

# INSIGHT

## CORPORATE GOVERNANCE



## GERMANY

**Essential:** Information, Analysis and Opinion for Investment Professionals, Advisers and Academics

### CONTENTS

02

#### COMPANIES

Compromise solution at VW  
 Buhlmann's Corner: Porsche,  
 the corporate-governance trailblazer  
 Block voting popular  
 DaimlerChrysler, Deutsche Bank  
 and the courts  
 Utilities under suspicion  
 Falling D & O premiums

07

#### FINANCIAL INVESTORS

A warning from a private-equity insider  
 Bankers urge regulation  
 Apax and Lock-up  
 Good IPO prospects for 2006

09

#### POLITICS

Expanded good-conduct rules for funds  
 Dietmar Hexel: "The Supervisory Board  
 is not a seminary for priests"  
 Lower disclosure thresholds planned  
 Family firms want to influence IFRS

13

#### PEOPLE

Thomas Mirow succeeds  
 Volker Halsch at Telekom  
 Eckhard Cordes goes to top at Metro  
 New faces on Rhön-Klinikum  
 Supervisory Board  
 Wendelin Wiedeking moves on  
 to VW Supervisory Board

15

#### CAMPUS

KPMG and PwC dominant  
 Stefan Simon: New ground rules  
 for shareholders in the EU

17

#### CAPITAL NEWS

Holdings: Buying & Selling in January  
 Insight shareholder structures on DAX30,  
 MDAX and TECDAX 30  
 Insight Shareholder ID: Porsche

35

#### INDEX OF COMPANIES INDEX OF PERSONS

## COMPANIES



## Compromise solution at VW

The two major Volkswagen shareholders, Porsche and the State of Lower Saxony, have come to agreement on the disputed question of the membership of the Supervisory Board. Corporate-governance experts had criticized the dual role of Ferdinand Piëch as VW Supervisory Board chair and major shareholder in Porsche. Corporate-governance expert and VW Supervisory Board member Gerhard Cromme announced during the dispute that he was no longer available for re-election. In spring 2007 Piëch will now be resigning. Additionally, a special committee of the Supervisory Board is to be set up, to monitor the cooperation between VW and Porsche. Porsche CEO Wendelin Wiedeking has since 25 January, by court appointment, been a member of the Supervisory Board of car manufacturer VW. In May Porsche CFO Holger P. Härter is also to obtain a seat on the supervisory body, as is Jürgen Großmann, CEO of Georgsmarienhütte and also being talked about as a possible successor to Piëch. The Georgsmarienhütte group is a VW supplier. VW Supervisory Board member and premier of Lower Saxony Christian Wulff justifies his proposal particularly on the ground that Großmann wants to “keep jobs in Germany”. Cromme and Klaus Liesen are leaving the Supervisory Board. Wiedeking is taking up Lord David Simon of Highbury’s seat. During the search for his successor, Siemens Supervisory Board chair Heinrich von Pierer already stated he was not available for the post; fund company Tweedy Browne had come out openly in favour of von Pierer. For the post of Supervisory Board chair, a “neutral person” ought to be found.

### VW gets Ombudsman system



The auto group has set up a group-wide ombudsman system in response to the VW affair.

Lawyers Rainer Buchert and Thomas Rohrbach are to accept strictly confidential information on corruption situations and pass it on to the firm. The indications will then be checked by an internal investigation group. Buchert is a specialist in the areas of economic criminality and corruption prevention, and Rohrbach in labour and taxation law.

## BUHLMANN'S CORNER

## Porsche, the steamroller of German corporate governance

In its handling of conflicts of interest and of market-wide accepted corporate governance, Porsche is behaving like a steamroller, flattening everything in its path. Even when they drew up their first published invitation, they forgot that Porsche AG with its nonvoting preference shareholders is also a group. The invitations had to be recalled.

CEO Wendelin Wiedeking, still a member of the Cromme Commission, even manages to get representatives of shareholder association Deutsche Schutzvereinigung für Wertpapierbesitz (DSW) to call the limitation of shareholder rights under the UMAG "OK" and describe the refusal of disclosure of individual executive remuneration as "not tragic". And even the dividend quota of 11.1 percent, rejected by the ISS (Institutional Shareholder Service), is termed by the DSW "a little thin". Again, investor association SdK (Schutzgemeinschaft der Kapitalanleger) forgot to propose its formally announced counter-motions – perhaps it had realized in the meantime that in the case of nonvoting preference shares the announcement would inevitably remain platonic. The long-needed subordinate-status report had admittedly, for the first time, been drawn up – but kept secret. Other required disclosures, for instance under §285(9)b HGB, were not presented either in the business report or at the AGM.

The Porsche board want to make us believe they are speculating on the end to the VW special laws the EU is pushing for, and have to protect VW against "investors from San Diego". If that's really true, then they ought to collect the VW bonus for the "white knight" openly, instead of charging it under cover – and paying tax on it as "undisclosed profit distribution" into the bargain.



Hans-Martin Buhlmann is the founder of VIP Vereinigung Institutionelle Privatanleger e.V. ([www.vip-cg.com](http://www.vip-cg.com)), a proxy voting agency

According to Wiedeking, the two car manufacturers have less than 2.8 percent of turnover in common. Nonetheless, dividend yields are to be tripled through industrial synergies, and Porsche's existence guaranteed through the 22 percent holding in VW. The conclusion is that in order to guarantee 100 percent of its activities Porsche had to invest 33 times 3 billion euros, so that its 7 billion of turnover could be "existentially guaranteed" – an astounding amount of tied-up capital.

Who is the unequal treatment of shareholders (§ 53 a AktG) and all the abuses, conflicts of interest and non-transparency supposed to benefit, if not the major shareholder, Porsche/Piëch? Will VW soon no longer be offering any quarterly reports, and be driven off the index? It is totally unbelievable that there is "nothing in writing" about the agreements between shareholders Lower Saxony and Porsche, and that apart from the document on "composition of Supervisory Board and committees" no understanding

has been reached. "There is no undertaking on voting behaviour at the next VW AGM," "there is no understanding to be implemented after 3 June 2006," says the Supervisory Board chair in reply to questions from VIP. It would be a good thing, then, if the joint action, the "acting in concert", were to be followed by a takeover offer to all shareholders. After all, shareholders Porsche and Lower Saxony have been planning and conferring together about VW since 20 January. Both shareholders are strong enough for the financing. Then VW would become either a State concern or a family firm.

The only response at the AGM to the innumerable points of criticism was silent, friendly grinning. The sole promise, to put the Porsche AG charter up on the home page, is too thin for that.

## Block voting as an expedient

Continental, SAP and VW insist on block voting in elections to the Supervisory Board, thereby ignoring recommendations of the Corporate Governance Code. The Code recommends

individual voting.



Professor Theodor Baums finds the three DAX30 companies' procedure "downright unsporting". VW accepts almost all the Code rules (including transparency

of executive compensation), but not separate election of new Supervisory Board members. On 3 May VW's next AGM is to be held. SAP justifies block voting on the ground that it is usual in practice and has proved itself in terms of speedy proceedings at AGMs. Continental and VW do not explain their decision. Conti and SAP additionally reject the idea of giving up the controversial automatic move of former executives on to the Supervisory Board. The Code provides for the move as an exception that must be justified. Automotive supplier Continental does not justify its non-compliance, while software group SAP states that it cannot rule out moves from management board to Supervisory Board in future too. The decision on membership of the Supervisory Board should be guided solely by the specific qualifications of the persons up for election.

## Infineon threatened by shareholder suits ...

Shareholder representatives are testing legal steps against chip manufacturer Infineon. The basis is Infineon's refusal to let shareholders vote on the planned new strategic course (hiving off the memory-chip business) at the AGM. "Infineon's procedure is questionable," criticizes investor association Deutsche Schutzvereinigung für Wertpapierbesitz (DSW). Such an important decision about the company's future ought not to be taken by management and supervisory boards over the heads of shareholders. DSW, together with similar association Schutzgemeinschaft der Kapitalanleger (SdK), are exploring legal measures against the group. Infineon points to the outcome of a test of this question by a law firm. It came to the conclusion that the group was not obliged to have the split formally authorized by the AGM.

Professor Andreas Cahn of the Institute for Law and Finance (ILF) of the Goethe-Universität Frankfurt says that while he sees a strong trend in German jurisprudence to confine AGM competence for restructurings to exceptional cases, the most recent judgments of the Federal High Court of Justice (BGH) do not permit any unambiguous conclusions to be drawn for the Infineon case. Where the borderline lies is still not definitively clarified.

## ... and an executive is refused discharge

The former Chief Operating Officer of chip manufacturer Infineon, Andreas von Zitzewitz, will not be given discharge at the AGM on 16 February, on a motion from the Supervisory Board and management board. Discharge is to be postponed "until adequate information for a balanced decision is available". Von Zitzewitz resigned in Summer 2005, after suspicions arose that he had taken money to arrange orders.



## DWS wants "cell division" at Siemens

Deutsche Bank investment subsidiary DWS is calling for electronics group Siemens to be split. "We suggest a division into its components, like a dividing cell," said DWS fund manager Henning Gebhardt at the AGM. Siemens should, on the model of HVB and Bayer, concentrate on a few core areas; the remaining businesses should be spun off. That would finally enable Siemens to earn margins approaching the level of its competitors. Siemens CEO Klaus Kleinfeld rejects a split, with the argument that Siemens is worth more as a whole than the sum of its parts.

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## No stay of Mannesmann proceedings

The accused in the Mannesmann trial have to come back to court. Düsseldorf public prosecutors are not contemplating a stay of the Mannesmann trial for a large fine. "There are no such ideas at the public prosecutors' office," said the office, denying a newspaper report to that effect. Not least because of the clear grounds for the appeal judgment by the Federal High Court of Justice (BGH) in Karlsruhe, calling for resumption of proceedings, there was no basis for that. The BGH had at the end of December totally quashed the acquittal of Deutsche Bank board spokesman Josef Ackermann and the other five accused in the proceedings, and referred the case back to the Düsseldorf regional court. The trial is to reopen before the Tenth Division of the Court there this year.

## Deutsche Bank and Breuer liable to pay damages

Following a decision of the Federal High Court of Justice (BGH), the Deutsche Bank and its Supervisory Board chair Rolf-E. Breuer are in principle liable for damages in the Kirch bankruptcy case; at the oral proceedings in early December the judges had left some doubt as to whether Breuer was personally liable too. Separate proceedings will decide whether and how much damages should be paid to media magnate Leo Kirch's Printbeteiligungs GmbH. Kirch had sued Breuer because of statements about his creditworthiness. Liability for the collapse of the Kirch Group was rejected by the court, since the Deutsche Bank had only concluded a loan agreement with Printbeteiligungs GmbH.

## DaimlerChrysler downsizes board

Acting CEO since 1 January of auto group DaimlerChrysler, **Dieter Zetsche**, is implementing a new leadership model. Management functions are being central-



ized. Zetsche keeps his dual role as CEO and head of the Mercedes Car Group. Board of Management (BoM) member Bodo Uebber also holds twofold responsibility, for Finance and Controlling and for DaimlerChrysler Financial Services.

Rüdiger Grube is responsible on the BoM for Corporate Development (including Information Technology, IT) and DaimlerChrysler's participation in EADS (European Aeronautic Defence and Space company). The number of BoM members is to be kept to nine (twelve the previous year). In total worldwide, Zetsche wants to eliminate one in five administrative employees and one in three managers by 2008.

## Utilities under suspicion

Public prosecutors are investigating E.ON subsidiary E.ON Ruhrgas on initial suspicions of granting of undue advantages by E.ON Ruhrgas and acceptance of benefits by Supervisory Board members of certain municipal gas providers. E.ON Ruhrgas is alleged in a newspaper report to have paid for pleasure trips for over 100 town councillors and other local politicians. So far there are no indications of reciprocal favours such as efforts by the local politicians in favour of supply contacts for E.ON. At Thyssengas, operated by RWE-Energy, public prosecutors had the premises searched last year. Thyssengas too is alleged to have funded low-cost trips with gas-related themes for Supervisory Board members of public utilities. According to a report in "Der Spiegel," almost 200 municipal politicians, for instance on Supervisory Boards of public utilities, had had trips paid for. RWE refers to the new conduct code, binding on all subsidiaries. E.ON-Ruhrgas now wishes to tighten up the rules.



## Court postlude to Schrempp's resignation ...

Former DaimlerChrysler shareholders have sued the car group for compensation for damages because of forgone exchange profits. They accuse DaimlerChrysler of having informed the public too late of ex-CEO Jürgen Schrempp's resignation. The resignation announcement brought a share-price rise of up to 10 percent. The law firms representing the plaintiffs, Rotter and CLLB, are aiming to create precedents, fundamentally clarifying various legal questions, for instance whether a plaintiff has to show individual causality if he wishes to claim damages for share-price differences. The plaintiffs refer inter alia to investigations by stock-exchange supervisory authority BaFin (Bundesanstalt für Finanzdienstleistungsaufsicht) and the public prosecution service. BaFin is investigating suspicions of insider trading and looking into infringement of the ad-hoc disclosure provisions.

Investigations are under way against DaimlerChrysler Supervisory Board chair Hilmar Kopper, for infringing insider regulations. Kopper is alleged to have informed Deutsche Bank CEO Josef Ackermann in advance about Schrempp's resignation, thus improperly passing on insider information. Kopper denies breaking the law.

## ... and suspension of DaimlerChrysler managers

The car group is suspending nine managers being investigated on suspicion of corruption. The DaimlerChrysler employees are alleged in a "Der Spiegel" report to have paid bribes to be able to deliver trucks to Iraq under the "Oil for Food" programme. A UN Special commission and US stock-exchange regulators are investigating DaimlerChrysler. The US Justice Department is also investigating the car manufacturer, because top managers allegedly paid bribes in more than a dozen countries. These investigations go back to statements by a former employee of the group. He claimed he had been dismissed for having complained internally about the bribe payments.



## BMW affair expands

In the corruption case about alleged bribes amounting to millions, public prosecutors are investigating three now-dismissed employees of car group BMW. Among them, according to a "Der Spiegel" report, is a former purchasing manager, allegedly bribed by several suppliers to the tune of at least a million dollars.

## Falling D & O premiums

Premiums for Directors and Officers insurance are falling. This is the finding of a survey of 1,500 companies by the "Handelsblatt". At a third of companies premiums for managers' liability insurance fell last year by up to 50 percent, at most of them they held steady, and they rose at only 10 percent. Behind this, says management consultant Michael Hendricks, lies companies' growing toughness in negotiations and the competitive struggle among insurers. On the hit parade of favourite companies, AIG displaced Allianz from the top spot, down to third; in second place is Chubb. Only a fifth of those surveyed had to put up with new exclusions of benefits; the previous year it was one in two. The number of rejections by insurers is down from 23 to 5 percent. At the same time, the number of companies taking on additional cover on top of D & O insurance is rising. One in ten of companies surveyed concludes special legal-costs insurance, for protection against their own insurer; on indications from Hendricks, the insurers refuse the cover in one case out of two, with "often preposterous arguments and mostly wrongly". One firm in three opts additionally for manager legal-costs insurance, to cover at least lawyer and expertise bills in connection with damage suits.

## FINANCIAL INVESTORS

## A warning from their own ranks

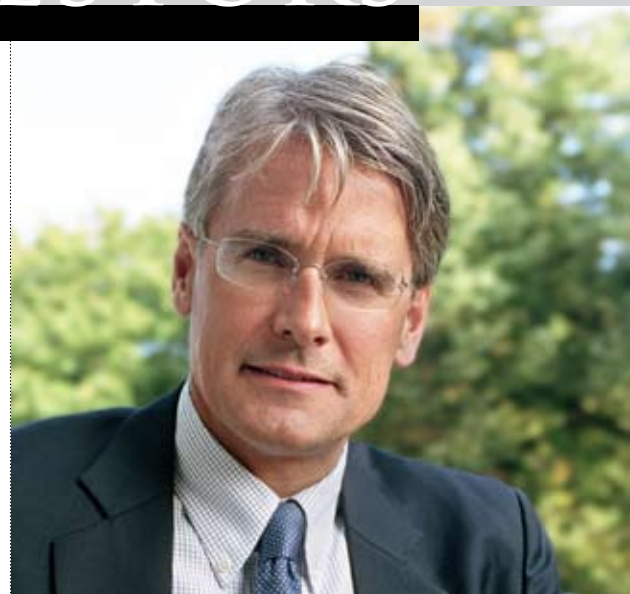
Former Managing Director of private-equity firm Carlyle and today of investment company Nordwind Capital Hans Albrecht criticizes the “totally exaggerated prices” that investment companies pay for firms. The very low interest rates had induced investment companies to finance takeovers increasingly through bank loans, which were then loaded on to the companies taken over. That was like “running a fitness course in a lead waistcoat”. If interest rates rose again, that could put those companies in a difficult position. Even for established private-equity houses, this development was no longer right, feels Albrecht. Increasingly often, they prefer to withdraw their own capital from the company again shortly after the purchase, through dividend payments. This means their commitment is finished even before selling it on.

## Bankers urge Hedge Funds regulation



Central bankers and bankers generally have again called for more transparency and regulation for hedge funds. “It is absurd that we put stricter controls on any savings bank, while about hedge funds we know nothing more than the Manhattan phonebook can tell us,” criticizes **Klaus-Peter Müller**, President of the Association of German Banks (BdB).

Bundesbank Vice-President Jürgen Stark stresses the risks to the international financial system from new investment instruments like hedge funds. He calls for international ground rules. Hectic technical and economic development and globalization had led to new financial instruments that could because of their huge transaction volumes bring systemic risks. But the “real acid test,” say under poor economic conditions, was yet to come. While hedge funds did increase the efficiency of the markets, too little was known about their transactions and the risks possibly associated with them. Stark called for more transparency, so as to be able to assess the risk position better. It was problematic that some hedge funds had their headquarters in so-called offshore centres. That meant there was hardly any prospect of regulating these funds.



## Raider Gardell warns the exchanges

Swedish raider **Christer Gardell** predicts massive loss of importance for Europe’s stock exchanges. “The attractive deals are increasingly happening between private-equity companies. If this trend is not reversed, the exchanges are threatened,” he warns. Gardell represents North European investment company Cevian Capital and is a confidant of major US investor Carl Icahn. There was a danger that in future only shares of second-rank companies would be traded. Private-equity companies would take the attractive companies with high cash flow off the exchange and then negotiate among themselves. “On the exchanges there will then be mainly the riskier companies, with ideas but not much cash flow.” Gardell does not rule out investments in Germany, but regards them as less likely. “Small shareholders usually have relatively little influence there, even if the Deutsche Börse case showed the opposite. Nonetheless, in Germany it is as a rule harder to change management or Supervisory Board.”

## Apax and the Lock-up Period at Q-Cells

Before the expiry of the lock-up period private-equity company Apax and other old shareholders (including Supervisory Board chair Thomas van Aubel) had sold 4.8 million shares in the solar-cell manufacturer. Apax's holding fell from 11.67 to around 2 percent. The consortium leaders of the IPO, Dresdner Kleinwort Wasserstein and Citigroup, agreed, according to the company's indications, to break through the lock-up period (six months). The prospectus is claimed to have explicitly allowed the possibility of early sale. Q-Cells CFO Hartmut Schüning justifies ending the lock-up period by the high demand for the shares. He does not expect further sales within the lock-up period.

## Florian Homm attacks Postbank

Hedge-fund manager Florian Homm is checking out a suit against Postbank. The bank in his view promoted the planned takeover of housing finance company BHW to shareholders with out-of-date information on Postbank's holdings in BHW. Homm suspects that Postbank held down the quotation so as to make a smaller pay-off to shareholders; Postbank owns some 91 percent of BHW shares. The bank rejects the accusation. According to press reports, Homm wants to get at least €16.50 – 17.50 per BHW share. Postbank is offering shareholders €15.04 per share, the statutorily prescribed minimum amount.



## Good IPO prospects for 2006

This year will in the view of private-equity funds be a good one for IPOs in Germany. According to a survey by the "Börsen-Zeitung," the twelve private-equity firms surveyed (from Advent to TPG) are confident that the exit channel to the exchange will remain open in the new year too. Many are even expecting clear invigoration of IPO activities; only about biggish transactions can skeptical voices be heard. In 2005 private-equity houses brought the highest-volume IPOs, with Premiere (Permira) and MTU Aero Engines (KKR).

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## Heavy criticism of codetermination



Participants in the Bitburg talks have heavily criticized codetermination. In particular, **Manfred Gentz**, for 20 years CFO at car manufacturer DaimlerChrysler, criticized in very plain words the existing mix of codetermination at company and factory level. For instance, agreement by employee representatives on the supervisory body to investments abroad was made dependent on concessions such as job guarantees. However, Gentz also criticized the lower readiness for conflict on the employers' side. All too often, it led to almost anticipatory knuckling under to inappropriate concessions, or tempted people into corrupting measures on both sides. Executives were ultimately dependent on the employee representatives on the Supervisory Board, because of the necessary two-thirds majority for appointing directors or extending their contracts. Gentz called for abolition of employee participation, or stopping letting employees decide about the appointment or dismissal of executives.

### Comeback for votes by deposited shares



Savings banks and regional banks want to reactivate the proxy vote for deposited shares. They hope by so doing to counteract falling attendances at AGMs; they reject the incentive of a bonus dividend on grounds of too high administrative costs. However, the public-banking sector is attaching conditions to its resumption of proxy voting for customers, which they – by contrast with private banks – had largely suspended since 2003. Thus, for cost reasons, the deposited-share or power-of-attorney vote would have to be deregulated. The bureaucratic cost of the statutory regulatory framework is seen as too high. In particular, the obligation to offer deposit customers proposed instructions on individual agenda items should be dropped.

### Expanded good-conduct rules for funds

The German investment industry has revised its good-conduct rules. The BVI Code now contains specific conduct rules for management and for the Supervisory Board. It is, for instance, recommended that a Supervisory Board member independent of the owners, of companies connected with them and of the investment company's business partners be appointed. An account should be given to investors of the fund company's voting policy at AGMs. However, there is no recommendation in the code to disclose voting behaviour.

➔ [www.bvi.de](http://www.bvi.de)





Dietmar Hexel is a member of the executive of the DGB [German Federation of Labour]

## INTERVIEW

## “Not a seminary for priests”

**Mr Hexel, what priority does Corporate Governance have for the trade unions?**

**HEXEL:** A very high one. For it is only sound conduct of business that enables an enterprise to exercise its responsibility to shareholders, to employees and to society as a whole. To be sure, the numbers of those among managers who are no longer conscious of this responsibility and now feel committed only to maximizing shareholder value or to financial investors' yield objectives are increasing.

**... or are Works Councils too much of a first love for them?**

**HEXEL:** Oh, you might almost think some people find these lapses by individuals just fine, so as to use them as arguments against codetermination. There will always be individual misdemeanours, on both sides. I would recall only that the VW affair primarily also concerns managers in-house. It was sparked off by Škoda managers. I would at any rate warn against calling a successful model like codetermination, which is part of our national identity, into question because of isolated shortcomings.

**But that sort of aberration is a pointer to structural deficiencies, to such things as cronyism. Professor Baums raised the reservation that there might be a connection with the parity-based composition of the Supervisory Board, since for elections the Management Board is dependent on a two-thirds majority.**

**HEXEL:** One argument against the accusation of cronyism is that after all there are more than enough decisions we don't fancy at all. The two-thirds majority for appointment is a good thing, because managing an undertaking needs a sure, unambiguous basis of trust. I would even go so far as to predict that in a – still – distant future even the workforce will have a direct say in the appointment of manage-

ment. Managing a company rests upon the presence of trust among owner, management and workforce. .

**Even now financial investors are having an increasingly stronger say with management people.**

**HEXEL:** Yes, and individual managers are certainly coming under pressure, when it comes to a conflict between the necessary real company capital and speculative finance capital. Good managers ensure there is enough liquidity available in the company for recourse to finance capital not to be necessary. Moreover, managers aren't just the ones being driven. A management board can decide, with the support of its Supervisory Board, that a net yield of, say, 2.3 per cent above the ECB prime rate is adequate. If a company has to score unrealistic double-digit net yields every year, then in the long term the substance will be destroyed, because, for instance, not enough is invested in research and development or in skills.

**Some managers earn quite a lot when a financial investor comes in. Why does the Supervisory Board not react?**

**HEXEL:** The Supervisory Board has to deal critically with the proposals on the table at the time, and must also stay resolute. We have to make deals like that transparent. And we have to put a stop to this enrichment at the expense of the substance of the company. This is the job of the Supervisory Board. And if it can't be put through internally, we have to make it public.

**Why do employee representatives on Supervisory Boards support the common move from the chair of the management board to that of the Supervisory Board?**

**HEXEL:** We've long been criticizing an automatic move.

**But how do the votes go?**

>>

## &gt;&gt; INTERVIEW

**HEXEL:** You know there's a confidentiality obligation.

**What if we didn't have one? You don't vote against sometimes exorbitant management compensation either.**

**HEXEL:** We do, but there are deserters, and you can find them especially on the DAX. For three years now we've been carrying on a critical debate about this. But you can take it that in future the employee representatives on these Supervisory Boards are no longer going to agree to exorbitant increases. There are orders of magnitude that blue- and white-collar workers in companies can no longer accept. For everybody knows that even a super-manager can't produce so much extra benefit. The only thing it's about then is status and personal enrichment.

**What do you see as the ideal size for a Supervisory Board?**

**HEXEL:** First of all, let me get rid of one false notion. Only 20 per cent of all Supervisory Boards have 20 seats, and only 80 per cent have 12 or 16. Moreover, large groups can work together well and efficiently: just think of the BDI [Confederation of German Industry] board, with 52 members. But joking apart, there is no scientifically or empirically established ideal size for a body – even where the members have opposing interests. The decisive thing is leadership and the organization of tasks. Additionally, the number of Supervisory Board members need not necessarily get smaller if parity-based codetermination does not apply. In an undertaking like Deutsche Börse AG, there are 14 representatives of the capital side and 7 of the employee side on the Supervisory Board. The capital side itself presses for size when it wants to take people and views into account.

**What more can union officials contribute on the Super-**

**visory Board than Works Council members, with an eye to operational requirements?**

**HEXEL:** Their differing experience makes them both needed.

**Despite the right of delegation?**

**HEXEL:** There is no right of delegation. That's just a piece of propaganda lies. We have a right of proposal, and that's been confirmed by the BGH at top judicial level. The Supervisory Board members are chosen by the workforce.

**The employee side is regarded as highly tied to interests and focused on retaining jobs. That is seen as why restructuring measures cannot be put through quickly enough.**

**HEXEL:** The facts speak against that - and everybody knows that, too. For instance, the reorganization of the car industry couldn't have succeeded if employee representatives on the Supervisory Board hadn't pulled their weight on the necessary restructurings. Recently in some firms the conflict has been sharpening, though, because some managers believe in pure shareholder value and thus risk destroying the companies, as we are seeing at Conti and AEG. If it's a matter of enhancing pure shareholder value, then we'll not go along. Moreover, the Supervisory Board is obviously a body on which interests and power clash with each other. As a Supervisory Board member, you can't be neutral. After all, the capital representatives are equally tied to interests, or do you seriously believe that a banker on the Supervisory Board isn't thinking about his credit lines? Both interests have to be balanced out, so that at the end of the day there'll be a solution where neither side, and especially not the firm, goes to the wall. There's no point pretending the Supervisory Board's some sort of seminary for priests. ■

## Lower disclosure threshold

The German government is planning in connection with transposition of the EU Transparency Directive **to lower the threshold for disclosing participations from 5 to 3 percent** as from 2007. Additionally, further disclosure thresholds (15, 20 and 30 per cent) are to be brought in. To date, investors had to notify acquisition of holdings of 5, 10, 25, 50 and 75 percent. The intention is to enhance transparency and protection from financial investors. Shareholder representatives are additionally calling for disclosure obligations like Britain's. There, above a holding of 3 percent investors have to notify the supervisory authority of the purchase of each additional percentage point.



## FDP goes to court against conduct rules for politicians

The FDP is invoking the Constitutional Court in Karlsruhe. It is asked to rule on the constitutionality of the disclosure of lawmakers' additional incomes. The party bases its constitutional complaint on "unjustified snooping", infringing personality rights. Additionally, the self-employed are allegedly discriminated against. By 31 March, Bundestag members must publish their additional income in the Official Handbook and on the Bundestag's Internet pages.

## Family firms want to influence the IFRS

Twelve leading German family firms have formed an association, the "Vereinigung zur Mitwirkung an der Entwicklung eines Bilanzrechts für Familiengesellschaften [Association for Collaboration in Developing Accounting Law for Family Companies]". They want to influence development of the accounting guidelines IFRS, since they see their interests as inadequately represented by the International Accounting Standards Board (IASB) in London. The occasion for setting up the organization is mainly Standard IAS 32. They see it as "the death blow for the GmbH & Co. KG". Among the founder members are such firms as Bertelsmann, Dr. August Oetker KG, Merck KGaA and Freudenberg & Co. KG.

## Ethics association calls for ethics committees

The Ethikverband der Deutschen Wirtschaft [Ethics Association of German Trade and Industry] is calling for ethics committees for each industry and the public sector. The scandals of recent months, like VW, DaimlerChrysler and E.ON Ruhrgas, are seen as showing that the much-praised management principles, the Corporate Governance Code and companies' ethics codes, are "not worth the paper they're printed on." The ethics committees should be made up of ethics officers of various companies

in an industry and various representatives of the public sector. The committee would ban ethically reprehensible actions and be able to publish its findings.

➔ [www.ethikverband.de](http://www.ethikverband.de)



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## PEOPLE

## Management and Supervisory Board changes in DAX30, MDAX and TEC30



Erich Stamminger

Sports-goods manufacturer **Adidas** is redistributing board responsibilities following its takeover of US competitor Reebok. CEO and Chairman Herbert Hainer is handing charge of the main brand, Adidas, to **Erich Stamminger**, who becomes President and CEO of the Adidas brand; Stamminger is responsible on the board for Marketing and the America Region. Hainer is to concentrate on leadership and integration of the enlarged group.

On 1 April **Bernd Knobloch**, head of Eurohypo, which has been taken over by **Commerzbank**, joins the Commerzbank management board.



Thomas Mirow

**Rudolf Ferscha** left the board of **Deutsche Börse** AG on 31 December and has given up his posts as CEO of the three Eurex companies and management chair of FWB, the Frankfurt Stock Exchange. CEO Reto Francioni has taken over his functions. Ferscha entered the board in 2000 and was responsible for Derivatives Markets and the Spot Market.

Dr. **Thomas Mirow** has since 16 January been a Supervisory Board member of **Deutsche Telekom**. Since November 2005 he has been state secretary in the Federal Finance Ministry; previously he was ex-Chancellor Gerhard Schröder's personal representative for the Lisbon Strategy and head of the Economy, Finance and Labour-Market Policy division in the Federal Chancellery. State secretary Volker Halsch has resigned his Supervisory Board post at the telecommunications company.



Eckhard Cordes

On 4 February Professor Dr. Theo Siegert left the Supervisory Board of commercial group **Metro**. Dr. **Eckhard Cordes**, CEO of Franz Haniel & Cie. GmbH, succeeds him and will chair the supervisory body. Cordes has since 1 January been CEO of the Haniel conglomerate. Cordes had replaced Siegert at the head of Haniel. Cordes is also to become Supervisory Board chair of pharma trader **Celesio**. Celesio is a subsidiary of the Haniel conglomerate.

**Peter Stieger**, Chair of the Central Works Council of real,- SB-Warenhaus GmbH, succeeds Marliese Grewenig as from January.



Hubertus Meyer-Burckhardt

**Henning Engmann**, Chairman of the Management Board at BHW, will join the Board of Management at **Postbank** following its takeover of BHW. He is to be responsible for Finance.

**Hubertus Meyer-Burckhardt** is leaving the board of TV group **ProSieben-Sat.1**. In July he will become Managing Director of Polyphongruppe. Meyer-Burckhardt has since July 2004 been responsible at ProSiebenSat.1 for Corporate Development, Media Policy and Regulatory Affairs.



Caspar von Hauenschild

Private hospital group **Rhön-Klinikum** has made several changes on its Supervisory Board. Since 31 December the following are on the supervisory body: Dr. **Bernhard Aisch** (Medical Controller), **Gisela Ballauf** (children's nurse), **Sylvia Bühler** (District Chair, Ver.di), **Casper von Hauenschild** (management consultant), Dr. **Heinz Korte** (Notary) and **Joachim Lüddecke** (District Chair, Ver.di). Departing are Bernd Hörig (male nurse), Anneliese Noe (nurse) and Ursula Derweil (District Chair, Ver.di).

At **ThyssenKrupp** Wolfgang Boczek, representative of the employee side, has left the Supervisory Board; his successor is **Gerold Vogel**, chair of the Works Council of ThyssenKrupp Bilstein Suspension GmbH and of the Works Councillors Group of ThyssenKrupp Automotive.

From 1 March Dr. **Gerhard Eschenröder** becomes CEO of **Vossloh**. He succeeds Burkhard Schuchmann, who resigned on 31 December because of differences about the strategic course of the transport technology company. Eschenröder was till the end of 2005 Management Board chair at Ruhrgas Industrie GmbH.



Wendelin Wiedeking

Since 25 January Porsche CEO Dr.-Ing. **Wendelin Wiedeking** has been a Supervisory Board member at **VW**. He takes over the seat of Lord David Simon of Highbury, who has left. Holger P. Härter, CFO of the sports-car builder, and Jürgen Großmann, CEO of Georgsmarienhütte, are due in May to take up the seats of Gerhard Cromme and Klaus Liesen on the supervisory body. Ferdinand Piëch is resigning in spring 2007 from his post as VW Supervisory Board chair. The Chair of the Central Works Council of Audi AG, **Peter Mosch**, on 13 January succeeded employee representative Xaver Meier, who left the group on 31 December 2005, as Supervisory Board member of the car manufacturer.



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-  • CyberGuard provides IT security solutions that protect business-critical assets at global 2000 organizations and government entities worldwide  
• August 2005: Secure Computing announced the acquisition of CyberGuard for USD 295 m in stock and cash

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## CAMPUS



KPMG



## KPMG and PwC dominant

The two accountancy firms KPMG and PwC certify 80 percent of the annual accounts of companies on the DAX30. This is the finding of a study by the Institute for Accountancy at the University of Saarbrücken (IWP) and consultancy firm Mercer Management. They surveyed companies in stock-exchange segments DAX30, MDAX, SDAX and TECDAX. Among financial groups KPMG dominates almost exclusively; only Commerzbank is audited by competitor PwC. The four biggest accountancy firms, KPMG, PwC, Ernst & Young and Deloitte & Touche, together certify the annual accounts of 73 percent of all firms surveyed. IWP Director Karlheinz Küting regards the oligopolization in the sector as very critical. There was a growing danger of ruinous competition that could impair quality.

Eberhard Scheffler, head of the Deutsche Prüfstelle für Rechnungslegung [Financial Reporting Enforcement Panel, FREP], sees the growing concentration as not endangering the quality of accounts. Accounting rules are becoming increasingly complicated and are constantly changing. Only big accounting companies could keep up properly. While the competition in Germany had been tending to intensify, companies were placing more weight on the quality of the auditing. Scheffler has found two cases of faulty accounting since taking the FREP post in October 2005.

### Equinet rating for corporate governance

Investment bank Equinet, in cooperation with Osnabrück Technical College, has developed a Rating Card to assess German companies' Corporate Governance. The DVFA Scorecard, the Governance Test of the Berlin Center of Corporate Governance and the Drobetz, Schillhofer and Zimmermann procedure were all taken into account. Content not based on the Corporate Governance Code is less than 20 percent relevant. Capital-market requirements going beyond the Code are assessed by Equinet using eight additional criteria. They were filtered out of the non-Code-relevant criteria of the DVFA and Drobetz, Schillhofer and Zimmermann procedures.

## ANALYSIS

## Exercise of shareholder rights in the EU

Whereas capital markets know no national frontiers, the exercise of shareholder rights continues to be very severely limited by national regulations. This is particularly true as regards shareholder participation in general meetings and the exercise of their voting rights. The EU Commission intends to strengthen investors' position by unifying the framework conditions for the exercise of shareholder rights at general meetings EU-wide, with an eye specifically to foreign shareholders. To this end, on 10 January the Commission presented a draft of a corresponding directive. The main objective is on the one hand to improve communication between issuer and shareholder, and on the other to provide shareholders with reliable framework conditions for the exercise of their shareholder rights even without physically attending the meeting. One major obstacle to the exercise of voting rights by foreign shareholders is simply that they are often informed only rudimentarily about a forthcoming general meeting, its agenda and the conditions for participation. Accordingly, the draft directive provides that the invitation to a general meeting, along with motions for resolutions and all accompanying material such as management reports on individual agenda items or forms for postal or proxy voting, be published along with the convocation of the general meeting on the company's home page. If the information cannot be brought to the shareholders, they are at least to have the possibility of calling up all relevant information from the company on the Internet.

Once the shareholder has been informed of the general meeting, it has to be decided how from abroad he can take part and exercise the rights to vote and to ask questions without being physically present. As far as non-physical participation, i.e. Internet participation, is concerned, the directive will not make this compulsory on issuers, but Member States must eliminate all obstacles. Instead of non-physical participation, the directive will bindingly mandate the exercise of voting rights by post and the appointment of a voting proxy on the Internet. Member States may provide national regulations

to guarantee shareholder legitimation in either postal or electronic-proxy voting. The shareholder must for these purposes too supply a title-evidencing instrument from his depositary institution, as the draft directive also requires for physical participation at the general meeting. Germany, with the Act on corporate integrity and modernization of the right of avoidance (UMAG) that came into force on 1 November 2005, has already replaced the old regulations on deposit of shares by a title-evidencing instrument on the record date.

Closely connected with the exercise of voting rights is shareholders' right to ask questions. To date, shareholders can put questions only at the general meeting and the company can answer them only there. This oral nature of the general meeting is considerably watered down by the EU Commission's proposal for a directive. For it gives shareholders the right to put questions even before the general meeting, in written or electronic form, and all answers by the company are to be published on the issuer's Website. Especially for small and medium-sized listed companies, this publication requirement will impose quite new logistical challenges. To date, general meetings where neither the questions put by shareholders nor the answers given to them are documented in detail have been common. Accordingly, the setting-up, or professionalization if it already exists, of a back office to support management will become absolutely necessary.

The planned EU directive to strengthen shareholder rights is thus certainly an instrument that will facilitate foreign shareholders' participation in general meetings and exercise of voting rights. It is to be hoped that the associated extra logistical burden on issuers will be justified by the expected increase in attendance at general meetings.



**Dr. Stefan Simon,**  
lawyer and tax consultant,  
Flick Gocke  
Schaumburg



## CAPITAL NEWS

## Buying & Selling in January

### Changes in holdings in DAX30, MDAX and TECDAX30

**Depfa Bank (ISIN IE0072559994):** Alliance Capital Management has cut its holding in the specialized bank to 9.9 %. Since 29 November 2005 the group had held 11.2 %.

**Deutsche Börse (ISIN DE0005810055):** Hedge fund Lone Pine holds 5.09 percent of the shares in the stock-exchange operator. Hedge fund TCI is said to have raised its share from 7.89 to 9.9 percent, and Atticus from 5.01 to 7.6 percent. Capital Group holds 4.91 percent, and Fidelity, according to press reports, has raised its share from a total of a good 7 to around 9 percent.

**IWKA (ISIN DE0006204407):** US financial investor K Capital Partners has cut its capital share in machine and plant builder IWKA by 1.3% to 4.0%.

**Jenoptik (ISIN DE0006229107):** Brandes has since 13 January held a good 5 percent of voting rights in the technology group. The major shareholder is the State of Thuringia with a holding of 14.80 percent; Oppenheimer Funds holds 4.4 percent of the shares and Gabriele Wahl-Multerer 5.83 percent.

**Medion (ISIN DE0006605009):** Fund company Orbis raised its share of voting rights in the electronics trader from 5.58 to 10.02 percent on 9 January. The biggest shareholder is Gerd Brachmann, who holds nearly 55 percent of the ordinary shares. Fidelity International holds nearly 5 percent of the votes.

**MPC (ISIN DE0005187603):** Fidelity International raised its share from 4.62 to 5.06 percent on 18 January. MPC Holding has a block of 25.5 percent and J.P. Morgan Chase one of 20 percent.

**Puma (ISIN DE0006969603):** Fidelity Investments International brought its share of the sports-goods manufacturer back below the 5 percent threshold (to 4.99 percent) in January. On 28 December Fidelity had raised its holding to 5.08 percent.

**Q-Cells (DE 0005558662):** Apax has cut its share from 11.67 to 2 percent. Solarbeteiligungen GmbH's Pluto and TVVG sold 191,693 and 383,386 shares respectively on 20 January, to total values of €13,035,124 and €26,070,248. TVVG is controlled by Q-Cells Supervisory Board chair Thomas van Aubel and Pluto by his wife. The biggest shareholders are Stöhr Finanzholding, belonging to the Wella dynasty, with 20.50 percent, and Good Energies Investment with a good 16 percent.



**Rhön-Klinikum (ISIN DE0007042301):** Swedish pension fund Alecta raised its voting share in the private-hospitals group from 5.06 to 10.12 percent on 13 January. The biggest shareholder, the Münch Family, has over 16 percent of the votes.

**SolarWorld (ISIN DE0005108401):** Fidelity Management & Research has raised its voting share in the solar group slightly, from 10.05 to 10.35 percent.

## Capital measures in January

**Adidas-Salomon (ISIN DE0005003404):** The sports-goods manufacturer has brought in a billion Euros from a privately-placed bond issue in the USA. The bond has four tranches, with periods of 3, 5, 7 and 10 years and coupons of 5.2, 5.25, 5.34 and 5.44 percent.

**BB Biotech (ISIN CH0001441580):** The investment company for biotechnology firms wants to pay shareholders a dividend for 2005 of likely 1.80 Swiss Francs per share. The previous year the distribution per share was 2.40 Swiss Francs.

**Degussa (ISIN DE0005421903):** The specialist chemical group will not be distributing any dividend for 2005 because of expected losses of €450 million. For the business year 2004 Degussa paid out €1.10 per share.

**Deutsche Bank (ISIN DE0005140008):** The Deutsche Bank has taken up hybrid capital of over 800 million dollars in the USA. The hybrid bonds pay interest at 5.628 percent.

**Deutsche Telekom (ISIN DE0005557508):** The telecommunications group has floated a loan with a volume of €500 million. The loan has a period of 3 years and carries a coupon of 3 percent.

**Fresenius (ISIN DE0005785638):** The dialysis specialist has floated a preference loan amounting to a billion Euros; originally the volume was to be around €700 million. The issue has two tranches of €500 million each. The first tranche offers annual interest of 5.0 percent and is due in 2013, not redeemable in advance. The second tranche offers annual interest of 5.5 percent and is due in 2016, redeemable early by the issuer from 2011 on. Net proceeds from the issue are to be used along with those of the capital increase to finance the takeover of Helios Kliniken GmbH and redeem the €300 million bond early.

**Hypo Real Estate Holding (ISIN DE0008027707):** The specialist in commercial real-estate financing will pay a dividend for the business year 2005 of one Euro per share, thus raising it by 0.65 cents per share.

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**IDS Scheer (ISIN DE0006257009):** The software company wishes to raise the distribution per share for the business year 2005 by at least 2 cents, to 18 cents.

**Infineon (ISIN DE0006231004):** The chip manufacturer wants authorization from the AGM for conditional capital of over €24.5 million (12.25 million shares) for a share option plan in 2006. Infineon executives are to be provided over a three-year period with 13 million share options, with an exercise price of 20 percent above the issue quotation.

**MLP (ISIN DE0006569908):** Major shareholders Manfred Lautenschläger and Bernhard Termühlen have transferred a block of 29 million ordinary shares to exchange trading. With these shares, the number of listed shares of the financial-services provider rises to 108.6 million. Company founder and Supervisory Board chair Lautenschläger, his family and the family of former CEO Termühlen have committed themselves to a six-months' waiting period.

**MorphoSys (ISIN DE0006632003):** Since January the biotechnology company has had its shares listed in the USA as ADRs. One share corresponds to two ADRs (American Depositary Receipts).

**Porsche (ISIN DE0006937733):** The sports-car manufacturer has floated a dollar hybrid loan with no term limitation, for a volume of one billion dollars; it bears nominal interest of 7.2 percent. Two euro bonds, with a volume of one billion euros each, have periods of 5 and 10 years and a coupon of 3.5 and 3.875 percent respectively. With the new euro loan, Porsche wants to redeem early a loan due in 2007 with a volume of €300 million. Porsche wants to use the new loans to optimize liquidity structures and create a "comfortable liquidity cushion".

**SAP (ISIN DE0007164600):** The software producer plans to buy back at least €500 million in shares this year. Under its current buyback programme SAP can repurchase up to 30 million shares. In the business year 2005 SAP bought back 3.21 million shares, for a volume of €417 million. As of 31 December 2005 SAP held over 6.68 million of its own shares.

**TUI (ISIN DE000TUAG000):** The tourism group will pay an unchanged dividend for 2005 of 77 cents per share.

**CORPORATE GOVERNANCE**



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# Directors' Dealings

**BASF (DE 0005151005):** Director Peter Oakley on 20 January sold 500 ADRs to a total value of 37,815 dollars.

**DaimlerChrysler (ISIN DE0007100000):** Manager Volker Stauch on 3 January sold 400 shares for a total of €17,660.

**Deutsche Post (ISIN DE0005552004):** Director Wulf von Schimmelmann on 29 December sold 33,758 shares for a total of €696,123; immediately previously he had, according to Post indications, bought exactly that number of shares by exercising a corresponding number of options from the share option plan.

**Douglas (ISIN DE0006099005):** The Dr. August Oetker Finanzierungs- und Beteiligungsgesellschaft mbH in January sold a total of 750,000 put options, for a total volume of €751,250. The investment company is close to Supervisory Board members Dr. August Oetker and Dr. Ernst F. Schröder.

**Q-Cells (DE 0005558662):** Solarbeteiligungen GmbH's Pluto and TVVG, which are in a close relationship with a Supervisory Board member, on 20 January sold 191,693 and 383,386 shares respectively, to total values of €13,035,124 and €26,070,248

**GPC Biotech (ISIN DE0005851505):** CEO Bernd R. Seizinger in January sold 58,873 share options, for a total volume of €645,930. Mirko Scherer (director) sold 23,000 share options, to a value of €256,482. Director Elmar Maier sold 23,722 shares for €259,904, and director Sebastian Meier-Ewert sold 25,000 units, to a volume of €272,800.

**Hochtief (DE 0006070006):** Friedel Abel, member of the Management Committee, on 3 January sold 2,055 shares, for a total volume of €81,398.

**Kontron (ISIN DE0006053952):** Supervisory Board member Hugh Nevin bought 2,000 shares for a total of 19,800 dollars on 19 January.

**Lanxess (ISIN: DE0005470405):** Supervisory Board member Rolf Stomberg bought 800 ordinary shares for a total of €20,712 on 25 January.

**MTU (ISIN DE000A0D9PT0):** Blade Management Beteiligungs GmbH & Co. KG, through which leading employees (including board members) are involved in MTU, on 17 January sold 344,601 shares, for a total of €8,959,626.

**Pfleiderer (ISIN DE0006764749):** CFO Jürgen Koch on 9 January sold 11,950 shares to a total value of €203,270, and one day later 60,300 shares for a total of €1,034,164. Manfred Fleischerer, head of the finance division, on 2 January sold 1,605 shares, for a volume of €25,760.

**SAP (ISIN DE0007164600):** SAP Supervisory Board chair Hasso Plattner on 28 December bought, through the investment company Beteiligungsgesellschaft Hasso Plattner GmbH & Co. Beteiligungs-KG which he controls, 410,000 shares through a loan on collateral securities (total volume €219,784). His voting share in the software company rose by 0.1 to 10.01 percent.

**Stada (ISIN DE0007251803):** Director Christof Schumann on 2 January bought 1,700 shares at a price of €27.98, for a total value of €47,573. One day later he bought 200 option warrants, for a total volume of €49,800.

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## BUSINESS DIARY

## February/Early March

→ AGM dates: [www.vip-cg.com](http://www.vip-cg.com)**DAX30****Adidas (ISIN DE0005003404)**02.03. Balance-sheet press conference,  
Analysts Conference Call**Bayer (ISIN DE0005752000)**06.03. Business figures 2005,  
Phone conference**BASF (ISIN DE0005151005)**22.02. Balance-sheet press/analysts  
conference**Commerzbank (ISIN DE0008032004)**

15.02. Balance-sheet press conference

**Continental (ISIN DE0005439004)**23.02. Balance-sheet press/analysts  
conference**DaimlerChrysler (ISIN DE0007100000)**16.02. Balance-sheet press conference,  
Phone conference analysts/investors**Deutsche Bank (ISIN DE0005140008)**

02.02. Balance-sheet press conference 2005

**Deutsche Börse (ISIN DE0005810055)**22.02. Balance-sheet press/analysts  
conference**Deutsche Lufthansa  
(ISIN DE0008232125)**09.02. Investor Info January with  
traffic figures**Deutsche Telekom  
(ISIN DE0005557508)**02.03. Balance-sheet press conference,  
Analyst meeting**Fresenius Medical Care  
(ISIN DE0005785802)**

22.02. Business figures 2005

**Henkel (ISIN DE0006048432)**21.02. Analysts conference,  
business year 2005**Linde (ISIN DE0006483001)**06.03. Balance-sheet press/analysts  
conference**MAN (ISIN DE0005937007)**21.02. Balance-sheet press/analysts  
conference**RWE (ISIN DE0007037129)**23.02. Balance-sheet press/analysts  
conference**Schering (ISIN DE0007172009)**20.02. Provisional business  
report 2005**ThyssenKrupp  
(ISIN DE0007500001)**13.02. First quarter results 2005-6,  
Phone conference analysts/investors**VW (ISIN DE0007664005)**07.03. Balance-sheet press  
conference  
08.03. International investor  
conference**MDAX****AWD (ISIN DE0005085906)**14.02. Provisional results 2005,  
Phone conference**Beiersdorf (ISIN DE0005200000)**02.03. Balance-sheet press/analysts  
conference**Bilfinger Berger  
(ISIN DE0005909006)**

14.02. Provisional business report 2005

**Degussa (ISIN DE0005421903)**03.03. Balance-sheet press/analysts  
conference**Depfa Bank (ISIN IE0072559994)**

14.02. Provisional results 2005

**Fielmann (ISIN DE0005772206)**

23.02. Provisional results 2005

**Fraport (ISIN DE0005773303)**

07.03. Balance-sheet press conference

**Fresenius (ISIN DE0005785638)**22.02. Balance-sheet press/analysts  
conference**HeidelbergCement  
(ISIN DE0006047004)**22.02. Initial review of business  
year 2005**Heidelberger Druckmaschinen (ISIN  
DE0007314007)**

02.02. Third quarter results 2005-6

**IKB (ISIN DE0008063306)**16.02. Business figures first 9 months  
2005-6, Press and phone conference**IWKA (ISIN DE0006204407)**

07.02. Provisional results 2005

**Merck (ISIN DE0006599905)**16.02. Balance-sheet press/analysts  
conference**MPC (ISIN DE0005187603)**

28.02. Balance-sheet press conference

**Pfleiderer (ISIN DE0006764749)**23.02. Provisional results 2005,  
Phone conference analysts/investors**Premiere (ISIN DE000PREM111)**

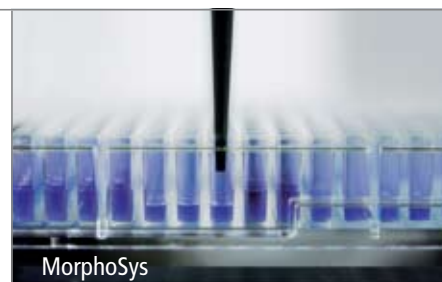
14.02. Business figures 2005

**Puma (ISIN DE0006969603)**10.02. Balance-sheet press conference,  
Analysts Conference Call**Rhön-Klinikum (ISIN DE0007042301)**

13.02. Provisional results 2005

**Schwarz Pharma  
(ISIN DE0007221905)**17.02. Provisional results 2005,  
Press/analysts conference**Techem (ISIN DE0005471601)**

14.02. First quarter results



MorphoSys

**TECDAX30****Epcos (ISIN DE0005128003)**01.02. First quarter results,  
Phone conference**ErSol Solar (ISIN DE0006627532)**

01.03. Provisional results 2005

**IDS Scheer  
(ISIN DE0006257009)**

07.03. Balance-sheet press conference

**MorphoSys  
(ISIN DE0006632003)**24.02. Balance-sheet press conference,  
Analyst meeting**Qiagen (ISIN NL0000240000)**13.02. Business figures 2005,  
Analyst conference**Rofin Sinar (ISIN US7750431022)**

02.02. First quarter results

**Software (ISIN DE0003304002)**

21.02. Business figures 2005

# INSIGHT Shareholder ID: DAX 30

## INSIGHT Shareholder ID: DAX 30 Holdings in per cent

Company	Own-shares	Notifiable shareholders	Share	Investment companies (KAGs) making disclosures*			
				Total	Change **	Biggest KAG	Share
Adidas-Salomon	0	Barclays Mangement	4,97 St 5 St	21,29	8,37	DWS	1,64
Allianz	1,44 (St)	Munich Re Deutsche Bank AG	4,90 St 2,50 St	19,51	4,26	Cominvest	1,49
Altana	3,42 (St)	Susanne Klatten	50,10 St	14,40	6,22	Fidelity Investments Lux.	1,45
BASF	1,80 (St)	Allianz	2,70 St	25,29	1,43	Cominvest	3,97
Bayer	0	Capital Group Allianz	5,04 St 4,76 St	21,75	7,69	DWS	2,06
BMW	1,34 (St)	Quandt Family	46,60 St	11,94	3,10	DIT	1,40
	1,44 (Vz)	Dispersed holdings	98,56 Vz				
Commerzbank	0,28 (St)	Assicurazioni Generali Münchener Rück Mediobanca BSCH	9,10 St 4,99 St 0,60 St 0,60 St	14,88	5,78	MEAG	3,43
Continental	0	Axa Barclays Capital Group	10,05 St 5,49 St 5,10 St	24,69	0,35	Harbor Fund	2,5
DaimlerChrysler	0	Kuwait Deutsche Bank Emirat Dubai	7,20 St 4,40 St 2,20 St	12,39	3,55	Deka Investment	1,09
Deutsche Bank	6,60 (St)			16,45	2,52	Deka Investment	1,65
Deutsche Börse	4,76 (St)	TCI Fund Management Atticus Capital Group Fidelity M & R	7,89 St 5,01 St 4,91 St 4,84 St	23,77	2,09	Fidelity USA	2,20
Deutsche Lufthansa	0	Allianz	4,44 St	29,52	-0,46	Cominvest	6,00

**INSIGHT Shareholder ID: DAX 30** Holdings in per cent

Companies	Own-shares	Notifiable shareholders	Share	Investment companies (KAGs) making disclosures*			
				Total	Change**	Biggest KAG	Share
Deutsche Post		KfW	41,70 St	11,46	3,11	DWS	2,41
Deutsche Telekom	0,06 (St)	KfW Bundesanstalt für Post u. Telekomm.	22,10 St 15,44 St	13,89	6,14	DWS	1,08
E.ON	4,77 (St)	Freistaat Bayern Allianz	4,86 St 3,60 St	20,52	5,77	Franklin Templeton USA	1,12
Fresenius Med. Care	0	Fresenius BB Biotech	50,76 St 5,00 St	12,61	2,32	Jupiter (GB)	1,17
Henkel	4,13 (Vz)	Familie Henkel Jahr Vermögensverwaltung Familie Schwarzkopf	51,48 St 6,11 St 3,89 St	12,41	3,85	Deka Investment	1,19
Hypo Real Estate	0	Barclays Capital Group Egerton Capital Morgan Stanley & Co. Brandes	7,97 St 5,20 St 4,97 St 4,89 St 3,78 St	21,17	2,00	Cominvest	1,61
Infineon	0	Siemens Capital Group	18,23 St 10,00 St	12,61	8,50	Deka Investment	0,84
Linde	0	Allianz Allianz Deutschland Commerzbank Deutsche Bank	12,30 St 11,34 St 10,04 St 10,00 St	21,05	2,95	Artisan	2,23
MAN	0	Axa Deutsche Bank Allianz	10,09 St 4,99 St 0,82 St	27,79	1,12	DWS	5,84
Metro	0	Otto Beisheim Vermögensverw. Franz Haniel & Cie. Dispersed holdings	36,58 St 19,00 St 100,00 Vz	11,84	1,92	Fidelity Investments Lux.	0,90
Münchener Rück	0,60 (St)	Allianz UniCredito	9,80 St 4,89 St	16,62	3,73	Deka Investment	1,44

**INSIGHT Shareholder ID: DAX 30** Holdings in per cent

Companies	Own-shares	Notifiable shareholders	Share	Investment companies (KAGs) making disclosures*			
				Total	Change**	Biggest KAG	Share
RWE	0	Städte und Gemeinden RW Energie-Beteiligungsges.	21,00 St 10,00 St	14,21	3,12	DIT	1,24
Münchener Rück	4,60 St	Allianz Belegschaft	4,00 St 2,00 St				
SAP	2,12 (St)	Hasso Plattner Participations-KG Dietmar Hopp and Stiftung Klaus Tschira Stiftung Tschira Participations-GmbH Hasso Plattner Förderstiftung Golfplatz St. Leon-Rot Klaus Tschira	10,00 St 8,86 St 5,11 St 5,01 St 1,66 St 1,52 St 0,16 St	12,65	1,88	Oppenheimer Funds	1,16
Schering	2,10 (St)	Allianz Allianz Deutschland Brandes	12,50 St 10,85 St 5,00 St	14,89	4,11	Union Privatfonds	1,22
Siemens	0	Siemens-Vermögensverwaltung Vorstand und Aufsichtsrat	5,50 St 0,12 St	16,99	2,46	Deka Investment	1,54
ThyssenKrupp	0	Krupp von Bohlen und Halbach-Stiftung	23,58 St	12,93	4,98	Deka Investment	1,41
TUI	0	Familie Riu Inversiones Cotizadas del Mediterráneo	5,10 St 5,00 St	19,66	3,69	Deka Investment	1,82
VW	12,97 (St)	Porsche Land Niedersachsen Brandes Capital Group	18,53 St 18,20 St 8,58 St 3,50 St	7,60	1,48	Deka Investment	1,36

\*Share in each case in relation to index-relevant share type

\*\* Change from previous month, percent

St: ordinary shares, Vz: preference shares

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# INSIGHT Shareholder ID: MDAX

## INSIGHT Shareholder ID: MDAX Holdings in per cent

Companies	Own-shares	Notifiable shareholders	Share	Investment companies (KAGs) making disclosures*			
				Total	Change**	Biggest KAG	Share
Aareal Bank	0	Schweiz. Rentenanstalt Bayer. Beamten-Lebens- versicherung Vorsorgeanstalt Bund, Länder Bankhaus Lampe Deutscher Ring Hermes Capital Group Capital Research and Management Fidelity International SchmidtBank Allianz Condor-Lebensversicherung	9,62 St 9,62 St 7,20 St 6,54 St 5,66 St 5,01 St 4,94 St 4,28 St 3,89 St 3,09 St 2,95 St 1,46 St	13,38	5,36	American Funds	2,08
AMB Generali Holding	0	Assicurazioni Generali	70,88 St	5,47	-1,80	MEAG	2,31
AWD	0	Familie Maschmeyer DWS Fidelity International	31,09 St 5,30 St 4,68 St	23,40	4,86	Fidelity Investments Lux.	4,52
HVB	0	UniCredito	93,81 St	10,47	3,08	American Funds	2,18
Beiersdorf	9,99 (St)	Tchibo Holding HVG Hamburger Ges. für Vermögensverw. Allianz	50,46 St 10,00 St 7,30 St	2,35	17,40	Cominvest	0,44
Bilfinger Berger	0	FMR Allianz	5,18 St 0,05 St	26,51	2,89	Deka Investment	3,58
Celesio	0	Franz Haniel & Cie.	58,40 St	13,92	3,03	UBS Lux.	1,52
Degussa		RAG E.ON	50,86 St 42,86 St	0,80	-0,50	Cominvest	0,20
Depfa Bank	0	Capital Group Alliance Capital Management	7,13 St 3,20 St	23,68	4,74	American Funds	4,56
Deutsche Euroshop	0	Familie Otto Alexander Otto	21,00 St 12,27 St	4,49	20,76	DFA Investment (USA)	1,09

**INSIGHT Shareholder ID: MDAX** Holdings in per cent

Companies	Own-shares	Notifiable shareholders	Share	Investment companies (KAGs) making disclosures*			
				Total	Change**	Biggest KAG	Share
Douglas	0	Familie Kreke Dr. August Oetker Beteiligungs-GmbH Orbis Holdings Hejana Beteiligungen Württembergische Leben	29,60 St 12,21 St 6,14 St 5,40 St 4,97 St	18,40	-1,77	Union Privatfonds	3,69
EADS	0	SOGEADE DaimlerChrysler SEPI	30,20 St 30,20 St 5,52 St	3,44	-1,13	Fidelity USA	0,72
Fielmann	0	Günther Fielmann Fielmann Familienstiftung Fielmann INTER-OPTIK Marc Fielmann	35,12 St 15,07 St 11,41 St 7,73 St	11,70	2,50	Fidelity USA	1,60
Fraport	0,14 (St)	Land Hessen Stadtwerke Frankfurt am Main Holding Deutsche Lufthansa	31,90 St 20,40 St 5,01 St	5,87	11,45	Thornburg	1,32
Fresenius Med. Care	0	Else Kröner-Fresenius Stiftung Allianz Deutschland WestLB	66,20 St 9,73 St 5,00 St	22,82	0,71	Union Privatfonds	2,18
GEA Group	3,26 (St)	Dr. Otto Happel Allianz Kuwait Investment Office Capital Group	20,70 St 10,08 St 7,86 St 4,99 St	12,48	-0,07	Franklin Templeton USA	2,21
Hannover Rück	0	Talanx	51,20 St	16,10	3,24	Union Privatfonds	1,75
HeidelbergCement	0,05 (St)	Spohn cement Schwenk Beteiligungen VEM Vermögensverwaltung Allianz Axa	78,90 St 7,50 St 5,14 St 4,60 St 0,42 St	4,36	1,11	CMI	0,35
Heidelberger Druckmaschinen	0	RWE Allianz Brandes Fidelity International Allianz Deutschland Münchener Rück BNP	15,10 St 13,40 St 9,90 St 6,45 St 6,26 St 6,10 St 0,60 St	17,81	0,00	Fidelity Investments Lux.	5,84

**INSIGHT Shareholder ID: MDAX** Holdings in per cent

Companies	Own-shares	Notifiable shareholders	Share	Investment companies (KAGs) making disclosures*			
				Total	Change**	Biggest KAG	Share
Hochtief	9,87 (St)	Custodia Holding RWE Schroder	10,64 St 7,06 St 5,00 St	18,65	0,22	Cominvest	2,67
Hugo Boss	0	Valention Fashion Group Valention Fashion Group	78,76 St 22,00 Vz	31,94	0,13	Union Privatfonds	4,25
IKB	0	KfW Stiftung Förderung der Forschung	37,80 St 11,70 St	7,04	1,09	Gerling Inv.	1,00
IVG	0	Sal. Oppenheim HSH Nordbank WGZ WCM	20,10 St 5,09 St 3,32 St 1,93 St	9,65	-0,67	INKA	2,90
IWKA	0	Wyser-Pratte Management FMR Landesbank Baden- Württemberg Schroders Hermes Threadneedle Portfolio Capital Group K Capital Partners	7,00 St 5,61 St 5,11 St 5,05 St 4,98 St 4,90 St 4,80 St 4,02 St	20,30	-3,47	Schroder Lux.	6,54
K+S	3,00 (St)	BASF FMR Prudential	10,00 St 4,88 St 4,69 St	25,48	1,80	Fidelity USA	3,94
KarstadtQuelle	5,42 (St)	Schickedanz, Dedi, Herl, Grisfonta Allianz	63,00 St 7,56 St	6,36	5,15	Oppenheimer Funds	0,95
Krones	0	Familie Kronseder	54,29 St	15,64	-9,67	DWS	3,21
Leoni	0	Groga Beteiligungsgesellschaft	20,00 St	9,22	-12,41	JP Morgan Fleming Funds	1,93
Medion	0	Gerd Brachmann Orbis Investment Fidelity International	54,87 St 10,02 St 4,89 St	13,59	-0,34	Fidelity Investments Lux.	4,19
Merck	0	Fidelity International Barclays Capital Group Arnold and Bleichroeder Axa FMR	5,79 St 5,60 St 4,99 St 4,96 St 4,86 St 4,80 St	21,25	1,73	Tweedy, Browne	4,86

**INSIGHT Shareholder ID: MDAX** Holdings in per cent

Companies	Own-shares	Notifiable shareholders	Share	Investment companies (KAGs) making disclosures*			
				Total	Change**	Biggest KAG	Share
MLP	0	Manfred Lautenschläger Dr. Bernhard Termühlen Bankgesellschaft Berlin Deutsche Bank	28,90 St 13,69 St 5,03 St 5,03 St	13,10	-2,74	Cominvest	1,97
MPC Münchmeyer Petersen	0	MPC Holding GmbH J.P. Morgan Chase FMR Fidelity International Familie Oldehaver	25,50 St 20,00 St 5,10 St 4,62 St 2,50 St	7,61	-1,58	DWS	1,60
Norddeutsche Affinerie	0	L. Possehl & Co. Allianz	10,01 St 2,45 St	10,56	5,67	Cominvest	1,79
ProSiebenSat.1	0	P7S1 Holding Friede Springer P7S1 Holding Friede Springer	88,00 St 12,00 St 13,00 Vz 12,70 Vz	15,16	-1,55	Artisan	5,38
Puma	3,40 (St)	Mayfair Vermögensverwaltung FMR Morgan Stanley & Co.	25,27 St 4,99 St 3,28 St	19,57	3,31	Fidelity Investments Lux.	1,62
Rheinmetall	0	CSFB	5,03 St	14,86	-8,10	DWS	2,73
Rhön-Klinikum	0	Familie Münch Alecta, Schweden Allianz Deutschland Nordea Investment Bank of America	16,00 St 10,12 St 6,14 St 5,67 St 5,21 St	7,85	8,15	Nordea Lux.	1,87
Salzgitter	5,35 (St)	Hannoversche Beteiligungsges. NordLB Fidelity International	25,50 St 4,96 St 4,91 St	18,37	-3,22	Fidelity Investments Lux.	4,15
Schwarz Pharma	0	Schwarz Vermögensverwaltung Schroders	60,91 St 5,00 St	9,37	1,90	Schroder Lux.	4,10
SGL Carbon	0	FMR BT Pension Scheme FMR Jana Partners Eureka (Euro) Fund K Capital Partners	5,26 St 5,11 St 5,09 St 4,89 St 4,20 St 3,87 St	15,82	2,67	Cominvest	3,98

**INSIGHT Shareholder ID: MDAX** Holdings in per cent

Companies	Own-shares	Notifiable shareholders	Share	Investment companies (KAGs) making disclosures*			
				Total	Change**	Biggest KAG	Share
Stada	0,20 (St)	DWS	5,01 St	21,37	5,93	DWS	4,56
Südzucker	2,00 (St)	Süddeutsche Zuckerrüben ZSG NL	56,00 St 10,00 St	7,25	0,38	DWS	1,36
Techem	0	Familiengesellschafter Management	25,00 St 0,20 St	40,65	3,59	Jupiter (GB)	10,22
Vossloh	0	Familie Vossloh Arnhold and Bleichroeder Schroders	30,00 St 5,01 St 4,94 St	15,11	-6,77	Frankfurt-Trust	2,41

\*Share in each case in relation to index-relevant share type

\*\* Change from previous month, percent

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# INSIGHT Shareholder ID: TecDAX30

## INSIGHT Shareholder ID: TecDAX30 Holdings in per cent

Companies	Own-shares	Notifiable shareholders	Share	Investment companies (KAGs) making disclosures*			
				Total	Change**	Biggest KAG	Share
Aixtron	0	J.P. Morgan Services Camma GmbH Commerzbank Vorstand und Aufsichtsrat	24,91 St 11,17 St 3,83 St 0,02 St	11,16	13,44	Cominvest	3,07
AT&S	7,82 (St)	Dörflinger Privatstiftung Androsch Privatstiftung Wiener Städtische Versicherung Vorstand und Aufsichtsrat	20,09 St 19,90 St 7,00 St 1,66 St	9,27	-2,15	Schroder Lux.	3,15
BB Biotech	5,00 (St)			10,70	-5,82	Bellevue	5,75
Bechtle	0	Familie Schick BWK GmbH Unternehmensbet.	32,95 St 18,47 St	5,60	-9,97	JP Morgan Fleming Funds	1,54
ComBots	5,69 (St)	Cinetic GmbH Michael Greve	56,50 St 0,13 St	0,00	-2,62		0,00
Conergy	5,00 (St)	Hans-Martin Rüter Dieter Ammer Grazia Equity DWS	16,40 St 12,70 St 12,10 St 4,90 St	13,50	12,02	DWS	2,81
Drägerwerk	0	Familie Dräger BB Medtech	100,00 St 16,06 Vz	27,06	-5,96	Bellevue	16,14
Epcos	0	Matsushita Electric Europe Siemens Axa	12,50 St 12,50 St 5,04 St	17,69	-2,35	Deka Investment	2,38
ErSolar Energy	0	Ventizz Capital Fund Equitrust ASI Industries Nordwest Kapitalbeteiligung Dr. Claus Beneking Ersol Mitarbeiter Frank Müllejans Jürgen Pressl Norbert Rulands Angelika Beneking	55,68 St 3,72 St 2,80 St 2,46 St 0,92 St 0,57 St 0,51 St 0,17 St 0,14 St 0,12 St	0,00			0,00

**INSIGHT Shareholder ID: TecDAX30** Holdings in per cent

Companies	Own-shares	Notifiable shareholders	Share	Investment companies (KAGs) making disclosures*			
				Total	Change**	Biggest KAG	Share
Evotec	0	Roland Oetker TVM V Life Science Ventures 3i Group Dr. Karsten Henco Dr. Edwin Moses Jörn Aldag Dr. Timm Heinrich Jessen Prof. Dr. Heinz Riesenhuber	13,00 St 10,51 St 4,07 St 3,49 St 0,82 St 0,78 St 0,36 St 0,29 St	1,59	-4,84	Indexchange	0,35
Freenet	0	Mobilcom Teles AG Fidelity International	50,40 St 5,26 St 4,93 St	12,09	-17,09	Fidelity Investments Lux.	4,16
Funkwerk	0	Hörmann Beteiligungs KG Deutsche Beteiligungs AG Harald Steglich Lutz Pfister	50,14 St 6,30 St 0,12 St 0,06 St	12,42	-6,25	FPM	1,63
GPC Biotech	0	Altana Deutsche Bank Allianz Roland Oetker Dr. Sebastian Meier-Ewert Dr. Elmar Maier Aufsichtsrat	8,21 St 7,21 St 5,56 St 5,20 St 0,85 St 0,64 St 0,43 St	23,24	-10,76	DWS	5,82
IDS Scheer	0	Prof. Dr. August-Wilhelm Scheer Prof. Dr. Alexander Pocsay	41,00 St 7,10 St	17,32	5,68	Cominvest	1,87
Jenoptik	0	Freistaat Thüringen Gabriele Wahl-Multerer Oppenheimer Funds	14,80 St 5,83 St 4,38 St	19,23	14,47	MEAG	6,70
Kontron	0	Hannes Niederhauser Deutsche Bank J.P. Morgan Chase Ulrich Gehrmann Charles Newcomb Dipl.-Ing. Helmut Krings	6,60 St 5,52 St 5,18 St 0,43 St 0,16 St 0,05 St	28,67	0,62	Fidelity Investments Lux.	9,31
MediGene	0	TVM V Life Science Ventures Deutsche Effecten- u. Wechsel-Bet. Vorstand und Aufsichtsrat	5,55 St 4,38 St 4,00 St	7,80	-15,52	Union Lux.	3,05
Mobilcom	0	Texas Pacific Group Henderson Global Investor Hermes France Telecom	27,30 St 5,67 St 5,08 St 1,00 St	18,39	-1,18	FPM	2,74

**INSIGHT Shareholder ID: TecDAX30** Holdings in per cent

Companies	Own-shares	Notifiable shareholders	Share	Investment companies (KAGs) making disclosures*			
				Total	Change**	Biggest KAG	Share
MorphoSys	0,07 (St)	Cambridge Antibody Technology Novartis Schering Vorstand und Aufsichtsrat	9,32 St 9,06 St 6,04 St 3,19 St	5,67	17,74	Universal-Inv.	0,94
Pfeiffer Vacuum	0	Arnhold and S. Bleichroeder Harris Associates Carlene M. Ziegler Andrew A. Ziegler Artisan Funds First Eagle Overseas Fund	10,40 St 9,83 St 6,90 St 6,90 St 5,68 St 5,12 St	19,42	-3,29	Nordea Lux.	4,93
Q-Cells	0	Ströher Finanzholding Good Energies Investments US-Fondsgesellschaften TVVG Solarbeteiligung Dipl.-Ing. Reiner Lemoine Milner Solarbeteiligungen Flore Fütterer Solarbet. Ada Eysell Solarbet. Feist Solarbet. Pluto Solarbet. Apax Energy Valley IBG Sachsen-Anhalt DKB Wagniskapital sonstige Altaktionäre	20,50 St 16,39 St 13,00 St 5,46 St 4,45 St 3,70 St 3,14 St 2,81 St 2,80 St 2,70 St 2,00 St 1,96 St 0,91 St 0,90 St 0,29 St	0,00			0,00
Qiagen	0	Dr. Metin Colpan Prof. Dr. Detlev H. Riesner Peer M. Schatz Dr. Franz A. Wirtz	4,41 St 1,86 St 1,03 St 0,75 St	20,97	1,34	Fidelity Investments Lux.	3,70
QSC	0	Baker Capital Partners Gerd Eickers Dr. Bernd Schlobohm celox-Altgesellschafter	29,26 St 12,06 St 12,03 St 0,63 St	2,26	-2,52	SüdKA	0,46
Rofin-Sinar	0			2,39	-20,83	DFA Investment Trust	0,79
Singulus	0	DWS	5,22 St	14,20	-4,04	DWS	3,53
Software	0	Software AG Stiftung Deka Investment	31,30 St 5,07 St	22,65	-1,59	Classic Fund	5,70
SolarWorld	0	Frank H. Asbeck FMR DWS Solar Holding Beteiligung	31,50 St 10,35 St 4,95 St 4,60 St	12,88	2,59	DWS	4,08



**INSIGHT Shareholder ID: TecDAX30** Holdings in per cent

Companies	Own-shares	Notifiable shareholders	Share	Investment companies (KAGs) making disclosures*			
				Total	Change**	Biggest KAG	Share
Tele Atlas	0	Janivo Holding Robert Bosch GmbH Management Oak Associates New Enterprise Associates Janivo Holding Meritech Telesoft Stanford Junior University	34,84 St 31,19 St 0,90 St 35,66 Vz 33,28 Vz 11,90 Vz 9,52 Vz 9,52 Vz 0,10 Vz	3,54	2,02	Fidelity USA	1,19
T-Online	0	Deutsche Telekom Lagardere	90,01 St 1,12 St	0,34	-47,53	Indexchange	0,06
United Internet	3,44 (St)	Ralph Domermuth Fidelity International ComBots DWS Michael Scheeren Norbert Lang	37,90 St 6,52 St 6,10 St 4,65 St 0,70 St 0,34 St	21,60	-4,07	DWS	5,52

\*Share in each case in relation to index-relevant share type

\*\* Change from previous month, percent

St: ordinary shares, Vz: preference shares

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# INSIGHT Shareholder ID: Porsche



## INSIGHT Shareholder ID: Porsche

### Notifiable Shareholders in %

The ordinary shares are held by members of the Porsche and Piëch Families

### The preferred stock totals **17,500,000 units**

of which investment companies (KAGs) making disclosures	2.504.113	14,31
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### including the following TOP 10 KAGs

Fidelity Funds	341.258	1,95
DWS	241.494	1,38
Fidelity USA	157.808	0,90
Oppenheimer Funds	130.487	0,75
MSIF	124.563	0,71
Threadneedle	120.676	0,69
Pioneer Lux.	106.105	0,61
Lazard (D)	74.174	0,42
Deutsche Asset Management	72.076	0,41
Invesco Fund	67.320	0,38
other investment companies (KAGs) making disclosures	<b>1068152</b>	<b>6,10</b>

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## Index of Companies:

Apax	8	IWP	15
BMW	6	KPMG	15
BVI	9	Nordwind Capital	7
Cevian Capital	7	Porsche	2, 34
Continental	3	Postbank	8, 13
DaimlerChrysler	5, 6	PwC	15
Deutsche Bank	5	Q-Cells	8, 17
DSGV	9	SAP	3
DSW	4	SdK	4
DWS	4	Siemens	4
E.ON Ruhrgas	5	Thyssengas	5
Equinet	15	VW	2, 3, 14
Infineon	4		

## Index of Persons:

Josef Ackermann	5	Hilmar Kopper	6
Hans Albrecht	7	Klaus-Peter Müller	7
Rolf-E. Breuer	5	Ferdinand Piëch	2
Hans Martin Buhlmann	2	Heinrich von Pierer	2
Gerhard Cromme	2	Stefan Simon	16
Christer Gardell	7	Jürgen Stark	7
Manfred Gentz	9	Wendelin Wiedeking	2, 14
Jürgen Großmann	2	Dieter Zetsche	5
Dietmar Hexel	10	Andreas von Zitzewitz	4
Florian Homm	8		

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