

# **ABSCHLUSSPRÜFERAUFSICHTSKOMMISSION**

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## **AUDITOR OVERSIGHT COMMISSION**

### **Work Plan for 2005 of the Commission for the Oversight on Auditors in Germany (Auditor Oversight Commission)**

as adopted on May 11, 2005

*(The translation is intended for better understanding of the German provisions. Even so, the translation has been prepared with due care following the original words and meaning of the German text, the translator is not responsible for any misunderstanding or misinterpretation. In case of doubt, the reader should refer to the German text. Words in square brackets are comments of the translator and therefore not part of the German text.)*

By means of the Law on Further Developing the Professional Oversight on Auditors According to the Public Accountant Act (Auditor Oversight Law) of December 27, 2004 the German legislator has established the "Commission for the Oversight on Auditors in Germany" (Auditor Oversight Commission - AOC) with effect from January 1, 2005, who is in charge of the public professional oversight towards the Wirtschaftsprüferkammer as far as the Wirtschaftsprüferkammer acts in areas according to Article 4, paragraph 1, 1<sup>st</sup> sentence of the Public Accountant Act with respect to professionals and firms who are entitled to perform statutory audits or who do so de facto without being entitled. In addition, the Commission is responsible for overseeing the adoption of international audit standards, as far as the responsibility is not taken by a Federal Ministry (Article 66a, paragraph 1 of the Public Accountant Act) and cooperates with authorities in other countries in case of indications for professional misconduct by auditors with cross-border effects (Article 66a, paragraphs 8 and 9 of the Public Accountant Act).

Within this framework the legislator entitled the AOC to the ultimate decision (Article 66a, paragraph 4 of the Public Accountant Act) and therefore the ultimate responsibility for the compliance of the Wirtschaftsprüferkammer with its remit in a suitable, adequate and proportional manner as well as lawfully, the latter under reserve of the state supervision by the Federal Ministry of Economics and Labour (Article 66 of the Public Accountant Act).

As outlined through the legal provisions, the work plan of the AOC covers in detail the following areas:

- examination and aptitude tests for foreign auditors;
- licensing of individuals and firms, revocation of licenses and registration;
- disciplinary oversight;
- quality assurance;
- adoption of professional rules.

The emphasis of the AOC's oversight will be particularly on disciplinary oversight and quality assurance.

Considering the lack of experience with a comprehensive „public oversight“ system, a lot of importance will be attached – especially in the first year – to the design and testing of an information system that guarantees timely and adequate information of the AOC on proceedings relevant to the oversight. In view of the number and extent of relevant proceedings at the Wirtschaftsprüferkammer and considering the interest in a purposive and efficient work of the AOC, the information system must allow for a quick determination of proceedings most relevant to the public oversight and routine business of less or no relevance.

In the first year, the AOC will also focus on the cooperation with competent authorities in the Member States of the European Union, in other contract states to the agreement on the European Economic Area and in third countries. Amongst other activities, this comprises

- planning the approach to foreign oversight authorities;
- regulating the cooperation in case of indications for professional misconduct by auditors with cross-border effects;
- discussing the exchange of information with foreign oversight authorities;
- discussing the coordination of national public oversight activities at an EU level.

Based on these principles, the following measures will be considered in the different areas relevant to the public oversight:

**a) Matters of General Importance**

- adoption of the AOC's rules of procedure;
- establishing criteria on how to use the right to instruct the Wirtschaftsprüferkammer:
  - in case of remanding decisions of the Wirtschaftsprüferkammer for re-examination;
  - in case of abrogating decisions and issuing instructions (ultimate decision).
- information about date and place of meetings of bodies, departments and committees of the Wirtschaftsprüferkammer;

**b) Examination (Articles 5 – 14a of the Public Accountant Act) and Aptitude Tests for Foreign Auditors (Articles 131g – 131m of the Public Accountant Act)**

- information about subjects, the general procedure and principles for decisions in matters of examination and aptitude tests;
- information about statistics with respect to the examination results;

- information about the work and important decisions of the Examination Subject Commission, the Examination Board and the Commission for Appeals;
- information about the recognition of equivalent examination achievements according to Article 13b of the Public Accountant Act;
- information about cases of doubt in matters of admission to the examination or aptitude test, and the refusal, withdrawal or revocation of the admission to the examination or the aptitude test;
- information about the scale of fees for examinations and aptitude test;

**c) Licensing of Individuals and Firms and Revocation of Licenses (Articles 15 – 36 of the Public Accountant Act)**

- information about the general procedure of licensing of individuals, re-licensing of Public Accountants and Sworn Accountants, licensing of firms and the revocation of licenses;
- presentation of proceedings aiming on refusal, withdrawal or revocation of licenses of individuals or firms, or when dropping a case aiming on the revocation of a license;
- presentation of proceedings – including the reasons for a decision – aiming on re-licensing of a former Public Accountant or former Sworn Accountant;
- presentation of fundamental statements and publications of the Wirtschaftsprüferkammer relevant in the area of licensing and revocation of licenses;

**d) Registration (Articles 37 – 40 of the Public Accountant Act)**

information about the general procedure of maintaining and updating the public register of professionals;

**e) Quality Assurance Articles 57a – 57h of the Public Accountant Act)**

- information about the quality assurance procedure in general;
- arranging the participation of members of the AOC at final meetings of reviewers with reviewed audit firms;
- arranging the procedure and contents of the communication with the Commission for Quality Assurance of the Wirtschaftsprüferkammer and its departments, [*with respect to*] e.g.:
  - principles for the participation of members of the AOC at meetings of the Commission for Quality Assurance;

- clarification and evidence, duty to inform about proceedings relevant to the oversight and information on request in an individual case;
- information about the general procedure of engaging reviewers for quality assurance, e.g. criteria for the rejection of a reviewer (Articles 57a, paragraph 6, 3<sup>rd</sup> sentence of the Public Accountant Act)
- information about the general procedure of granting exemption permits;
- cases of not granting a certificate of participation in the quality assurance process (Article 57a, paragraph 6, 10<sup>th</sup> sentence of the Public Accountant Act)
- cases of revoking a certificate of participation in the quality assurance process (Article 57e, paragraph 2, 8<sup>th</sup> sentence of the Public Accountant Act)
- cases of refusing the registration of a reviewer for quality assurance (Article 57a, paragraph 3 of the Public Accountant Act)
- cases of rejecting a reviewer proposed by the audit firm to be reviewed (Article 57a, paragraph 6, 3<sup>rd</sup> sentence of the Public Accountant Act)
- cases of imposing measures and special reviews according to Article 57e, paragraph 2, 1<sup>st</sup> sentence of the Public Accountant Act
- cases of amendments to the by-laws regulating the quality assurance procedure (Article 57c, paragraph 1 in connection with Article 66a, paragraph 5 of the Public Accountant Act)
- general information about the handling of the huge amount of quality assurance review engagements performed in 2005 due to the expiry of the transitional period for participation in the quality assurance procedure on December 31, 2005;
- discussion about the further development of professional rules as a result of findings from the quality assurance engagements performed;

**f) Disciplinary Oversight (Articles 61a – 127 of the Public Accountant Act)**

- information about the disciplinary oversight procedure in general;
- presentation of proceedings relevant to the oversight before the Wirtschaftsprüferkammer enacts a decision, e.g.:
  - presentation of all decisions to drop a case (Article 61a, 4<sup>th</sup> sentence of the Public Accountant Act)
  - presentation of reprimands (Article 63, paragraph 1, 1<sup>st</sup> sentence WPO);

- permit of exemptions from the limit relevant for an undue relationship between total fees and total revenues according to Article 319, paragraph 3, no. 5 of the Commercial Code;
- information about the result of investigations transferred to the Chief Public Prosecutor (general principles on the involvement of the AOC in the communication between the Chief Public Prosecutor and the Wirtschaftsprüferkammer);
- information about notifications by the Financial Reporting Enforcement Panel (FREP) or the Federal Financial Supervisory Authority immediately after receipt and [information about] measures taken by the Wirtschaftsprüferkammer;
- discussing special investigations of the AOC with respect to disciplinary proceedings with cross-border effect;

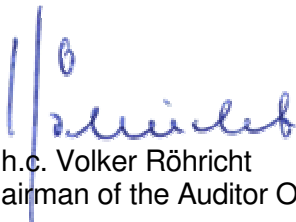
**g) Adoption of Professional Rules**

- involvement in the adoption of professional rules (et al. by-laws of the Wirtschaftsprüferkammer on rights and duties of professionals as well as the quality assurance procedure) according to Article 57, paragraph 3 of the Public Accountant Act;
- participation in the discussion of the upcoming amendment to the Public Accountant Act;

**h) Annual Progress Report**

- agreement on the AOC's own reporting procedures;
- compilation of a public progress report assessing – amongst others – the adequacy and efficiency of the quality assurance process and recommendations for further developments of this process as well as the further development of regulations of the profession;

Adopted at the meeting of the Auditor Oversight Commission on May 11, 2005.



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(Chairman of the Auditor Oversight Commission)