

# **Corporate Governance Report 2010 der RHI AG**

**Abstract of the RHI Annual Report 2010**

# 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 all 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 2010

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

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

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

Name Function	Year of birth	Start of period in office	End of period in office
Thomas Fahnemann, Chairman	1961	01.01.2009	31.12.2011 <sup>1)</sup>
Allocation of rights and duties: (until 25.03.2010) Strategy/M&A; Legal; Personnel; Communications; Internal Audit; Finance/IR; Raw Materials Division (from 26.03.2010) Strategy/M&A; Personnel; Communications; Raw Materials Division; Compliance			
Henning E. Jensen CFO and Spokesman of the Management Board (from 21.08.2010)	1960	18.01.2010	18.01.2013
Allocation of rights and duties: (until 22.09.2010) Finance/IR; Controlling; Investment Management; Legal; Internal Audit; IT; Accounting (from 23.09.2010) Finance/IR/Risk management; M&A; Strategy; Controlling; Accounting; Investment Management; Personnel; Legal & Compliance; Communications; Internal Audit, IT			
Giorgio Cappelli Member of the Management Board;	1956	01.01.2007	31.03.2012
Allocation of rights and duties: Steel Division			
Manfred Hödl Member of the Management Board;	1955	01.01.2007	31.03.2012
Allocation of rights and duties: Industrial Division and from 23.09.2010 Raw Materials Division			
Rudolf Payer Member of the Management Board;	1960	06.06.2007	30.06.2010 <sup>2)</sup>
Allocation of rights and duties: (until 12.03.2010) Accounting; IT; Risk management; Investment Management			

1) retired prematurely as of 20.08.2010

2) retired prematurely as of 12.03.2010

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

In the period under review, the Management Board of the Company consisted of five (5), four (4; from 13.03.2010) and then three (3; from 21.08.2010) members. Each Management Board member has his own area of responsibility, which he keeps the other Board members informed about. The cooperation and responsibilities of the Management Board are governed by rules of procedure.

Meetings of the entire Management Board are generally held every two weeks and are chaired by the Spokesman of the Management Board. At these meetings, resolutions are adopted regarding measures and business activities which require the approval of the entire Management Board in accordance with the rules of procedure of the Management Board. In order to have a quorum, at least half of the members of the Management Board have to participate in the vote. Resolutions of the entire Management Board are passed with a simple majority. An extraordinary Management Board meeting can be convened at the request of a Management Board member. Resolutions of the Management Board can also be passed outside meetings if all members of the Management Board participate in and agree to this procedure. Written minutes are drawn up for every meeting of the entire Management Board and for every resolution passed outside a meeting and signed by all members of the Management Board. A copy of the minutes will be sent to the members of the Management Board immediately.

### **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.

### **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.

##### **>> Methods used to determine whether the performance criteria have been met, and upper limits:**

The criteria are viewed with reference to a reporting date in such a way that a percentage of the annual compensation represents the upper limit for some of the criteria. For the other criteria, the variable component consists of a percentage of the criterion.

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

The ratio 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 96% for 2010.

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

Principle of "deferred compensation"; 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.

### Remuneration (fixed and performance-linked) for each member of the Management Board

	T. Fahnemann <sup>1)</sup>	H. Jensen	G. Cappelli	M. Hödl	R. Payer <sup>2)</sup>
Fixed earnings	403,004	381,476	331,753	344,326	174,896
Variable earnings	0	330,405	330,405	330,405	101,220
Other	507,664	57,050	6,285	48,358	301,350
<b>Total</b>	<b>910,668</b>	<b>768,931</b>	<b>668,443</b>	<b>723,089</b>	<b>577,466</b>

1) retired prematurely as of 20.08.2010

2) retired prematurely as of 12.03.2010

Variable remuneration is performance linked and will be paid in the following year. Other expenses mainly include expenditure for termination benefits, severance payments, pensions, anniversary bonuses and holiday allowances.

### Number of meetings of the Supervisory Board; self-evaluation

The Supervisory Board held seven (7) meetings during the reporting period. In addition, the following meetings of the committees of the Supervisory Board as well as of the presidium took place.

The Supervisory decided not to conduct a self-evaluation until further notice.

### Appointment to committees, number of meetings and activity in the financial year 2010

Three committees are in place at RHI AG (audit, nomination and compensation committees), which exercise the activities and have the decision-making powers stipulated by the Austrian Corporate Governance Code in accordance with figure 40-43 and the relevant legal requirements.

In the reporting period activities of the audit committee included the preparation for the Supervisory Board of issues regarding the quarterly statements, the annual financial statements, audit of the consolidated financial statements, accounting and various audit topics. In addition, this committee dealt with selecting the auditor of the consolidated financial statements and with risk management.

Activities of the nomination committee in the reporting period included proposals for vacant Supervisory Board mandates as well as the appointment of the function speaker of the management board and the composition of the Management Board.

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

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

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

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

**Audit committee (6 meetings):**

G. Peskes, Certified Public Accountant  
(Chairman of the audit committee and finance expert)  
M. Gröller  
S. Prinz zu Sayn Wittgenstein-Berleburg  
L. Miedl

**Nomination committee (2 meetings):**

H. Cordt  
(Chairman of the nomination committee)  
M. Gröller  
H. Draxler  
G. Peskes, Certified Public Accountant

**Compensation committee (2 meetings):**

H. Cordt  
(Chairman of the compensation committee)  
M. Gröller  
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 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 remuneration determined by the Annual General Meeting is distributed 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 receives the 1.75-fold amount, on a pro-rata-temporis basis.

In the period under review, the members of the Supervisory Board received the following remuneration for activities in the financial year 2009, which was adopted by the Annual General Meeting 2010 and paid:

	€
M. Gröller	63,080
H. Cordt	44,810
H. Draxler	43,175
G. Peskes (Certified Public Accountant)	48,080
U. Glaunach	23,270
S. Prinz zu Sayn Wittgenstein-Berleburg	25,995
H. Gorbach	23,270

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

**Criteria of independence, independent Supervisory Board members, period of office**

Independent RHI AG Supervisory Board members in accordance with the criteria established by the Supervisory Board and shown below are:

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

Criteria for the determination of independence

**A) Independence of a member of the Supervisory Board**

A member of the Supervisory Board of RHI AG shall be deemed independent if he or she has 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 shall be deemed not independent if >>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.

	Year of birth	First appointment	End of period in office
H. Cordt, Chairman <sup>1)</sup>	1947	1 Jun 2006	AGM 2013
M. Gröller, Deputy Chairman <sup>2)</sup>	1941	15 Feb 2002	AGM 2013
H. Draxler, Deputy Chairman <sup>*)</sup>	1950	1 Jun 2007	AGM 2013
U. Glunach	1956	29 May 2008	AGM 2011 <sup>3)</sup>
H. Gorbach	1956	1 Jun 2007	AGM 2013
G. Peskes	1944	1 Jul 1999	AGM 2012
S. Prinz zu Sayn-Wittgenstein-Berleburg	1965	17 May 2001	AGM 2012
D. Schlaff	1978	30 Apr 2010	AGM 2011

AGM = Annual General Meeting

1) until 30.04.2010 Deputy Chairman of the Supervisory Board; from 30.04.2010 Chairman of the Supervisory Board

2) until 30.04.2010 Chairman of the Supervisory Board, from 30.04.2010 Deputy Chairman of the Supervisory Board

3) retired prematurely as of 30.04.2010

\*) see note

According to the Supervisory Board, the number of two independent members of the Supervisory Board of RHI AG as stipulated by rule 54 CGC currently corresponds to the sufficient number of independent members to be determined by the Supervisory Board in accordance with 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.

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

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

>> Michael Gröller  
(Deputy 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

>> Gerd Peskes  
(Member of the Supervisory Board)  
- Deputy Chairman of the Supervisory Board of Custodia Holding AG, Munich, Germany  
- Deputy Chairman of the Supervisory Board of Nymphenburg Immobilien AG, Munich, Germany  
- Deputy Chairman of the Supervisory Board of Zwack Unicum Rt., Budapest, Hungary  
- Member of the Supervisory Board of Roll Holding AG, Au/Wädenswil, Switzerland

>> David Schlaff  
(Member of the Supervisory Board)  
Member of the Supervisory Board of A/S Ventspils Nafta, Riga, Latvia

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 rules of procedure 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 vis-à-vis 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 rules of procedure for its work. The Supervisory Board generally passes its resolutions in meetings. The Supervisory Board has a quorum when the meeting has been convened in accordance with the rules of procedure and at least three members are present. Resolutions can also be passed outside a meeting 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 shall 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 immediately be sent 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.

\*) Note to figures 53, 54, 58: 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.

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

#### **Self-evaluation of the Supervisory Board**

The Supervisory decided not to conduct a self-evaluation until further notice.

Notes in accordance with § 243 b para. 2 (2) UGB, which are part of the Corporate Governance report:

RHI AG was one of the first companies in 2010 to participate in the programme Zukunft.Frauen (future.women), an initiative by the Federal Ministry of Economy, Family and Youth, the Federal Economic Chamber and the Federation of Austrian Industries, aiming to promote women in supervisory board positions.

RHI AG  
The Management Board

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