

## CONVENIENCE TRANSLATION

### Deutsche Börse AG

#### Declaration of Conformity December 2012

#### **Declaration of Conformity by the Executive and Supervisory Board of Deutsche Börse AG regarding the German Corporate Governance Code in accordance with section 161 of the German Stock Corporation Act**

Section 161 of the German Stock Corporation Act (AktG) requires the Executive Board and the Supervisory Board of a listed stock corporation to declare annually that the recommendations of the “Government Commission German Corporate Governance Code” published by the Federal Ministry of Justice in the official section of the Federal Gazette have been and are being met or, if not, which recommendations have not been or are not being applied and why not.

For the period since the last declaration of conformity dated 13 December 2011 and the inter year declaration of conformity dated 16 May 2012, the declaration of conformity refers to two different versions of the Code: Until 14 June 2012 the declaration set out below refers to the version as of 26 May 2010. Since 15 June 2012 the declaration refers to the requirements of the Code in its current version as of 15 May 2012, published in the Federal Gazette on 15 June 2012.

The Executive Board and the Supervisory Board of Deutsche Börse AG declare that the recommendations of the “Government Commission German Corporate Governance Code” have been and will be met with few deviations. The following applies to the deviations:

## **1. Deductible in the D&O policy for the Supervisory Board (no. 3.8 (3) of the Code)**

The Company has not followed the recommendation of agreeing a deductible in the D&O policy for the Supervisory Board pursuant to no. 3.8 (3) of the Code.

Furthermore, the Company will not follow this recommendation for the time being. Since a deductible has remained fairly unusual in other countries, there was and still is some concern that agreeing a deductible could impede the Company's ability to staff its Supervisory Board with prominent members of the community abroad who have broad entrepreneurial experience.

## **2. Agreement of severance payment caps when concluding Executive Board contracts and of change of control clauses (no. 4.2.3 (4) and (5) of the Code)**

### **2.1 Severance payment caps pursuant to no. 4.2.3 (4) of the Code**

All current service contracts with members of the Executive Board include Code compliant severance payment caps so that in this respect, the recommendation pursuant to no. 4.2.3 (4) of the Code has been and will be complied with. As in the past, however, the Supervisory Board still reserves the right to deviate from the recommendation pursuant to no. 4.2.3 (4) of the Code under certain circumstances in the future. The Supervisory Board is of the opinion that a deviation may become necessary in extraordinary cases.

### **2.2 Change-of-control-clauses in Executive Board contracts pursuant to no. 4.2.3 (5) of the Code**

The recommendation to limit severance payments in the event of a change-of-control pursuant to no. 4.2.3 (5) of the Code has not been and is still not completely complied with. The Supervisory Board has already resolved to implement severance payments in the event of a change-of-control, which are in compliance with no. 4.2.3 (5) of the Code, in the context of introducing a new remuneration system in 2010. Such Code-compliant provisions have already been included since September 2009 when appointing new members of the Executive Board and since 1 January 2010 in case of re-appointments. Individual change-of-control-clauses in all other service contracts with Executive Board members remain, however, unchanged until the end

of the current term of service. Thus, the implementation of Code compliant change-of-control-clauses has not yet been completed entirely which leads to the declared deviation.

### **3. Remuneration of the members of the Supervisory Board (no. 5.4.6 (2) of the Code)**

Following the proposal of the Executive Board and the Supervisory Board, the Annual General Meeting of Deutsche Börse AG resolved on 16 May 2012 to change the remuneration system of the members of the Supervisory Board to a purely fixed remuneration without any performance-related components and to amend the Articles of Incorporation accordingly. The Executive Board and the Supervisory Board are of the opinion that this kind of remuneration is more appropriate to fulfil the controlling function of the Supervisory Board independent from the Company's success.

Accordingly, the declaration of conformity had to be amended on 16 May 2012, as the then applicable German Corporate Governance Code (version as of 26 May 2010) in no. 5.4.6 (2) still recommended a performance-related compensation for members of the Supervisory Board. The deletion of this recommendation, which the Government Commission German Corporate Governance Code had already agreed, became applicable only after it had been published in the Federal Gazette on 15 June 2012.

The temporary deviation does no longer apply, because the current version of the German Corporate Governance Code does not recommend a performance-related remuneration in no. 5.4.6 (2) anymore.

Frankfurt/Main, 10 December 2012

The Executive Board

The Supervisory Board