on the company's website at [www.rhi-ag.com](http://www.rhi-ag.com) → Corporate Governance → Corporate Governance Report.

The Austrian Code of Corporate Governance is available on the Internet at [www.corporate-governance.at](http://www.corporate-governance.at).

## Report of RHI AG on the Corporate Governance Code for the financial year 2009

RHI respects the Austrian Corporate Governance Code and undertakes to comply with the provisions documented therein. The code comprises the following rule categories:

**1. Legal Requirement (L):**

The rule refers to mandatory legal requirements.

**2. Comply or Explain (C):**

This rule is to be followed; any deviation must be explained and the reasons stated in order to be in compliance with the Code.

**3. Recommendation (R):**

The nature of this rule is a recommendation; non-compliance with this rule requires neither disclosure nor explanation.

Information to be disclosed in accordance with the Austrian Corporate Governance Code:

**Figure 16**  
**Corporate Governance**  
**Code (Comply or Explain)**

Members of the Management Board, period in office, allocation of rights and duties, (Group-external) supervisory board mandates

Name Function	Year of birth	First appoint- ment	End of period in office
Thomas Fahnemann, Chairman Allocation of rights and duties: (until 28 May 2009): Personnel; Legal Issues; Internal Audit; Communications; Strategy; Technology/Production; R&D; Raw Materials  (from 28 May 2009): Strategy/M&A; Personnel; Legal Issues; Internal Audit; Communications; Finance/IR; Raw Materials Division	1961	1 Jan 2009	31 Dec 2011
Stefano Colombo*), Deputy Chairman Allocation of rights and duties: (until 28 May 2009): Finance/IR; M&A; Controlling; Participations outside Refractories	1961	6 Jun 2007	31 Aug 2010
Giorgio Cappelli, Member of the Management Board Allocation of rights and duties: Steel Division	1956	1 Jan 2007	31 Mar 2012
Manfred Hödl, Member of the Management Board Allocation of rights and duties: Industrial Division	1955	1 Jan 2007	31 Mar 2012
Rudolf Payer, Member of the Management Board Allocation of rights and duties: (until 28 May 2009): Accounting; IT; Risk Management;  (from 28 May 2009): Accounting; IT; Risk Management; Controlling, Participations outside Refractories	1960	6 Jun 2007	30 Jun 2010

\*) resigned from office prematurely as of 28 May 2009

### **Working method of the Management Board**

In the period under review, the company's Management Board comprised five (5) / four members ((4) from 28 May 2009 on). Each member of the Management Board has his own area of responsibility on which he keeps the other members informed. Cooperation and responsibilities of the Management Board are governed by internal rules.

Meetings of the entire Management Board generally take place every two weeks and are chaired by the chairman of the Management Board. During the meetings, among other things, resolutions on measures and business activities that require the approval of the entire Management Board according to the internal rules of the Management Board are passed. The meeting will be able to pass resolutions if at least half of the members of the Management Board participate in the passing of a resolution. Resolutions of the entire Management Board are passed by a simple majority. In case of parity of votes, the chairman's vote will be decisive. An extraordinary meeting of the entire Management Board can be convened at the request of a member of the Management Board. Resolutions of the Management Board can also be passed outside meetings if all members of the Management Board are involved in the passing of the resolution and agree to it. Written minutes are drawn up for every meeting of the entire Management Board and for every passing of a resolution that has taken place outside a meeting and signed by all members of the Management Board. A copy of the minutes will be sent immediately to the members of the Management Board.

### **Group-external supervisory board mandates of the members of the Management Board**

The members of the Management Board have no Group-external supervisory board mandates except for Mr. Colombo, who was a member of the supervisory board of BAST AG.

### **Figure 30 Corporate Governance Code (Comply or Explain)**

Information regarding the principles of remuneration of the Management Board

#### **>> Principles for granting performance-linked payments to the Management Board and performance criteria:**

The variable portion is linked to the realisation of defined cost reductions, the Group result and a cash flow target.

#### **>> Relationship of fixed to performance-linked components of total compensation:**

The relationship of fixed to performance-linked components of total compensation depends on the achievement of the targets for the respective year and amounts to up to 127% for 2009.

#### **>> Principles of the company retirement plan:**

Pension commitments are made on the basis of a "deferred compensation" only; there is no defined benefit plan.

#### **>> Principles of eligibility and claims in the event of termination of the function:**

No claims beyond the Management Board contract.

#### **>> Existence of a D&O insurance the costs of which are borne by the company:**

A D&O insurance the costs of which are borne by the company exists.

**Figure 31**  
**Corporate Governance**  
**Code (Comply or Explain)**

Compensations (fixed and performance-linked) for each member of the Management Board in detail

In the financial year 2009, expenditure amounting to € 4.2 million (previous year: € 5.4 million) is stated for the Management Board. For reasons of data privacy, the following table only shows the expenditure for those members of the Management Board who had an existing Management Board mandate as of 31 December 2009:

	Thomas Fahnemann	Giorgio Cappelli	Manfred Hödl	Rudolf Payer
Fixed earnings	606,989	314,240	313,844	301,344
Variable earnings	600,000	408,000	408,000	408,000
Other	98,963	10,221	73,589	13,297
<b>Total</b>	<b>1,305,952</b>	<b>732,461</b>	<b>795,433</b>	<b>722,641</b>

Variable earnings are performance-linked and will only be paid in the following year.

Other expenditure mainly includes expenditure for termination benefits, pension, service anniversary bonuses and holiday allowances.

**Figure 36**  
**Corporate Governance**  
**Code (Comply or Explain)**

Number of meetings of the Supervisory Board; self-evaluation

The Supervisory Board had seven meetings in the period under review. In addition, the following meetings of the committees of the Supervisory Board as well as of the presidium took place.

The Supervisory Board dealt with its activity with respect to its efficiency, in particular organisation and method of working, in the period under review.

**Figure 39**  
**Corporate Governance**  
**Code (Comply or Explain)**

Appointment to committees, number of meetings and activity in the financial year 2009

Three committees are established at RHI AG (Audit, Nomination and Compensation committee) that exercise the activities and have the power of decision stipulated by the Austrian Corporate Governance Code according to the figures 40 - 43 and the relevant legal requirements.

The activities of the Audit committee comprised in particular matters of the annual report, Group audit and accounting as preparation for the Supervisory Board in the period under review. In addition, this committee dealt with the selection of the auditor and risk management.

In the period under review, the activity of the Nomination committee particularly comprised proposals for appointment of members of the Supervisory Board and of the CFO in the Management Board.

The activities of the Compensation committee comprised matters regarding bonus payment and the remuneration of the Management Board.

**Audit committee (6 meetings):**

G. Peskes, Certified Public Accountant (finance expert)  
 M. Gröller  
 S. Prinz zu Sayn-Wittgenstein-Berleburg  
 L. Miedl

**Nomination committee (3 meetings):**

M. Gröller  
 H. Cordt  
 H. Draxler  
 G. Peskes, Certified Public Accountant

**Compensation committee (3 meetings):**

M. Gröller  
 H. Cordt  
 H. Draxler  
 G. Peskes, Certified Public Accountant

**Figure 49**  
**Corporate Governance**  
**Code (Comply or Explain)**

Contracts with members of the Supervisory Board subject to approval  
 There were no such contracts in the period under review.

**Figure 51**  
**Corporate Governance**  
**Code (Comply or Explain)**

Detailed statement of the remuneration granted to the Supervisory Board

In accordance with § 15 of the articles of association of RHI AG, the Supervisory Board members (capital representatives) receive a remuneration payable at the end of a financial year, the amount of which is determined by the Annual General Meeting. The distribution of the remuneration determined by the Annual General Meeting is effected in such a way that the Chairman of the Supervisory Board receives the 2.5-fold amount of an ordinary Supervisory Board Member, and the Deputy Chairman of the Supervisory Board as well as the Chairman of the Audit committee receive the 1.75-fold amount, on a pro-rata-temporis basis. Moreover, an attendance fee of € 545 was granted for every attended meeting.

In the period under review, the members of the Supervisory Board received the following remuneration that was approved by the Annual General Meeting 2009 to compensate for the activity in the financial year 2008.

	€
Michael Gröller	60,900.00
Herbert Cordt	44,265.00
Helmut Draxler	42,085.00
Gert Peskes Certified Public Accountant	45,355.00
Ulrich Glaunach*)	12,756.67
Mark Eckhout**)	9,423.33
Stanislaus Prinz zu Sayn-Wittgenstein-Berleburg	24,905.00
Hubert Gorbach	24,360.00

\*) from 29 May 2008

\*\*) until 29 May 2008

No stock option plans were planned for the members of the Supervisory Board.

**Figures 53, 54 + 58**  
**Corporate Governance**  
**Code (Comply or Explain)**

Criteria of independence, independent Supervisory Board members, period in office  
Independent RHI AG Supervisory Board members in accordance with the criteria established by the Supervisory Board and shown below are:

Criteria for the determination of independence:

A) Independence of the member of the Supervisory Board

A member of the Supervisory Board of RHI AG has to be deemed independent when they have no business or personal relationship with the company or its Management Board that constitutes a material conflict of interest and therefore may influence the member's behaviour.

B) Non-presence of independence

A member of the Supervisory Board of RHI has to be deemed not independent when

>>the member of the Supervisory Board has been a member of the Management Board or an executive of the company or of a subsidiary of the company in the last five years;

>>the member of the Supervisory Board has or has had a business relationship with the company or a subsidiary of the company in the last year to an extent important to the member of the Supervisory Board. The same applies to business relationships with companies in which the member of the Supervisory Board has an important economic interest. The approval of individual business transactions by the Supervisory Board according to Legal Requirement 48 does not automatically result in a classification as independent;

>>the member of the Supervisory Board has been an auditor of the company or a partner to or an employee of the auditing company in the last three years;

>>the member of the Supervisory Board is a member of the Management Board of another company where a member of the Management Board of RHI AG is a member of the Supervisory Board;

>>the member of the Supervisory Board is a close relative (direct descendants, spouses, partners in life, parents, uncles, aunts, sisters and brothers, nieces, nephews) of a member of the Management Board or persons who are in a position described above.

Supervisory Board Members:	Year of birth	First appointment	End of period office
M. Gröller, Chairman	1941	15 Feb 2002	AGM 2010
H. Cordt, Deputy Chairman	1947	1 Jun 2007	AGM 2010
H. Draxler*), Deputy Chairman	1950	1 Jun 2007	AGM 2010
U. Glaunach	1956	29 May 2008	AGM 2011
H. Gorbach	1956	1 Jun 2007	AGM 2010
G. Peskes	1944	1 Jul 1999	AGM 2012
S. Prinz zu Sayn-Wittgenstein-Berleburg	1965	17 May 2001	AGM 2012

AGM = Annual General Meeting

According to the Supervisory Board, the number of two independent members of the Supervisory Board of RHI AG stipulated according to rule 54 CGC currently corresponds to the sufficient number of independent members to be fixed by the Supervisory Board according to rule 53. It is declared that the Supervisory Board of RHI currently has six independent capital representatives.

In accordance with Figure 54 of the Corporate Governance Code, the members of the Supervisory Board shall, in the case of companies with a free float of more than 50%, include at least two independent members who are not shareholders with a stake of more than 10% or who represent such a shareholder's interests. RHI AG has declarations by Mr. Gröller and Mr. Peskes stating that they meet these criteria.

\*) Note: Mr. Draxler is NOT an independent member of the Supervisory Board pursuant to the criteria for independence, because he was Chairman of the Management Board from 2002 to 2007.

**Figure 58**  
**Corporate Governance**  
**Code (Comply or Explain)**

Disclosure of other supervisory board mandates of the members of the Supervisory Board for other listed companies

- >> Michael Gröller (Chairman)  
Chairman of the Supervisory Board of Mayr-Melnhof Karton AG, Vienna, Austria
- >> Helmut Draxler (Deputy Chairman):  
Member of the Supervisory Board of OMV AG, Vienna, Austria
- >> G. Peskes:  
Member of the Supervisory Board
  - Custodia Holding AG, Munich, Germany
  - Nymphenburg Immobilien AG, Munich, Germany
  - von Roll Holding AG, Wädenswil, Switzerland
  - Zwack Unicum Rt., Budapest, Hungary
- >> Ulrich Glaunach  
Member of the Supervisory Board of Heracles S.A., Greece (resigned in the middle of 2009)

No member of the Supervisory Board attended less than half of the meetings of the Supervisory Board in person.

**Working method of the Supervisory Board**

The Supervisory Board comprises eleven (11) members. It is involved in strategy and planning as well as in all matters of essential importance to the company by the Management Board. The internal rules for the Management Board include reservations of consent of the Supervisory Board for important business transactions. The chairman of the Supervisory Board coordinates the work in the Supervisory Board, chairs its meetings and represents the board towards third parties. The Management Board informs the Supervisory Board in a timely manner and comprehensively in writing as well as in the Supervisory Board meetings held regularly, at least quarterly, of the planning, the business development and the situation of the Group including risk management. An extraordinary meeting of the Supervisory Board is convened in case of important events. The Supervisory Board has established internal rules for its work. The Supervisory Board generally passes its resolutions in meetings. The Supervisory Board is authorised to pass resolutions when the meeting has been convened in accordance with the internal rules and at



least three members are present. Resolutions can also be passed outside a meeting by written, telegraphic or equivalent vote at the discretion of the chairman of the Supervisory Board. In general, resolutions of the Supervisory Board are passed by a simple majority of the votes cast. In case of parity of votes, the vote of the chairman of the Supervisory Board will be decisive; if the chairman does not attend the meeting, the vote of the deputy chairman of the Supervisory Board will be decisive. Minutes of the meetings of the Supervisory Board will be drawn up and will be signed by the chairman of the Supervisory Board. Resolutions passed outside meetings will also be set forth in writing. A copy of the minutes or of the resolution passed outside a meeting will be sent immediately to the members of the Supervisory Board. The members of the Supervisory Board who have participated in the meeting or in the passing of a resolution can address objections or change requests in writing to the chairman of the Supervisory Board within two weeks after delivery. In this case, the objection or change request will be settled in the following meeting of the Supervisory Board. Otherwise, the minutes and / or the resolution shall be deemed approved.

#### **Working method of the committees**

The provisions regarding the working method of the Supervisory Board apply mutatis mutandis to its committees.

The following items deviate from the provisions of the Corporate Governance Code:

**Figure 31**  
**Corporate Governance**  
**Code (Comply or Explain)**

Detailed statement of the remunerations of the Management Board

The remunerations of those members of the Management Board who resigned before 31 December 2009 are not presented in detail since, by nature, they could no longer participate in the passing of the resolution regarding the detailed statement.

Vienna, March 2010

Management Board:

Thomas Fahnemann, m.p.  
CEO

Henning E. Jensen, m.p.  
CFO

Giorgio Cappelli, m.p.  
COO Steel

Manfred Hödl, m.p.  
COO Industrial

Rudolf Payer m.p.  
Business Administration