

Austria

Georg Schima



Natalie Seitz



Kunz Schima Wallentin Rechtsanwälte OG

1 Setting the Scene - Sources and Overview

1.1 What are the main corporate entities to be discussed?

The main corporate entities in Austria are the:

- **Limited liability company (*Gesellschaft mit beschränkter Haftung*)**. These are private companies and are mainly small and medium-sized companies because it allows more influence for shareholders.
- **Stock corporation (*Aktiengesellschaft*) (AG)**. These are mainly large companies with a large capital requirement.
- ***Societas Europaea* (SE)**.

Only stock corporations and SEs can be listed on the stock exchange (listed companies). The Corporate Governance Code applies primarily to Austrian stock listed companies and stock listed SEs registered in Austria. Unlisted companies also follow the Code. Austrian companies must commit to the Code to enter the Prime Market at the Viennese Stock Exchange.

Unless otherwise stated, the term company refers to private companies, stock corporations, and SEs (which are likely to play a more important role in the future), as these are most relevant to corporate governance and directors' duties.

1.2 What are the main legislative, regulatory and other corporate governance sources?

Corporate governance is regulated by:

- **Statute**. Regulations on corporate structure, internal organisation, duties and liabilities of the management, and supervisory boards and their directors, accounting responsibility, and corporate restructuring are governed, in particular, by the:
 - Stock Corporation Act 1965 (*Aktiengesetz*);
 - Limited Liability Company Act 1906 (*GmbH-Gesetz*);
 - SE Directive 2001 (*SE-Verordnung*); and
 - SE Act 2004 (*SE-Gesetz*).

Other legislation including:

- General Civil Code 1811 (*Allgemeines Bürgerliches Gesetzbuch*), which deals with general regulations on liability;
- Business Code (*Unternehmensgesetzbuch*) (UGB) (former Commercial Code 1979 (*Handelsgesetzbuch*), which sets out substantive accounting provisions); and
- Labour Constitution Act 1974 (*Arbeitsverfassungsgesetz*), which provides for employee representatives on the supervisory board.

Regulation of listed companies includes the:

- Stock Exchange Act 1989 (*Börsengesetz*);
- Takeover Act 1998 (*Übernahmegesetz*);
- Issuer Compliance Regulation 2002 (*Emittenten-Compliance-Verordnung*); and
- Capital Market Act 1991 (*Kapitalmarktgesetz*).

- **A company's constitution**. The articles of association (articles) and procedural rules for the management and supervisory boards

- **The Austrian Code of Corporate Governance 2002 (Code)**. Revised in January 2010, this provides companies with a framework for corporate management and control. The Code applies primarily to Austrian stock listed companies. However, it covers the general standards of good corporate management in international business practice, as well as most of the important provisions of Austrian company, securities and capital markets law, EU recommendations, and the OECD Principles of Corporate Governance.

The Code is only mandatory for listed stock corporations and listed SEs that have committed themselves to complying with it (Code companies), although unlisted companies are also advised to comply with it. It contains three types of provisions:

- L-provisions, which are mandatory provisions of law;
- C-provisions, which are comply- or explain-provisions; and
- R-provisions, which are recommendations of best practice that are not subject to comply- or explain-requirements.

- **Relevant case law.**

1.3 What are the current topical issues, developments and trends in corporate governance?

Act on Amendment of the Austrian Stock Corporation Act 2009 ("Aktienrechts-Änderungsgesetz 2009" [ARÄG])

The EC's Directive 2007/36/EC on the exercise of certain rights of shareholders in listed companies was formally adopted on 11 July 2007. It assists shareholders of listed companies throughout the EU in exercising their rights.

The Directive:

- Introduces minimum standards to ensure that shareholders of companies whose shares are traded on a regulated market have timely access to relevant information ahead of the general meeting.
- Introduces simple means to vote at a distance.

- Abolishes share blocking.
- Introduces minimum standards for the rights to ask questions, put items on the general meeting agenda, and table resolutions.
- Allows Member States to take additional measures to further ease the exercise of the rights referred to in the Directive.

EU Member States had to implement the Directive 2007/36/EC into their national laws by 3 August 2009 at the latest. The implementation took place with the Act on Amendment of the Austrian Stock Corporation Act 2009, which became effective on 1 August 2009.

The Act on Amendment of the Austrian Stock Corporation Act 2009:

- Minimum notice period of 28 days for annual general meetings, whereby shareholders can vote by electronic means.
- Internet publication of the convocation and of the documents to be submitted to the general meeting.
- Abolition of share blocking and introduction of a record date according to which the shareholder of an Austrian company has to certify the ownership of shares no later than ten days before the general meeting.
- Abolition of obstacles to electronic participation to the general meeting, including electronic voting.
- Mitigation of the minority shareholders' risk to bear the costs of the exercise of shareholders' rights.
- The companies' obligation to answer questions of shareholders in the course of the annual general meeting shall be subject to a court decision in case the answer to such questions is denied.
- Abolition of existing constraints on the eligibility of people to act as proxy holder and of excessive formal requirements for the appointment of the proxy holder.
- Disclosure of the voting results on the company's website.

EC-Remuneration Recommendation of 30 April 2009:

- makes the adaption of some Corporate Governance Code regulations necessary; and
- amendments concerned the areas of variable remuneration, share-based remuneration, severance pays, remuneration reports, and remuneration committees.

The amendments changed the Corporate Government Code (effective since 1 January 2010).

3rd revision of the capital requirements directive (CRD) 2006/48/EC and 2006/49/EC (Capital Requirements Directive/Basel II).

On 7 July 2010 the European parliament adopted some of the strictest rules in the world on bankers' bonuses. The bonus culture shall and hopefully will be changed and will end incentives for excessive risk-taking.

Caps will be imposed on upfront cash bonuses:

- capped at 30% of the total bonus and at 20% for particularly large bonuses;
- between 20% and 60% must be deferred for at least three years (according to Austrian draft legislation: at least five years) – and can be recovered if investments do not perform as expected; and
- at least 50% of any bonus will have to be paid in contingent capital (= funds to be called upon first in case of bank problems) and shares.

In addition to these provisions, bonus-like pensions are also covered in so far as exceptional payments must be held back in instruments such as contingent capital.

Rules on compensation-schemes became effective as of January 1 2011, but amendments of the Banking Act are still required.

Green paper on corporate governance in financial institutions and remuneration policies (COM(2010) 284/3): June 2 2010.

The aim of this paper is to identify and to describe current corporate governance practices in financial institutions and to make suggestions to improve corporate governance. It is a first step towards reform of corporate governance practices in financial institutions.

Commission staff working document on corporate governance in financial institutions and remuneration policies (SEC(2010)669) – accompanying Green Paper, June 2 2010.

2 Shareholders

2.1 What rights and powers do shareholders have in the operation and management of the corporate entity/entities?

Stock corporations and SEs

One or more shareholders holding at least 5% of the issued share capital can require the calling of a shareholders' meeting or the placing of additional items on a shareholders' meeting agenda (see question 2.6).

One or more shareholders holding at least 10% of the issued share capital can:

- Require a special external auditor to be appointed.
- Require the company to assert damages claims against directors or other shareholders.
- Require the appointment of a different auditor.
- Require a shareholders' meeting to be postponed if they do not agree with some or all of the annual report.
- Apply to a court to remove a supervisory director.

Private companies

One or more shareholders holding at least 10% of the issued share capital can:

- Require a special external auditor to be appointed to audit the annual report.
- Require the company to assert damages claims against directors or other shareholders.
- Require the convening of a shareholders' meeting.
- Place additional items on the agenda of a shareholders' meeting.
- Apply to a court to remove a supervisory director.

In any company, one or more shareholders holding at least 25% plus one share of the issued share capital can block a decision requiring a 75% majority of shareholders' votes (for example, changes to the articles and decisions to merge).

See question 2.6.

2.2 Can shareholders be liable for acts or omissions of the corporate entity/entities?

No they cannot.

2.3 Can shareholders be disenfranchised?

Austrian law is aware of so-called "non-voting preference shares". Often the "non-voting preference shares" of family businesses are

issued upon founding of the company. These facilitate the company's entrance to the organised capital market without removing or diminishing the founder family's influence. Also, for obtaining shareholder's equity at a later period in the company's development, the issuance of preference shares is often helpful. Should the major shareholders of an almost publicly owned company not be able to or not want to back a necessary increase of capital and, thus, the majority threatens to slip away, the issuance of such shares can legally stipulate a virtual non-interference of the diversified holdings and the danger of undesirable acquisition of shares can be diminished.

The purchasers of non-voting preference shares' motive is usually due to the higher and more secured return in comparison to common shares. For this reason, the circle of purchasers is especially aimed at minor shareholders, investment funds, and other institutional investors.

2.4 Can shareholders seek enforcement action against members of the management body?

See question 2.1.

2.5 Are there any limitations on, and disclosures required, in relation to interests in securities held by shareholders in the corporate entity/entities?

See question 2.1.

2.6 What shareholder meetings are commonly held and what rights do shareholders have as regards them?

Stock corporations and SEs

Stock corporations and SEs must hold an annual shareholders' meeting within eight months after the end of the company's fiscal year. A general meeting must be convened at the latest on the 28th day before the ordinary general meeting, otherwise by the latest on the 21st day before the general meeting by an official announcement, unless the by-laws prescribe other longer deadlines. The announcement convening the general meeting and the information stipulated by the Companies Act must be made available on the company's website as of the 21st day prior to the general meeting (L-Provision 4, Code). The candidates for the supervisory board elections, including all declarations according to the Companies Act, must be disclosed by the company at the latest on the 5th working day prior to the general meeting on the website of the company; otherwise the persons concerned shall not be included in the elections (L-Provision 5, Code). The resolutions passed at the general meeting and the information required by the Companies Act shall be disclosed on the company's website at the latest on the 2nd working day after the general meeting (L-Provision 6, Code). The annual accounts must be presented and discussed (after they have been approved by the supervisory board).

Shareholder resolutions must be passed on:

- Distribution of profits and discharge of the board (if any).
- Approval of the managing and supervisory directors' business activities.
- Appointment of auditors.
- Appointment of supervisory directors (if necessary).
- Issues requiring shareholder approval (if any).

One or more shareholders holding at least 5% (or less if provided by the articles) of the issued share capital can require additional items to be added to a shareholders' meeting agenda or require a

shareholders' meeting to be called. If the management board does not convene the meeting, the shareholders can apply to a court for authority to convene it.

Private companies

Private companies must hold an annual shareholders' meeting to:

- Approve the annual accounts and financial statements.
- Decide on the distribution of profits and discharge of the board (if any).
- Approve management and supervisory board's business activities.
- Vote on issues requiring shareholder approval (if any).

One or more shareholders holding at least 10% of the issued share capital can require additional items to be added to an annual shareholders' meeting agenda or require that a shareholders' meeting be called. If the management board does not convene the meeting, the shareholders can convene it themselves (without court authorisation).

3 Management Body and Management

3.1 Who manages the corporate entity/entities and how?

- **Structure.** All companies must have a management board (*Vorstand* for stock corporations and two-tiered SEs, *Verwaltungsrat* for unitary SEs and *Geschäftsführung* for private companies).

Stock corporations must have a two-tiered structure consisting of a management board and a supervisory board (*Aufsichtsrat*) with supervisory directors. The supervisory board:

- appoints and dismisses the managing directors;
- supervises the management board; and
- approves important transactions.

A SE formed in Austria can have a one- or two-tiered board structure.

Private companies typically have a unitary board structure, but must establish a supervisory board if they reach a certain size. Private companies sometimes have an advisory board (*Beirat*), the responsibilities of which are set out in the articles.

Supervisory boards of companies governed by the Code with more than five shareholder-appointed or elected members must establish:

- a nomination committee to nominate new members of the management and a supervisory board, and to form a succession plan; and
- a compensation committee to make proposals regarding compensation for managing directors.

- **Management.** Companies are managed by the management board (see above: **Structure**). The company's board has ultimate responsibility for the management of the company. The management board is responsible for managing the company on a day-to-day basis. The scope of the management board's power of attorney cannot be limited.

- **Board members.** Managing directors are known as *Geschäftsführer* for private companies or *Vorstandsmitglieder* for stock corporations and two-tiered European companies.

- **Employees' representation.** Employees are entitled to representation on the supervisory board of companies with a works council. A works council is mandatory in companies with five employees or more.

For every two supervisory directors elected or appointed by

the shareholders, the works council can appoint one of its members. If the number elected or appointed by the shareholders is uneven, the works council can appoint an additional member.

- **Number of directors or members.** The number of managing directors is stated in the articles. The minimum is usually one. Banks and other related businesses must have at least two directors. There is no maximum number of directors.

The number of members of the supervisory board is defined in the articles of incorporation. The minimum is three (exclusive of employees' representatives). For stock corporations, the maximum number of supervisory directors that can be elected or appointed by the shareholders is 20 (excluding employee representatives appointed by the works council [see above: Employees' representation]).

For private companies, there is no maximum number of supervisory directors.

For companies governed by the Code, the maximum number of supervisory board members (excluding the employee's representatives) is ten (C-Provision 52, Code).

3.2 How are members of the management body appointed and removed?

Appointment of directors

Stock corporations and SEs

Managing directors of stock corporations and SEs are appointed by a simple majority of the votes cast by both (double majority):

- all the supervisory directors (including employee representatives [see question 3.1, Employees' representation]); and
- all the supervisory directors elected or appointed by the shareholders (that is, excluding employee representatives).

Supervisory directors of stock corporations and European companies are either:

- elected by shareholders at a shareholders' meeting (by a simple majority vote); or
- appointed by individual shareholders, holding registered shares with limited transferability, who have the right to appoint supervisory directors. The number of supervisory directors to be appointed cannot exceed one-third (listed companies) or one-half (non-listed companies) of the total number of all supervisory directors (excluding employee representatives).

Private companies

In private companies, managing directors and supervisory directors are elected by a simple majority vote at a shareholders' meeting. In addition, a shareholder can be appointed as a managing director by the articles (shareholding managing director).

Removal of directors

Stock corporations

A managing director can only be removed during her or his term of appointment if the supervisory board calls for the early resignation of the chairperson for material reasons (such as violation of duties, inability to perform their duties, or a vote of no confidence by the general meeting).

A managing director can challenge her or his removal in court, claiming lack of cause. Her or his removal remains valid until a decision in her or his favour is final and incontestable.

A managing director's service contract must be terminated separately from his removal.

Supervisory directors can be removed without cause at any time by a shareholders' resolution, with a 75% majority of the votes cast (unless the articles state otherwise).

SEs

A managing director can be removed during his term of appointment without cause by a 75% majority of shareholders' votes.

Private companies

Directors can be removed without cause at any time by a shareholders' resolution passed by (unless otherwise stated in the articles) a:

- Simple majority, for managing directors.
- 75% majority of votes cast, for supervisory directors.

The articles can state that shareholding managing directors appointed by the articles can only be removed with cause.

3.3 What are the main legislative, regulatory and other sources impacting on contracts and remuneration of members of the management body?

Determination of directors' remuneration

In stock corporations and two-tiered SEs, managing directors' remuneration (salary, profit sharing, travel allowances, insurance premiums, and other benefits) is determined by the supervisory board and must be reasonable in relation to the directors' duties and the company's financial situation. The variable remuneration components shall be linked, above all, to sustainable, long-term and multi-year performance criteria, and shall also include non-financial criteria and shall not entice persons to take unreasonable risks. For the variable remuneration components, measurable performance criteria shall be fixed in advance, as well as maximum limits for amounts or as a percentage of the fixed remuneration components. Precautions shall be taken to ensure that the company can reclaim variable remuneration components if it becomes clear that these were paid out only on the basis of obviously false data (C-Provision 27, Code). When concluding contracts with management board members, care shall be taken that severance payments in the case of premature termination of a contract with a management board member without a material breach shall not exceed more than two years' annual pay and that not more than the remaining term of the employment contract is remunerated. In the case of premature termination of a management contract for a material reason for which a management board is responsible, no severance payment shall be made. Any agreements reached on severance payments on the occasion of the premature termination of management board activities shall take the circumstances under which said management board member left the company as well as the economic situation of the company into consideration (C-Provision 27a, Code).

In private companies and unitary SEs, the shareholders at a shareholders' meeting determine the managing directors' remuneration.

Supervisory directors' remuneration can be determined by the articles or by shareholder resolution. Remuneration must be reasonable in relation to the supervisory directors' duties and the financial situation of the company.

Disclosure

In Code companies, the total remuneration of the management board for a business year must be reported in the notes to the financial statements (L-Provision 29, Code). In addition to the information required by law (L-Provision 29, Code), the Corporate Governance Report shall contain the following information: the principles applied by the company for granting the management

board variable remuneration, especially to which performance criteria the variable remuneration components are linked, pursuant to C-Provision 27, Code; the methods according to which the fulfilment of the performance criteria is determined; the maximum limits determined for the variable remuneration; the shares held in the own company and periods planned pursuant to C-Provision 28, Code; and, any major changes versus the previous year must be reported. Code companies also must disclose each director's fixed and variable remuneration separately in the annual Corporate Governance Report (C-Provision 31, Code).

Shareholder approval

The approval of shareholders in stock corporations is not required for the managing directors' remuneration.

3.4 What are the limitations on, and what disclosure is required in relation to, interests in securities held by members of the management body in the corporate entity/entities?

Directors are allowed, but not required, to own shares in the company.

In listed stock corporations and SEs, share option plans are common. The procedure for implementing a share option plan is regulated by law and requires supervisory board approval. Shareholders' approval is required for the company to obtain shares (for example, by a share capital increase or repurchasing shares in the market) for a share option plan.

Transactions by directors involving the company's shares are subject to restrictions and reporting requirements (see question 3.8).

If a stock option scheme is proposed in Code companies, the performance criteria must be set in advance and may include the performance of stock indices, share price targets or other suitable benchmarks. Retroactively changing performance goals (repricing) is to be avoided (C-Provision 28, Code). The number and distribution of the options granted, the exercise prices and the respective estimated values at the time of issue and upon exercise, must be reported in the annual report (L-Provision 29, Code).

3.5 What is the process for meetings of members of the management body?

Management board

The management board is a collective body, meaning that legal responsibility for governing the business of the company is borne equally by all members of the management board. Different areas of responsibility can be assigned and this is common practice. Unless the articles state otherwise, decisions are made by simple majority vote. If a chairperson is appointed to the management board, the chairperson shall have the casting vote in the event of a tie, unless a different procedure is set out in the articles. The management board is not legally required to hold formal board meetings and management issues are often dealt with informally.

The procedural rules for the management board are set out in the articles.

Supervisory board

The supervisory board must meet on a regular basis; at least four times a year. The materials and documents required for a supervisory board meeting are to be made available generally at least one week in advance. Decisions of the supervisory board are reached by a simple majority, unless the articles provide otherwise. Minutes must be taken of supervisory board meetings. Written resolutions passed by postal votes without a board meeting are only

valid if no board member objects to the procedure.

Further details for the quorum and board meeting conduct can be set out in the rules of procedure for the supervisory board.

In addition to quarterly meetings, Code companies should hold additional meetings whenever necessary. The number of meetings must be published in the Corporate Governance Report (C-Provision 36, Code).

3.6 What are the principal general legal duties and liabilities of members of the management body?

- **General duties.** A director must perform her or his duties with the diligence of a prudent businessperson. A managing director is liable for losses resulting from her or his failure to fulfil his duties, unless she or he can prove that she or he was sufficiently diligent. Examples of breaches of duties are:
 - repayment of share capital;
 - delayed application for starting insolvency proceedings;
 - severe breach of the articles; and
 - failure to obtain supervisory board approval.

There is no statutory limitation of liability. Private companies can restrict managing director's liability to a certain extent. Supervisory board approval does not release a managing director from liability.

- **Theft and fraud.** Theft and fraud are criminal offences and result in a director's personal liability.
- **Securities law.** Securities legislation provides numerous disclosure and insider trading provisions. If breached, a director can be personally liable (criminally and civilly).
- **Insolvency law.** Managing directors must file a petition of insolvency no later than 60 days from the company becoming insolvent (as defined in the Insolvency Act 1914). A managing director is personally liable to third party creditors for losses arising from late filing. On 1 July 2010 the Austrian Bankruptcy Reform entered into force. The reform facilitates compositions in bankruptcy proceedings.
- **Health and safety.** A managing director is responsible and liable for the company's compliance with health and safety, and environmental laws. He can delegate this responsibility, and liability, to an employee with sufficient authority.
- **Environment.** See above, Health and safety.
- **Anti-trust.** A managing director can be liable to the company or third parties for losses (such as fines imposed on the company by the authorities) caused by his breaches of anti-trust law.
- **Other.** A managing director is personally liable for tax and social security contributions that cannot be collected by the tax authorities or social security agency due to his negligence.

3.7 What are the main specific corporate governance responsibilities/functions of members of the management body?

Transactions between a company and its managing director must be at arm's length. Loans to managing directors require supervisory board approval. When dealing with a managing director, the supervisory board represents the company.

Contracts between the company and members of its supervisory board entitling them to more than minor consideration are subject to supervisory board approval. This also counts for contracts with companies in which a supervisory board member has a considerable

interest (L-Provision, 48, Code). These contracts must be published in the Corporate Governance Report (C-Provision 49, Code). The annual remuneration of the supervisory board directors must be published for each member separately in the Corporate Governance Report (C-Provision 51, Code).

A shareholding management board director in a single share company must record in writing all transactions between the company and her- or himself.

3.8 What public disclosures concerning management body practices are required?

Certain events (such as a change of directors or share capital, and corporate restructurings) must be published. Certain documents (such as the articles and annual reports) must be filed with the company register.

A listed company must promptly publish details of events occurring in its field of activity or business environment if they are likely to affect share prices significantly, unless non-publication can be justified in the interest of the company.

Disclosure requirements also apply for the repurchase of shares, takeovers and changes of voting interests.

Stock corporation shareholders can only request information about issues listed on the managing directors' agenda for a shareholders' meeting, and can inspect the annual report 14 days before an annual shareholders' meeting.

One or more private company shareholders can request information from the managing directors in a shareholders' meeting and can inspect the annual report 14 days before an annual shareholders' meeting. The articles can limit the right to request information if the company has a supervisory board.

3.9 Are indemnities, or insurance, permitted in relation to members of the management body and others?

Insurance against personal liability is permitted (but not for intentionally-caused losses) and is increasingly common. The company can and usually does pay the insurance premium, which is considered to be a fringe benefit.

4 Corporate Social Responsibility

4.1 What, if any, is the law, regulation and practice concerning corporate social responsibility?

Expenditures relating to social, environmental, and ethical issues must be explained in the notes to the annual accounts.

4.2 What, if any, is the role of employees in corporate governance?

See question 3.1.

5 Transparency

5.1 Who is responsible for disclosure and transparency?

Stock corporations and SEs

The management board must prepare annual accounts in compliance with bookkeeping standards, standards for valuing

assets, and accounting rules. The annual accounts consist of:

- A balance sheet.
- A profit and loss statement.
- A management report on the financial situation of the company.
- Notes to the accounts.

The annual accounts must be published and filed with the company register.

The supervisory board - in listed Code companies also the audit committee (or in one-tier European companies, the administrative board) - is responsible for the accuracy of the annual accounts and must review and approve them. It must propose a candidate to be the company's auditor, who is elected by the annual shareholders' meeting. An audit committee, if mandatory, must review any group accounts.

Private companies

Small private companies only need to file a shortened version of the annual accounts containing balance sheet details with the company register. A private company is small if it meets two of the following criteria:

- Its annual balance sheet total is no more than EUR 4.84 million (about US\$ 6.2 million).
- Its annual revenue is no more than EUR 9.68 million (about US\$ 12.4 million).
- It has a maximum of 50 employees on an annual average.

Other private companies must publish full annual accounts (see above, Stock corporations and SEs).

The annual accounts must be prepared by the management board, reviewed by the supervisory board (if any) and approved at an annual shareholders' meeting.

5.2 What corporate governance related disclosures are required?

Since 2004 the listed companies in the Prime Market of the Wiener Börse (Viennese Stock Exchange) must issue an annual declaration in their annual accounts (since 2010 in the Corporate Governance report) regarding the compliance or non-compliance with the Austrian Corporate Governance Code.

Starting with the Commercial Law Amendment Act 2008 (URÄG), all listed companies pursuant to Sec 243b Business Code (*Unternehmensgesetzbuch* – UBG) are obliged to compile a so-called Corporate Governance Report (L-Provision 60, Code), which provides for a declaration regarding any possible deviations of a recognised Corporate Governance Code.

5.3 What is the role of audit and auditors in such disclosures?

Role of auditors

Stock corporations and SEs

The company's annual accounts must be audited and approved by the auditor.

Private companies

The company's annual accounts must be audited, unless the company is small and not required to establish a supervisory board (see question 3.1).

Role of auditors in disclosures

The company must let an external institution regularly evaluate the compliance with the C- and L-Provisions of the Code and publicly give an account of this. As assistance for the voluntary external

evaluation, the Austrian Working Committee for Corporate Governance has developed a questionnaire, which is available at www.corporate-governance.at.

5.4 What corporate governance information should be published on websites?

The following information should be published on the website of the company:

- The invitation to the annual general meeting and the information required by the Stock Corporation Act must be made available on the website 21 days before the shareholders' meeting (L-Provision 4, Code).
- The company must be notified of candidates for the supervisory board election, including the statements pursuant to the Stock Corporation Act, on the company's website at the latest 5 days before the shareholders' meeting, otherwise the person may not be incorporated into the vote (L-Provision 5, Code).
- The general meeting's vote results, as well as information required by the Stock Corporation Act, must be published on the company's website 2 business days after the shareholders' meeting at the latest (L-Provision 6, Code).
- The Corporate Governance Report (C-Provision 61, Code).
- The current shareholders structure, current voting right changes, and the company's by-laws are published on the company's website (C-Provision 64, Code).
- An external communication that exceeds the legal minimum demands and, in particular, by using the company's website can cover the information requirements promptly and adequately. With this the company makes all new facts, including financial analysis and comparisons, which are available to all shareholders at the same time (C-Provision 67, Code).
- Annual financial reports, semi-annual financial reports, and all other interim reports (C-Provision 68, Code).
- Insider information (L-Provision 71, Code).
- Contact for investor relations (name and contact possibilities) (C-Provision 72, Code).
- A fiscal calendar with all relevant dates for investors and other stakeholders, e.g., publication of business reports and quarterly statements, general meetings, ex-dividend days, dividends pay days, and investor relations activities will be published on the corporation's website two months before the beginning of the new fiscal year at the latest (C-Provision 74, Code).
- Informational documents (presentations) concerning conference calls or similar informational meetings for analysts and investors and capital market relevant events, like general meetings are, as far as economically reasonable, and to be made available on the company's website as audio and/or video transmission (R-Provision 75, Code).
- Financial information regarding the company, which had been published in a different form (R-Provision 76, Code).

**Georg Schima**

Kunz Schima Wallentin Rechtsanwälte OG
Porzellangasse 4
A-1090 Wien
Austria

Tel: +43 1 313 74 0
Fax: +43 1 313 74 80
Email: georg.schima@ksw.at
URL: www.ksw.at

Georg Schima specialises in employment and labour law, banking, finance & capital markets, employment law aspects of corporate restructuring, privatisations, management employment contracts, directors' and officers' liability, acquisition and disposition of companies, commercial and corporate law, arbitration and corporate litigation.

In 1983, Georg Schima graduated from the University of Vienna (Doctor juris). In 1990, he passed the bar examination with distinction. Georg Schima graduated with a Master Degree of European and International Business Law in 2009 from the University St. Gallen. Since 1993, he has been a partner at the Vienna law firm Kunz Schima Wallentin and heads the firm's Labour and Employment Law Practice, which is one of the top employment law practices in Austria.

Georg Schima has written numerous well-known and respected publications. He is also in frequent demand as a speaker at professional training seminars on employment, labour, and corporate law and is an honorary professor for corporate law and labour and employment law at the Vienna University of Economics and Business Administration.

Georg Schima is a member of the executive committee of the Vienna Bar Association, Vienna Law Society, the Austrian Society for Labour and Social Security Law, the Working Group for Austrian Corporate Governance, and the European Employment Lawyers Association (EELA). He is also a supervisory board member at various companies.

**Natalie Seitz**

Kunz Schima Wallentin Rechtsanwälte OG
Porzellangasse 4
A-1090 Wien
Austria

Tel: +43 1 313 74 0
Fax: +43 1 313 74 80
Email: natalie.seitz@ksw.at
URL: www.ksw.at

Natalie Seitz specialises in employment and labour law, employment law aspects of corporate restructuring, management employment contracts, trusts and foundations, and internet law.

In 2003, Natalie Seitz graduated from the University of Vienna (Doctor juris). In 2005 she passed the bar examination. She joined Vienna law firm Kunz Schima Wallentin in 2004 and has been a junior partner since 2007.

Natalie Seitz has written publications on the subjects of employment and labour law and corporate law. She is also a lecturer at Fachhochschule Wiener Neustadt ("labour and social law", Course Programme).

Natalie Seitz is a member of Vienna Bar Association.



RECHTSANWÄLTE

Founded in 1990, Kunz Schima Wallentin today has an expert team of more than 50 people dedicated to offering the best in legal advice and representation. Serving the business community is KSW's main focus. In addition to national and international companies, we also advise private clients.

KSW lawyers are specialists in their fields, together making KSW excellently prepared to work on any business issue that you might face - with both juristic exactitude and practical understanding of the realities of international business. KSW also cooperates in global networks such as the global human resources lawyers' alliance *Ius Laboris*, and works closely with a number of select external legal and financial consultants on relevant special matters. Our unique advisory board adds yet more depth to the quality of our legal advice.

For a number of our focal expertises, we have established dedicated practice groups:

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| ■ Labour & employment | ■ Entertainment, sports & gaming |
| ■ Mergers & acquisitions | ■ Antitrust & competition law |
| ■ Banking, finance & capital markets | ■ Insolvency |
| ■ Corporate & commercial | ■ Estate & succession planning |
| ■ Real estate | ■ Healthcare, medical & pharma |
| ■ Intellectual property | ■ Arbitration |
| ■ IT Law | ■ Italian clients |