Joint Supervisory and Executive Board report on item 5 on the agenda

MAN SE intends to conclude the legal proceedings on the Ferrostaal/IPIC issue with the settlement agreement put to the vote under item 5 on the agenda.

Background: the ISAR compliance case

MAN SE was the holder of a D&O insurance policy comprised of an underlying policy in the amount of €25,000,000.00 and two surplus treaties in the amount of €35,000,000.00 and €90,000,000.00, respectively, from midday (12:00) on December 31, 2008, until midday (12:00) on December 31, 2009.

The 2014 Annual General Meeting approved a settlement agreement in order to resolve the ISAR compliance case. Under the terms of this agreement, Allianz Global Corporate & Specialty AG, AIG Europe Ltd., HDI Gerling Industrie Versicherung AG (now: HDI Global SE), CNA Insurance Company Limited, and Chubb Insurance Company of Europe S. E. as the D&O insurers participating in the underlying policy and the first surplus treaty were liable to pay an amount of €42,500,000.00 less any costs of asserting the claims (fees of insured persons' attorneys) and any deductible to be paid by the insured persons themselves as settlement for any loss or damage sustained by MAN SE as a result of or in connection with the ISAR compliance case ("**ISAR Coverage Settlement**").

Under section 2.7 of the ISAR Coverage Settlement, this compensation explicitly did not apply to "any breaches of duty of the insured persons and any consequent loss or damage to the insured companies of any kind as a result of or in connection with the setup and supervision of the Compliance organization at Ferrostaal or any influence exercised over the former and cases of suspected bribery or bribery at Ferrostaal or its subsidiaries and investees that this organization did not prevent, and/or any pecuniary losses incurred or still being incurred by MAN and/or MAN Ferrostaal Beteiligungs GmbH due to any other breaches of duty of any kind as a result of or in connection with (or as a consequence of any breaches of duty mentioned above) the contractual negotiations and the conclusion of the contract between MAN, MAN Ferrostaal Beteiligungs GmbH, and IPIC Ferrostaal Holdings GmbH & Co. KG, as well as said contract being rescinded" ("**Ferrostaal/IPIC Issue**").

Individual settlements were concluded with former members of the Executive Board of MAN SE Prof. Dr. Karlheinz Hornung, Håkan Samuelsson, and Anton Weinmann in addition to the ISAR Coverage Settlement and with the approval of the 2014 Annual General Meeting ("**ISAR Individual Settlements**"). Only the ISAR Individual Settlement concluded with Mr. Samuelsson contains a regulation on the Ferrostaal/IPIC Issue and, in this respect, stipulates in section 3.2 that "Mr. Samuelsson's liability for claims asserted by MAN as a result of or in connection with the Ferrostaal/IPIC issue […] [is] limited to the insurance sum of €107,500,000.00 remaining under the D&O insurance policy for the insurance period from December 31, 2008, to December 31, 2009. MAN is entitled to put forward any loss or damage in excess of €107,500,000.00 as justification for its claim." Furthermore, it was agreed in section 3.3 of the Individual Settlement concluded with Mr. Samuelsson that any claims of MAN SE against Mr. Samuelsson as a result of the Ferrostaal/IPIC Issue are to be enforced and processed only between MAN SE and the D&O insurers wherever possible. For this purpose, Mr. Samuelsson assigned any coverage claims he was entitled to assert against the D&O insurers to MAN SE.

The Ferrostaal/IPIC Issue

On December 23, 2008, MAN SE and MAN Ferrostaal Beteiligungs GmbH (a wholly owned subsidiary of MAN SE with which the latter merged in 2013) entered into a purchase agreement with IPIC Ferrostaal Holdings GmbH & Co. KG ("IPIC") designed to transfer all of the shares in Ferrostaal AG, on the basis of which MAN SE would have received a purchase price of €729,241,454.41 upon selling all of the Company's shares in Ferrostaal AG.

Following the transfer of some of the shares, IPIC refused to accept any more shares and requested that the purchase agreement be rescinded in its entirety. To substantiate its request, IPIC cited the discovery of serious compliance deficiencies and acts of corruption at Ferrostaal that remained unknown prior to the conclusion of the agreement, which ultimately resulted in multiple investigations by the public prosecution authorities and an enormous decrease in the price of Ferrostaal shares (in particular, as a result of administrative fines, tax arrears payments, damage to reputation, and costs of internal investigations).

Following time-consuming legal disputes that included arbitration proceedings on the rescission of the purchase agreement, on November 28, 2011, IPIC and MAN SE agreed on a settlement under which the sale of Ferrostaal was canceled and MAN SE was ordered to repay €350,000,000.00 of the purchase price of €454,521,073.00 that it had already received. Furthermore, the costs incurred by MAN SE as a result of obtaining legal advice and representation in connection with the arbitration proceedings and the conclusion of the settlement in the amount of €7,592,878.85 were to be borne by MAN SE itself. MAN SE sold all shares in (what then became known as) Ferrostaal AG to MPC Industries GmbH ("MPC") by means of a purchase agreement dated November 25/26, 2011, for which it received a purchase price of €5,000,000.00.

Calculation of loss or damage and claims for damages

Due to the unsuccessful sale of Ferrostaal AG to IPIC and the sale of the corresponding shares to MPC that followed, MAN SE sustained a loss that amounted to €465,759,634.64 according to most recent calculations of external lawyers commissioned to provide a legal assessment of the case. This amount comprises the additional profit of €457,065,498.50 under the purchase agreement with IPIC that was lost and the costs of legal disputes with IPIC, the sale of the corresponding shares to MPC, and the investigation of the IPIC issue, as well as the prosecution of Executive Board members responsible and D&O insurers, all of which were to be borne by MAN SE, in the amount of €8,694,136.14.

In view of the considerable loss amount, on September 26, 2014, the Supervisory Board of MAN SE adopted, at the external lawyers' recommendation, the resolution to assert a claim against Mr. Samuelsson on the grounds of a breach of the organizational and supervisory duties entrusted to him as a member of the Executive Board of MAN SE with respect to the loss sustained as a result of and in connection with the Ferrostaal/IPIC Issue. In a letter from his lawyers dated November 11, 2014, Mr. Samuelsson rejected the claim for damages asserted against him by the external lawyers of MAN SE on October 24, 2014.

Claims were not initially asserted against any other Executive Board members apart from Mr. Samuelsson. However, as Mr. Samuelsson, former Executive Board members Prof. Dr. Karlheinz Hornung and Dr. Matthias Mitscherlich waived any rights to object to the period of limitation of possible claims for damages by MAN SE as a result of the Ferrostaal/IPIC Issue in the period up to June 30, 2019, in each case. In the view of the external lawyers commissioned by MAN SE to investigate the case, no further claims for damages as a result of the Ferrostaal/IPIC Issue come into consideration against any other (former) members of the Executive Board of MAN SE due to the lack of evidence of breaches of duty.

Negotiations with the D&O insurers and conclusion of settlement

Mr. Samuelsson's rejection of the claim for damages asserted by MAN SE was followed by extensive negotiations with the D&O insurers. The latter eventually rejected any obligation to accept liability in a letter from their external lawyers in June 2016. To substantiate their decision, the D&O insurers mainly invoked a lack of a breach of duty on the part of Mr. Samuelsson, the fact that no indemnifiable loss was incurred by MAN SE (asserting, in particular, that the damage in question is so-called "consequential damage" and not indemnifiable), and the lack of coverage for a claim for damages under the D&O insurance policy.

After MAN SE had sent the D&O insurers a draft statement of claim on July 20, 2017, in September 2017 the D&O insurers signaled, for the first time, that they were prepared to enter into a settlement in an amount deemed appropriate by the external legal advisors of MAN SE. Following intense further negotiations, MAN SE eventually concluded a settlement with the D&O insurers participating in the first and second surplus treaty on November 9, 2018. The settlement has been put to the vote under item 5 on the agenda.

The settlement stipulates that the six D&O insurers involved are to pay €19,493,750.00 to MAN SE in total as single debtors. All claims of MAN SE and the other insured companies against the insured persons and all claims of MAN SE, the other insured companies, and the insured persons against the D&O insurers as a result of and in connection with the ISAR compliance case and the Ferrostaal/IPIC Issue, as well as any loss or damage in connection with the above, are deemed compensated for and settled herewith. Should insured persons and/or insured companies and/or other third parties assert further claims against the D&O insurers following the conclusion of the settlement, MAN SE shall generally be obliged to indemnify the insurers against said claims and any costs and expenses incurred as a result of the latter. The settlement also stipulates that the insurance sum under both surplus treaties of €107,500,000.00 that had remained following the ISAR settlement will have been drawn down in full upon its enforcement.

The settlement was subject to the condition precedent that it is approved by the Supervisory Board of MAN SE. This condition has now been fulfilled, with the Supervisory Board issuing its approval in a resolution dated November 22, 2018. The settlement is also still subject to the condition precedent that it is approved by the Annual General Meeting of MAN SE and that the minutes record no oral objection on the part of a minority whose shares make up ten percent of the Company's share capital in total.

Legal framework of the settlement

Pursuant to section 93 (4) sentence 3 of the *Aktiengesetz* (AktG — German Stock Corporation Act), MAN SE may only waive or settle claims for damages against (former) Executive Board members if the claim arose three or more years ago, the Annual General Meeting has approved this, and the minutes record no oral objection on the part of a minority whose shares make up at least ten percent of the share capital in total. The approval resolution of the Annual General Meeting requires a simple majority of all the votes cast. The three-year period began no later than on November 29, 2011, following the conclusion of the settlement regarding the rescission of the purchase agreement concerning the shares in Ferrostaal AG, which meant that it ended on November 28, 2014, at the latest.

The statutory limitations set out under section 93 (4) sentence 3 of the AktG apply to the settlement put to the vote under item 5 on the agenda because all claims of MAN SE and the other insured companies against the insured persons and thus also against (former) Executive Board members of MAN SE as a result of and in connection with the ISAR compliance case and the Ferrostaal/IPIC Issue are expected to be compensated for and settled upon the receipt of the full settlement amount.

Legal assessment of the settlement and overall assessment

According to the external lawyers commissioned to enforce any claims for damages against (former) Executive Board members of MAN SE as a result of the Ferrostaal/IPIC Issue, the conclusion of the settlement put to the vote under item 5 on the agenda presents no legal concerns, and that it is especially covered by the duty to exercise the care of a prudent manager of the Executive Board and Supervisory Board as outlined in sections 93 and 116 of the AktG. This assessment by the external lawyers is based on the belief that a predominantly successful outcome is only likely for the prosecution costs in the amount of around €9 million incurred by MAN SE, whereas the assertion of the claims for damages for the profit lost as a result of the failure of the purchase agreement with IPIC is considerably more likely to have an adverse outcome.

In light of these assessments, the Executive and Supervisory Boards of MAN SE have come to the conclusion that asserting the potential claims for damages as a result of the Ferrostaal/IPIC Issue against the former Executive Board members of MAN SE (and the D&O insurers) as possible adversaries before a court of law does not make good business sense. This is especially true since attempting to enforce the potential claims for damages by means of legal disputes would require costly court proceedings that are likely to involve several courts and take up several years. Moreover, said disputes would entail considerable costs and burdens for the Company and would likely erode a considerable portion of the assets (insurance benefits and private assets) available for claim settlement. This means that even if MAN SE were to obtain victory in the last instance, there is no guarantee that it would receive compensation for damages that is higher than what would be received if the settlement put to the vote under item 5 on the agenda were to be concluded. There are no considerations to the contrary with respect to the remaining coverage amount under the two surplus treaties being drawn down in full since no further claims are known that could be covered under this amount.

In light of the above, the Executive and Supervisory Boards of MAN SE believe that it is in the Company's predominant interest overall to conclude the legal processing of the Ferrostaal/IPIC Issue by means of the settlement put to the vote under item 5 on the agenda. The Executive and Supervisory Boards of MAN SE therefore propose that the Annual General Meeting approve the settlement with the D&O insurers regarding the Ferrostaal/IPIC Issue.

Total number of shares and voting rights at the time of notice of the Annual General Meeting

At the time of notice of the Annual General Meeting, the Company holds a share capital of €376,422,400, divided into 147,040,000 no-par value shares. Of the 147,040,000 no-par value shares, 140,974,350 are common shares and 6,065,650 are preferred shares. Each common share carries one vote. As defined by the Articles of Association, preferred shares carry attendance rights but no voting rights. The Company holds none of its own shares. Thus at the time of convening the Annual General Meeting, a total of 140,974,350 common shares carry voting rights.

Conditions for attending the Annual General Meeting and exercising voting rights

Participation in the Annual General Meeting in accordance with Article 15 of the Articles of Association and exercise of voting rights require shareholders to register with the Company by the end (midnight/24:00 hours) of May 15, 2019, at the latest as well as prove their ownership of Company shares.

Proof of ownership, which is generally issued by the custodian bank, must indicate that shares were in possession by the beginning (midnight/00:00 hours) of May 1, 2019 (record date). Participation in the Annual General Meeting and exercise of voting rights as a shareholder is only recognized by the Company if proof of the right to attend the Annual General Meeting or to exercise voting rights has been provided. This means that shareholders who have purchased their shares after the record date may not attend the Annual General Meeting, nor do they have any voting rights at the Annual General Meeting. The record date does not affect the saleability of shares. The Company still allows shareholders who sell their shares after the record date to attend the Annual General Meeting and — if they are common shareholders — to exercise their voting rights, provided that they have registered and presented proof of ownership by the deadline.