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Deutsche Wohnen AG Frankfurt am Main

Change of legal form to a European company (SE) Report on the examination of capital coverage in connection with the conversion pursuant to Article 37 of Council Regulation (EC) No 2157/2001

Translation from the German language

Ernst & Young GmbH
Wirtschaftsprüfungsgesellschaft





Translation from the German language

Table of contents

	Page
A. Engagement and execution of the engagement	1
B. Legal and economic background	4
I. Legal background	4
II. Economic background	5
C. Capital and reserves for the purposes of Article 37 (6) SER	8
D. Examination of capital coverage	10
I. Nature and scope of the audit	10
II. Valuation principles and methods	11
1. Principles of business valuation	11
2. Capitalization rate	14
III. Assessment of capital coverage	19
1. Accounting net assets	19
2. Business value	20
E. Certification	1



Translation from the German language

Exhibits

1. Resolution of Frankfurt Regional Court dated 24 March 2017
2. Terms and Conditions



Translation from the German language

Abbreviations

AktG	Aktiengesetz [German Stock Corporation Act]
b	billion
CAPM	capital asset pricing model
Deutsche Wohnen AG	Deutsche Wohnen Aktiengesellschaft, Berlin
et seq.	et sequens [and the following]
EUR	euro(s)
EUR k	thousands of euros
FAUB	Fachausschuss für Unternehmensbewertung und Betriebswirtschaft [IDW's Technical Committee for Business Valuation and Economics]
FY	fiscal year
HGB	Handelsgesetzbuch [German Commercial Code]
IDW	Institut der Wirtschaftsprüfer in Deutschland e.V. [Institute of Public Auditors in Germany], Düsseldorf
IDW AcP HFA 10	IDW Accounting Principle dated 18 October 2005 "Application of Principles of IDW S 1 in the Valuation of Equity Investments and Other Company Shares for the Purposes of Financial Statements Prepared in Accordance With German Commercial Law" (IDW AcP HFA 10)
IDW S 1	IDW Standard S 1 dated 2 April 2008 "Principles for the Performance of Business Valuations" (IDW S 1)
IFRSs	International Financial Reporting Standards
m	million
SE	Societas Europaea [European company]
Sec.	Section
SER	Council Regulation (EC) No 2157/2001 of 8 October 2001 on the Statute for a European company (SE)
UmwG	Umwandlungsgesetz [German Reorganization Act]



Translation from the German language

A. Engagement and execution of the engagement

At the request of the management board of Deutsche Wohnen Aktiengesellschaft, Frankfurt am Main ("Deutsche Wohnen" or the "Company"), Frankfurt am Main Regional Court appointed us by resolution of 24 March 2017 as an independent expert pursuant to Article 37 (6) of Council Regulation (EC) No 2157/2001 of 8 October 2001 on the Statute for a European company (SE) (SER) in conjunction with Sec. 10 UmwG ["Umwandlungsgesetz": German Reorganization Act].

This certificate is prepared in connection with the intended conversion of Deutsche Wohnen AG to a European company ("Societas Europaea" or "SE") pursuant to Article 2 (4) and Article 37 SER. The management and supervisory boards of Deutsche Wohnen AG will propose to the Company's general shareholder meeting on 2 June 2017 a resolution for conversion to a European company (SE).

Under Article 37 (6) SER, an independent expert shall certify in compliance with Council Directive 77/91/EEC of 13 December 1976 mutatis mutandis that the Company has net assets at least equivalent to its capital plus those reserves which must not be distributed under the law or the statutes.

We conducted our examination in March and April 2017. Our work is based on the information available to us on 19 April 2017. The following main documents were provided to us for our examination:

- ▶ The financial statements and combined management report of Deutsche Wohnen AG prepared in accordance with the HGB ["Handelsgesetzbuch": German Commercial Code] as of 31 December 2016, with an unqualified audit opinion thereon from KPMG AG Wirtschaftsprüfungsgesellschaft, Berlin (KPMG)
- ▶ The consolidated financial statements and combined management report of Deutsche Wohnen AG prepared in accordance with IFRSs as of 31 December 2016, with an unqualified audit opinion thereon from KPMG AG Wirtschaftsprüfungsgesellschaft, Berlin
- ▶ Projected income statements prepared by the Deutsche Wohnen Group in accordance with IFRSs for fiscal year 2017, as presented to the supervisory board of Deutsche Wohnen AG on 19 December 2016

Translation from the German language

- ▶ Medium-term forecast prepared in February 2017 by the Deutsche Wohnen Group in accordance with IFRSs for fiscal years 2017 to 2021
- ▶ Draft of the conversion report of Deutsche Wohnen AG prepared for its conversion to a European company, as amended on 19 April 2017, together with preliminary drafts
- ▶ Articles of incorporation and bylaws of Deutsche Wohnen AG as amended on 22 February 2017
- ▶ Notarized draft terms of conversion dated 19 April 2017 (deed no. UR 203/2017 R of the notary Christian Rahn, Berlin) and the future statutes of Deutsche Wohnen SE, together with preliminary drafts
- ▶ Excerpt from the commercial register of Deutsche Wohnen AG dated 19 April 2017

Further information was readily provided by the management board of Deutsche Wohnen AG and by its named employees.

The management board of Deutsche Wohnen AG provided us with a letter of representation stating that all information of significance for the preparation of this report had been provided to us fully and correctly.

We wish to emphasize that we have not audited the books and records or the separate or consolidated financial statements of the Company for the fiscal year ended 31 December 2016 or any periods after 31 December 2016. Such work is outside the scope of an examination of a conversion pursuant to Article 37 (6) SER. The auditor of the financial statements has issued an unqualified audit opinion confirming that the separate and consolidated financial statements for fiscal year ended 31 December 2016 comply with the relevant legal requirements. The management board of Deutsche Wohnen AG has confirmed that the information relevant for financial reporting relating to the period after 31 December 2016 complies with the relevant legal requirements. We therefore assume that the documents presented to us are correct in terms of the completeness of the financial statements and their compliance with accounting requirements.



Translation from the German language

The General Terms and Conditions of Ernst & Young GmbH Wirtschaftsprüfungsgesellschaft dated 1 January 2017, which are attached to this report, are an integral part of this engagement relative to our responsibility and liability and also govern our relations with third parties in the context of this engagement. Accordingly, Sec. 9 (2) of the General Engagement Terms limits liability for our services to EUR 4 million.

This report is intended for submission to the commercial register and as information for the shareholders of Deutsche Wohnen AG in preparation for and during the shareholder meeting at which a resolution for the conversion is to be adopted. It may not be used for other purposes, and in particular may not be distributed to third parties. Excluded from this restriction is distribution to the competent register court and disclosure to the shareholders of Deutsche Wohnen AG. However, please note that if distribution or disclosure to third parties is required by law, we neither owe nor accept any obligation, responsibility or duty of care with regard to the content of our report except as expressly agreed otherwise in our engagement agreement. Third parties using the content of our report in any way shall do so at their own risk.

Translation from the German language

B. Legal and economic background

I. Legal background

Deutsche Wohnen AG has its registered office in Frankfurt am Main and is entered in the commercial register of the local court there under HRB no. 42388.

At the conversion date, Deutsche Wohnen AG will have registered share capital of EUR 354,654,560, divided into 354,654,560 no par value bearer shares each representing EUR 1.00 of the share capital.

The shares of Deutsche Wohnen AG, bearing securities identification number A0HN5C (ISIN: DE000A0HN5C6) are admitted to trading in the segment of the regulated market of the Frankfurt Stock Exchange with additional post-admission requirements (Prime Standard) and are also listed on the Berlin, Düsseldorf, Hamburg, Hanover, Munich and Stuttgart stock exchanges. The shares of Deutsche Wohnen AG may be traded on Deutsche Börse AG's electronic trading platform, XETRA. Deutsche Wohnen AG is included on the MDAX index.

Five shareholders of Deutsche Wohnen AG who each hold more than 3% of the shares in Deutsche Wohnen together hold a total of 33.5% of the shares in Deutsche Wohnen AG. The remaining Deutsche Wohnen shares (approximately 66.5%) are in free float.

Deutsche Wohnen AG currently has authorized capital (Authorized Capital 2015/I of a maximum of EUR 82,825,890.00 (as of 31 December 2016: EUR 100,000,000) limited until 11 June 2018) and conditional capital (Conditional Capital 2013/I of EUR 16,075,714 for granting shares to holders of a convertible bond of EUR 250,000,000; Conditional Capital 2014/I of EUR 25,000,000 for granting shares to holders of a convertible bond of 400,000,000; Conditional Capital 2014/II of EUR 5,902,813.00 for paying a settlement to minority shareholders of GSW Immobilien AG; Conditional Capital 2014/III of EUR 12,879,752 for granting stock options; Conditional Capital 2015/I of a maximum of EUR 50,000,000 for the issue of convertible and/or warrant bonds, profit participation rights and/or profit participating bonds or combinations of such instruments with a nominal amount of a maximum of EUR 1,500,000,000).

There is not more than one class of shares.



Translation from the German language

There are non-distributable reserves in the form of capital reserves and the legal reserve.

The current articles of incorporation are dated 22 February 2017.

The fiscal year is the calendar year.

II. Economic background

The purpose of Deutsche Wohnen AG is the acquisition, administration, letting, management and sale of residential properties, nursing facilities and other properties. It may construct, modernize and refurbish properties, provide services and enter into all manner of cooperations.

The Group's business activities comprise the letting and management of predominantly self-owned apartments or smaller commercial spaces, the sale of apartments to owner-occupiers and investors and the operation of inpatient nursing facilities and retirement homes. The Group's properties are predominantly located in the regional conurbations.

The following table shows the net assets and financial position of Deutsche Wohnen AG according to the HGB financial statements as of 31 December 2016 on which an unqualified audit opinion was issued, together with the prior-year figures:

	31 Dec 2016		31 Dec 2015		Changes
	EUR m	%	EUR m	%	EUR m
Fixed assets					
Fixed assets	3,127.0	44.8	3,123.3	45.0	3.7
Receivables and other assets	3,683.1	52.8	3,309.6	47.8	373.5
Cash on hand and bank balances	165.2	2.4	501.0	7.2	-335.8
	6,975.3	100.0	6,933.9	100.0	41.4
Equity	4,098.7	58.8	4,166.5	60.1	-67.8
Provisions	12.9	0.2	39.8	0.6	
Liabilities	2,863.7	41.0	2,727.6	39.3	-26.9
	6,975.3	100.0	6,933.9	100.0	41.4

Source: Combined management report of Deutsche Wohnen AG



Translation from the German language

In fiscal year 2016, there was a minimal increase in fixed assets, which mainly comprise equity investments in group companies, as a result of capital contributions and the purchase of shares in GSW Immobilien AG.

The cash pool receivables from companies in the Deutsche Wohnen Group contained in receivables and other assets increased year on year as of 31 December 2016. The decrease in cash and cash equivalents reflects the transfer of excess liquidity to the intragroup cash pool.

Equity decreased, primarily as a result of the net balance of the dividend payment of EUR 182m and the net income for the year of EUR 110m.

Liabilities decreased, chiefly due to the issue of EUR 233m in short-term corporate bonds, partly offset by a EUR 95m reduction in cash pool liabilities.



Translation from the German language

The combined revenue and earnings development of Deutsche Wohnen AG in accordance with the HGB is as follows for fiscal years 2015 and 2016:

	2016 EUR m	2015 EUR m	Changes EUR m	Changes relative
Revenue	31.5	26.4	5.1	19 %
Other operating income	1.4	10.2	-8.8	-86 %
Personnel expenses	-17.2	-19.7	2.5	-13 %
Other operating expenses	-32.7	-97.1	64.4	-66 %
Amortization, depreciation and write-down	-2.1	-1.5	-0.6	40 %
Operating result	-19.1	-81.7	62.6	-77 %
Net interest income/loss	7.6	0.1	7.5	>100 %
Result from equity investments	123.4	209.2	-85.8	-41 %
Write-downs	-0.2	0.0	-0.2	n/a
Income taxes	-1.3	0.0	-1.3	n/a
Net income/net loss for the year	110.4	127.6	-17.2	-13 %

Source: Combined management report of Deutsche Wohnen AG

Deutsche Wohnen AG acts as a holding company and also generates revenue from its own activities, the provision of services for group companies. Compared with the prior fiscal year, revenue increased, mainly because the Company acquired further service agreements.

With regard to operating costs, other operating expenses fell sharply primarily due to non-recurring transaction costs for its own takeover bids and due to the takeover bid by Vonovia SE in the prior year.

The interest result rose year on year, largely due to non-recurring expenses in the prior year relating to the issue of corporate bonds and higher interest income from the group-wide cash pool in the current fiscal year.

The decrease in the investment result was due to substantially lower dividends from investees (2016: EUR 81m; 2015: EUR 189m).

Overall, net income was reported, albeit on a slightly lower level than in the prior year.

Translation from the German language

C. Capital and reserves for the purposes of Article 37 (6) SER

For the purposes of Article 37 (6) SER, “capital” is understood to mean the share capital of the SE to be founded as defined in the statutes; “reserves which must not be distributed” include, but are not limited to, the legal reserves in accordance with Sec. 150 AktG [“Aktengesetz”: German Stock Corporation Act].

The equity of Deutsche Wohnen AG is stated as follows in the HGB financial statements as of 31 December 2016:

	<u>EUR m</u>
Equity	
Subscribed capital	337
Capital reserves	
Sec. 272 (2) No. 1 HGB	2,071
Sec. 272 (2) No. 2 HGB	5
Sec. 272 (2) No. 4 HGB	<u>1,413</u>
	3,489
Revenue reserves	
Legal reserve	1
Net retained profit	<u>272</u>
Total equity (HGB financial statements)	<u><u>4,099</u></u>

<i>For information purposes</i>	
Authorized capital	
Authorized Capital 2015/I	100
Conditional capital	
Conditional Capital 2013/I	16
Conditional Capital 2014/I	25
Conditional Capital 2014/II	6
Conditional Capital 2014/III	13
Conditional Capital 2015/I	<u>50</u>
	110

Source: Figures from the financial statements of Deutsche Wohnen AG

The share capital of Deutsche Wohnen AG in accordance with Article 4 of the articles of incorporation, presented as subscribed capital in the financial statements of Deutsche Wohnen AG for 2016, totals EUR 337m as of 31 December 2016.

In addition, as of 31 December 2016 there are the following reserves which must not be distributed due to legal provisions:

- ▶ Capital reserves pursuant to Sec. 272 (2) Nos. 1 to 3 HGB amount to EUR 2,076m.



Translation from the German language

- ▶ The Company recognized a legal reserve of EUR 1m in accordance with Sec. 150 (1) AktG. Under Sec. 150 (3) and (4) AktG, this reserve is subject to a restriction on distribution.
- ▶ An amount of EUR 0.1m of the net retained profit is subject to a restriction on distribution pursuant to Sec. 253 (6) HGB.

The articles of incorporation and bylaws do not stipulate the recognition of reserves subject to a restriction on distribution.

The capital and reserves of Deutsche Wohnen AG for the purposes of Article 37 (6) SER are as follows as of 31 December 2016:

	<u>EUR m</u>
Equity	
Subscribed capital	337
Capital reserves	
Sec. 272 (2) No. 1 HGB	2,071
Sec. 272 (2) No. 2 HGB	<u>5</u>
	2,076
Revenue reserves	
Legal reserve	1
Net retained profit	<u>0</u>
Total equity pursuant to Article 37 (6) SER	<u>2,414</u>

At the end of February 2017, Deutsche Wohnen AG effected a capital increase by cash subscription in the amount of EUR 545m. In addition, the granting of stock options led to increases in capital reserves pursuant to Sec. 272 (2) No. 2 HGB of EUR 1.2m and the purchase of shares held by shareholders of GSW Immobilien AG increased capital reserves pursuant to Sec. 272 (2) No. 1 HGB by EUR 0.1m. After these corporate actions, the capital and reserves of Deutsche Wohnen AG for the purposes of Article 37 (6) SER are as follows as of 19 April 2017:

	31 Dec 2016 EUR m	Capital increase by cash subscription EUR m	Other changes EUR m	19 Apr 2017 EUR m
Equity				
Subscribed capital	337	17	0	354
Capital reserves				
Sec. 272 (2) No. 1 HGB	2,071	0	0	2,071
Sec. 272 (2) No. 2 HGB	<u>5</u>	<u>0</u>	<u>1</u>	<u>6</u>
	2,076	0	1	2,077
Revenue reserves				
Legal reserve	1	0	0	1
Net retained profit	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
Total equity pursuant to Article 37 (6) SER	<u>2,414</u>	<u>17</u>	<u>1</u>	<u>2,432</u>

Translation from the German language

D. Examination of capital coverage

I. Nature and scope of the audit

The basis of the intended conversion of Deutsche Wohnen AG to a European company is Article 2 (4) and Article 37 (1) SER. In accordance with Article 37 (2) SER, the conversion of a public limited liability company to an SE does not result in the winding up of the company or in the creation of a new legal person. The identity of the company is preserved; no transfer of assets takes place in a conversion entailing a change of legal form.

Under Article 37 (6) SER, in order to be converted to an SE a company must have net assets at least equivalent to its capital plus those reserves which must not be distributed under the law or the statutes.

Neither Article 37 (6) SER nor any other provisions of the SER stipulate how net assets are to be determined.

Via Articles 5, 10 and 15 SER, the provisions of the AktG and the UmwG generally apply, especially with regard to the raising of capital and the determination of a company's net assets.

Article 15 SER states that national business formation law applies. With regard to the change of legal form of stock corporations, under national law this reference therefore covers the law of the change of legal form (Sec. 190 et seq., Sec. 226 et seq. Sec. 238 et seq. UmwG) and, via Sec. 197 UmwG, stock corporation formation law (Sec. 23 et seq. AktG).

Therefore, in order to determine the net assets, the special provisions for the establishment of new companies by contributions in kind applicable to a stock corporation under German stock corporation law, must be applied. Hence, under Sec. 34 AktG, it is relevant whether the "value" of the contribution in kind is at least equal to the amount to be evidenced.

The provisions of stock corporation law on contributions in kind do not contain any regulations on the nature of the valuation or the scope of the examinations to be performed. The choice of method depends on the asset being valued, its significance for the company's business activities, the valuation provisions of Sec. 252 et seq. HGB and relevant business knowledge and insights.



Translation from the German language

Potentially appropriate values are therefore the fair market value, the book value according to commercial law and the liquidation value.

According to prevailing opinion, the fair market value is the maximum value. The general principles of business valuation can be applied to calculate the fair market value. The IDW [“Institut der Wirtschaftsprüfer in Deutschland e.V.”: Institute of Public Auditors in Germany] has set forth the principles of business valuation which have evolved in theory, practice and court rulings in the IDW Standard 1 dated 2 April 2008, “Principles for the Performance of Business Valuations” (IDW S 1). These principles are described below.

Besides the fair market value, which is deemed the relevant maximum value, the literature accepts that evidence of capital can also be provided in the form of the accounting net assets according to commercial law (equity as defined by Sec. 266 (3) HGB) if equity is sufficiently high. If the accounting net assets according to commercial law are not sufficient, the actual values, including any unrealized gains, must be determined.

This means that the accounting net assets according to commercial law can generally be used as evidence of value since, under the historical cost principle and the lower of cost or market principle (Sec. 253 and Sec. 255 HGB), it may generally be assumed that the book value of assets and liabilities is not higher or lower, respectively, than their fair market value.

Based on the above, in a first step we examined whether the capital is covered by the net assets according to commercial law and, in a second step, backed this up by carrying out an approximate calculation of the capitalized earnings value in accordance with IDW S 1. We used the Company’s market capitalization to test the plausibility of this result.

II. Valuation principles and methods

1. Principles of business valuation

The general principles of business valuation are reflected in the IDW’s pronouncements, in particular in IDW S 1 “Principles for the Performance of Business Valuations” and IDW Accounting Principle HFA 10 “Application of the Principles of IDW

Translation from the German language

S 1 in the Valuation of Equity Investments and Other Company Shares for the Purposes of Financial Statements Prepared in Accordance With German Commercial Law" (IDW AcP HFA 10).

The business value can be calculated as a future earnings value according to the capitalization of earnings or discounted cash flow methods. In this case, the capitalization of earnings method is used. This is the method commonly applied in Germany.

a. Capitalized earnings value

The capitalized earnings value is the present value of the net cash flows to the owner associated with ownership of the business enterprise.

Assuming the exclusive pursuit of financial objectives, the value of the business enterprise is determined solely by its ability to generate net earnings for its owners (IDW S 1, section 4). The fact that the capitalized earnings value, calculated as the present value of future surpluses of earnings over expenses, represents the theoretically correct value of a business enterprise is a generally accepted valuation principle recognized in theory, practice and court rulings.

The forecast of future net cash flows or earnings is the central element of a business valuation. Risks and rewards must be given equal consideration. An analysis of historical earnings can provide guidance here.

As a rule, the IDW prescribes the standard IDW S 1 for the purposes of business valuation. This standard deals mainly with the determination of an objectified business value from the perspective of an impartial expert. The object is to determine a value for the business enterprise that is not influenced by the individual value perceptions of the parties concerned. For IDW S 1, the perspective of the owner (as a private individual) is taken, not the perspective of an acquiring business enterprise as a shareholder.

By contrast, IDW AcP HFA 10 states that the value of equity investments for commercial law purposes must be assessed solely from the perspective of the company reporting the equity investment. Emphasis is placed on the principles of creditor protection and the determination of debt-servicing potential.



Translation from the German language

b. Consideration of income taxes

The company's net cash flows are discounted to calculate the capitalized earnings value. The business taxes to be borne by the company (trade tax on income, corporate income tax) must be deducted.

As personal income taxes are relevant for the valuation, typical tax rates must be determined for the company owners in order to obtain objectified business values. Business valuations for the purpose of entrepreneurial initiatives call for an indirect determination of typical personal income tax rates. It is assumed that the personal income tax rate levied on the net cash flows from the entity being value is equal to the personal income tax rate on an alternative investment in an equity portfolio. In line with this assumption, the net cash flows to the owners before personal income taxes are discounted by a stock yield which is not adjusted for income tax effects, but is nonetheless influenced by them. In this way, the personal tax levied upon the company owner is inferred indirectly from the tax circumstances of a large number of capital market participants (shareholders).

c. Valuation date

In accordance with the cut-off date principle in IDW S 1, business values must be determined as of a specified date, the valuation date.

The valuation date is the date of the shareholder meeting which will adopt the conversion resolution, i.e., 2 June 2017.

In the case at hand, we used 31 December 2016 as the technical valuation date. In this regard it should be noted that the value determined for the Company as of the date of the shareholder meeting will always be higher than the value determined as of 31 December 2016 due to the compounding to be performed to that date. As no compounding (which would have enhanced the business value) was required in the case at hand to assess capital coverage, we opted not to compound the value.

Translation from the German language

d. Liquidation and net asset value

The Principles for the Performance of Business Valuations require the use of the liquidation value if the present value of net earnings from the liquidation of the business enterprise exceeds the capitalized earnings value calculated for a going concern, and the possibility that the business enterprise will be liquidated actually exists.

Since there is currently no indication that the Company will be liquidated, not even an approximate estimate of the liquidation value of the operating assets was required for the purposes of our examination.

The net asset value based on replacement value is irrelevant for determining the debt-servicing potential of a business enterprise.

2. Capitalization rate

To calculate the capitalized earnings value, the future net earnings have to be discounted to the valuation date using an appropriate capitalization rate.

In accordance with section 9 of IDW AcP HFA 10, the capitalization rate must be determined in accordance with the principles set forth in IDW S 1 using the return on an alternative investment with a similar risk profile. Owing to the fact that carrying values recognized in HGB financial statements must be free of bias, the purely subjective returns expected by the individual investor may not be used. Instead, returns on comparable investments observed on the relevant capital market may be considered.

In particular, capital market returns on equity investments (in the form of an equity portfolio) can be used as a basis for determining alternative returns. In accordance with section 115 of IDW S 1, these equity returns must be split into a base interest rate and a risk premium demanded by shareholders for the assumption of entrepreneurial risk. Capital market models such as the capital asset pricing model (CAPM; cf. IDW S 1, section 124) can be used to do so.



Translation from the German language

a. Base interest rate

The purpose of the base interest rate is to determine a risk-free alternative investment (with an equivalent maturity) to investment in the business enterprise being valued. Being relatively safe, government bonds in Germany largely meet the risk-free requirement.

Strictly speaking, if a business enterprise is being valued under the premise that it will survive in perpetuity, the return on a similarly unlimited government bond observed on the valuation date will have to be used to establish the base interest rate for the equivalent maturity. In the absence of such “eternal” bonds, it seems plausible to use government bonds with long maturities as a starting point. Historical interest rate trends or the current yield curve can be used as a basis for the required reinvestment (IDW S 1, section 117).

The IDW's Technical Committee for Business Valuation and Economics [“Fachausschuss für Unternehmensbewertung und Betriebswirtschaft”: FAUB] addressed the question as to how the yield curve can be used to derive base interest rates. According to the FAUB, the yield curve for government bonds should be used to determine the objectified business value. From this term structure on the bond market, the relationship between interest rates and maturities can be determined, as it would apply for zero coupons with no credit risk. The equivalent-maturity zero-coupon bond interest rates derived from the yield curve ensure that equivalent maturity is maintained. The IDW recommends using the yield curve data published by Deutsche Bundesbank as a basis.

To smooth out short-term market volatility as well as potential estimation errors, in particular with regard to the long-term returns relevant to business valuations, it may be appropriate to base the valuation on average figures in addition to the zero-coupon bond rates estimated as of the valuation date. To ensure practicable and transparent smoothing, period-specific average interest rates can be derived from the estimated returns of the previous three months. This business valuation was therefore based on the average interest rates for the months of October to December 2016.

Taking the data provided by Deutsche Bundesbank as a basis results in a base interest rate of around 1.00% on the valuation date.

Translation from the German language

b. Market risk premium

Capital market pricing models such as the CAPM can be used to derive risk premiums from the empirical calculation of stock yields on the capital market.

Stock yields and risk premiums are affected by income taxes. In its standard form, the CAPM represents a capital market model in which costs of capital and risk premiums are stated without taking account of the effects of personal taxes on income. The standard CAPM can be extended by explicitly taking into account the effects of personal income taxes ("Tax CAPM," cf. IDW S 1 section 120).

In the case at hand, the valuation was performed without taking personal income taxes into account. Pursuant to IDW S 1, application of the tax CAPM is not required in this case. A standard CAPM, i.e., a CAPM before personal taxes on income can be applied instead (cf. section D.II.1.b).

Long-term capital market analyses have shown that investments in equities have in the past generated higher returns than investments in low-risk debt securities. Depending on the selected time period, among other things, market risk premiums of around 4.0% to 5.0% can be derived.

On the basis of these studies and the current tax regime, the IDW has previously recommended a market risk premium before personal income tax of between 4.5% and 5.5%.

The FAUB has discussed the implications of the current capital market situation with its historically low risk-free interest rates for the determination of the capitalization rate under the CAPM.

In its statement, the FAUB considers, in light of the current capital market environment, market risk premiums in a range of 5.5% to 7.0% (before personal taxes) and 5.0% to 6.0% (after personal taxes) to be appropriate.

Given the currently observable elevated uncertainty on the capital market and the associated risk, we consider the use of a market risk premium of 7.0% to be appropriate.



Translation from the German language

c. Risks

If the subject company differs in terms of its size, industry, capital structure, country of residence, etc. from the risk structure considered in the underlying alternative investment, this alternative return must be adjusted accordingly. Based on the CAPM, as described above, a market risk premium inherent in the capital market return is determined and weighted with an industry-specific beta factor that reflects the systematic, non-diversifiable entrepreneurial risk. It can be assumed that the capital market return contains systematic risk only, which represents a beta factor of 1.0.

As a rule, beta factors are established as far as possible on a market basis using historical price data with the assistance of regression analyses. If the business enterprise being valued is itself listed on a stock market, its own beta factor can be applied in certain circumstances. Alternatively, the average beta factor of a peer group can be used. Here, care must be taken to ensure that the companies included in the peer group have a systematic risk comparable to that of the business enterprise being valued.

We determined the Company's enterprise-specific risk premium by reference to peer groups. Based on these analyses, we consider an unlevered beta factor of 0.35 to be appropriate. This beta factor merely reflects the risk of business activity. The levered beta factor is adjusted dynamically according to the specific level of debt in the forecast periods.

The risk premium of Deutsche Wohnen AG for the first forecast year 2017 of 4.06% is therefore the product of a market risk premium of 7.0% and the levered beta factor of 0.58.

d. Taxes

The capitalization rate to be determined must therefore be equivalent to the typical and indirectly determined tax rate described above, which means it must be presented before personal income taxes, but after business taxes have been deducted.

Translation from the German language

The capital market studies currently available do not give any detailed information regarding the business tax rate contained in historical stock market yields. In our valuation, we assumed that the market risk premium of 7.0% and the risk premium of 4.06% adjusted using the beta factor are both to be understood as being after business taxes. No additional taxes are therefore deducted.

e. Growth rate

As in the case at hand, business plans are usually based on nominal amounts and inflationary increases are reflected directly in the budgeted income and expense items. Profit growth resulting in this regard is mainly dependent on the extent to which the business enterprise is in a position to pass on inflation-induced price rises to customers by increasing prices or efficiency. While profit growth in the planning period is reflected directly in the amounts to be discounted, sustainable profit growth is taken into account in the terminal value by adjustments to the capitalization formula.

To account for the market environment and inflation, a growth rate of 1.0% was assumed for fiscal year 2020 and subsequent periods.

In the light of these comments of the capitalization rate and in view of the financing structure of the Deutsche Wohnen Group, to determine the capitalized earnings value we assumed a capitalization rate of 3.34% in the detailed planning phase and 2.24% for the terminal value.



Translation from the German language

III. Assessment of capital coverage

1. Accounting net assets

Our examination of whether capital is covered by accounting net assets according to commercial law is based on the financial statements of Deutsche Wohnen AG prepared in accordance with the HGB as of 31 December 2016 on which KPMG AG Wirtschaftsprüfungsgesellschaft issued an unqualified audit opinion.

The net assets of Deutsche Wohnen AG as of 31 December 2016, which corresponds to the equity reported in the financial statements, amounted to EUR 4,099m as of 31 December 2016 and was composed as described in B.II. Economic background.

The financial statements of Deutsche Wohnen AG for fiscal year 2016 were prepared in accordance with the provisions of the HGB and the AktG.

All assets stated in the balance sheet of the 2016 financial statements were valued in accordance with the provisions of the HGB and the AktG. The same applies to provisions and liabilities. There are no indications of any overvaluation of assets, undervaluation of liabilities or failure to account for obligations that would have an effect on the net asset value.

The net assets of Deutsche Wohnen AG, based on the book values according to German commercial law thus amount to EUR 4,099m as of 31 December 2016.

The corporate action carried out after the balance sheet date in February 2017 led to an increase of EUR 545m in the net assets of Deutsche Wohnen AG. The injection of cash in connection with the capital increase by cash subscription does not give rise to any indications that assets have been overvalued. As such, after the capital increase, Deutsche Wohnen AG can be assumed to have net assets of EUR 4,644m.

We conclude as a result of our procedures that the net assets according to commercial law of Deutsche Wohnen AG as of 31 December 2016 and after the capital increase by cash subscription are at least equal the capital to be certified in accordance with Article 37 (6) SER.

Translation from the German language

Having reviewed suitable documents and obtained information, we satisfied ourselves that in the period between 31 December 2016 and today's date, no losses have been incurred and no impairment has occurred, as a result of which the net assets according to commercial law would have been diminished to below the amount of capital within the meaning of Article 37 (6) SER.

We conclude that, at the time of signing this certificate, the net assets according to commercial law of Deutsche Wohnen AG will be at least equal to the capital plus those reserves which must not be distributed under the law or the statutes for the purposes of Article 37 (6) SER.

2. Business value

On the basis of the valuation principles and methods described in section D.II. and by reference to the documents presented to us, we calculated the capitalized earnings value of the Company.

We based our calculation of future earnings on the projected income statements prepared by the Deutsche Wohnen Group for the years 2017 to 2019.

The financial result was calculated allowing for the distribution of the entire projected net cash flows.

Retaining portions of the distributable earnings, assuming that the retained amounts would earn a yield in the amount of the capitalization rate, would not affect this result.

The planning years 2017 to 2019 comprise the first forecast phase in accordance with the phase method (cf. IDW S 1, section 75 et seq.). In the second forecast phase, beginning in 2020, future earnings were reflected by a terminal value that can be achieved in the long term.

Distributable earnings were discounted to the technical valuation date, 31 December 2016. Please refer to our comments on the valuation date in section D.II.1.c. The determination of the capitalization rate is explained in detail in section D.II.2.

In the second forecast phase, the capitalization rate was reduced by a growth rate of 1.0%.



Translation from the German language

We varied the parameters relevant to the valuation to derive an indicative range for the Company's capitalized earnings value, adjusting the business risk as reflected by the beta factor and the long-term growth rate.

The range for the market value of the equity of Deutsche Wohnen AG thus determined is at least equal to the capital to be certified in accordance with Article 37 (6) SER.

We also referred to the Company's market capitalization to test the plausibility of this result.

The market price of Deutsche Wohnen AG's shares is indicative of the amount of the Company's net assets as the market price reflects the estimate of the value of the Company by a large number of capital market participants. The price per share multiplied by the total number of shares outstanding equals the market capitalization. This expresses the mark-to-market valuation of equity.

The closing price of the Company's shares on the Frankfurt Stock Exchange on 31 December 2016 was EUR 29.84. Multiplying this figure by the number of shares outstanding on this date (excluding treasury shares), the Company had a market capitalization of EUR 10.1b as of 31 December 2016. As of 31 December 2015, its market capitalization was EUR 8.6b, based on a share price of EUR 25.62. After the capital increase, the share price climbed to around EUR 32.00 and market capitalization rose to EUR 11.3b.

Hence, the market capitalization of Deutsche Wohnen AG is many times greater than the nominal value of its share capital defined in the articles of incorporation and bylaws (subscribed capital) and the reserves which must not be distributed under the law or the statutes.



Translation from the German language

E. Certification

In accordance with our engagement, we hereby certify in accordance with Article 37 (6) SER that:

According to the results of our examination performed in accordance with professional standards pursuant to Article 37 (6) SER, based on the documents, information and evidence provided to us and on the considerations and methods presented in this report, Deutsche Wohnen AG has net assets at least equal to its capital plus those reserves which must not be distributed under the law or the statutes.

Berlin, 20 April 2017

Ernst & Young GmbH
Wirtschaftsprüfungsgesellschaft

Glöckner
Wirtschaftsprüfer
[German Public Auditor]

Schümann
Wirtschaftsprüferin
[German Public Auditor]

3-05 O 10/17

LANDGERICHT FRANKFURT AM MAIN BESCHLUSS

In dem Verfahren

auf Bestellung eines Umwandlungsprüfers nach Art. 37 Abs. 6 V 2157/01; Art. 10 R 78/855,
R 77/91, § 10 UmwG

der

Deutsche Wohnen AG, vertr. d. d. Vorstand, Pfaffenwiese 300, 65929 Frankfurt am Main
- Antragstellerin -

hat die 5. Kammer für Handelssachen des Landgerichts Frankfurt am Main
durch den Vorsitzenden Richter am Landgericht Dr. M. Müller am 24.3.2017 beschlossen:

Für die Erteilung der Bescheinigung nach Art. 37 Abs. 6 V2157/01 bei der geplanten
Umwandlung der Antragstellerin in eine europäische Aktiengesellschaft
wird die

**Ernst & Young GmbH
Wirtschaftsprüfungsgesellschaft
Niederlassung Berlin
Friedrichstrasse 140,
10117 Berlin**

zum Sachverständigen bestellt.

Die Kosten dieses Verfahrens hat die Antragstellerin zu tragen.

Der Geschäftswert wird auf EUR 60.000,-- festgesetzt.

Gründe:

Anhaltspunkte dem einzigen Vorschlag der Antragstellerin für den Sachverständigen nicht zu folgen sind nicht ersichtlich, so dass das Gericht bei seiner Auswahl der in Frage kommenden Sachverständigen auf den Vorschlag der Antragstellerin zurückgreifen kann. Bedenken des Gerichts gegen die benannte Wirtschaftsprüfungsgesellschaft bestehen nicht.

Im Interesse der Steigerung der Transparenz und Akzeptanz der Bescheinigung wird dem Sachverständigen aufgegeben, in seiner Bescheinigung darzulegen, von welcher Person, an welchem Ort, in welcher Weise und zu welcher Zeit die Prüfung zur Erstellung der Bescheinigung erfolgt ist. Wenn über den Einsatz der mit der Prüfung befassten Mitarbeiter ein (aussagekräftiges) Journal u. ä. geführt wurde, reicht es, wenn der Bescheinigung Ablichtungen beigelegt werden.

Es wird darauf hingewiesen, dass nach Ansicht des Gerichts (a. A. z. B. Wahlscheidt in Bewertungspraktiker 2/2008 S. 9) bei der Prüfung nach Art. 37 Abs. 6 SE-VO zur Erteilung der Nettovermögensbescheinigung davon auszugehen ist, dass eine ertragswertorientierte Bewertung der Gesellschaft als Ganzes hier nicht notwendigerweise geboten ist. Sinn und Zweck dieser Bescheinigung ist es zu bezeugen, dass genügend (Netto)Vermögen vorhanden ist, welches das in der Satzung der SE ausgewiesene Grundkapital zuzüglich eventueller gesetzlicher freiwilliger Rücklagen abdeckt. In entsprechender Anwendung der Bestimmung des § 192 Abs. 2 UmwG sind daher die Vermögenswerte - jedoch nicht mit ihrem bilanziellen Buchwert, sondern mit ihrem Verkehrswert - des Anlage- und Umlaufvermögens sowie Forderungen und sonstige Vermögensgegenstände, die auf der Aktivseite der Bilanz ausgewiesen werden, Gegenstand der Bescheinigung.

Dem Sachverständigen wird aufgegeben, ein Exemplar seiner Bescheinigung für das Gericht zu den Akten zu reichen.

Sofern nicht ohnehin die Festsetzung der Vergütung durch das Gericht beantragt wird (§ 318 Abs. 5 HGB) soll der Sachverständige seine Vergütungsvereinbarung mit der Antragstellerin und seine endgültige Honorarabrechnung nach Ende seiner Arbeiten dem Gericht gegenüber offen legen.

Die Kostenentscheidung ergibt sich aus § 22 GNotKG.

Der Geschäftswert bestimmt sich nach § 67 GNotKG.

Rechtsmittelbelehrung:

Gegen diese Entscheidung ist das Rechtsmittel der Beschwerde gegeben, die binnen eines Monats nach Zustellung beim Landgericht Frankfurt am Main durch Einreichung einer Beschwerdeschrift oder zur Protokoll der Geschäftsstelle einzulegen ist. Die Beschwerde muss die Bezeichnung des angefochtenen Beschlusses, sowie die Erklärung enthalten, dass Beschwerde gegen diesen Beschluss eingelegt wird. Die Beschwerdeschrift ist vom Beschwerdeführer oder seinem Bevollmächtigten zu unterzeichnen.

Dr. M. Müller



General Engagement Terms

for

Wirtschaftsprüfer and Wirtschaftsprüfungsgesellschaften

[German Public Auditors and Public Audit Firms]

as of January 1, 2017

1. Scope of application

(1) These engagement terms apply to contracts between German Public Auditors (*Wirtschaftsprüfer*) or German Public Audit Firms (*Wirtschaftsprüfungsgesellschaften*) – hereinafter collectively referred to as "German Public Auditors" – and their engaging parties for assurance services, tax advisory services, advice on business matters and other engagements except as otherwise agreed in writing or prescribed by a mandatory rule.

(2) Third parties may derive claims from contracts between German Public Auditors and engaging parties only when this is expressly agreed or results from mandatory rules prescribed by law. In relation to such claims, these engagement terms also apply to these third parties.

2. Scope and execution of the engagement

(1) Object of the engagement is the agreed service – not a particular economic result. The engagement will be performed in accordance with the German Principles of Proper Professional Conduct (*Grundsätze ordnungsmäßiger Berufsausübung*). The German Public Auditor does not assume any management functions in connection with his services. The German Public Auditor is not responsible for the use or implementation of the results of his services. The German Public Auditor is entitled to make use of competent persons to conduct the engagement.

(2) Except for assurance engagements (*betriebswirtschaftliche Prüfungen*), the consideration of foreign law requires an express written agreement.

(3) If circumstances or the legal situation change subsequent to the release of the final professional statement, the German Public Auditor is not obligated to refer the engaging party to changes or any consequences resulting therefrom.

3. The obligations of the engaging party to cooperate

(1) The engaging party shall ensure that all documents and further information necessary for the performance of the engagement are provided to the German Public Auditor on a timely basis, and that he is informed of all events and circumstances that may be of significance to the performance of the engagement. This also applies to those documents and further information, events and circumstances that first become known during the German Public Auditor's work. The engaging party will also designate suitable persons to provide information.

(2) Upon the request of the German Public Auditor, the engaging party shall confirm the completeness of the documents and further information provided as well as the explanations and statements, in a written statement drafted by the German Public Auditor.

4. Ensuring independence

(1) The engaging party shall refrain from anything that endangers the independence of the German Public Auditor's staff. This applies throughout the term of the engagement, and in particular to offers of employment or to assume an executive or non-executive role, and to offers to accept engagements on their own behalf.

(2) Were the performance of the engagement to impair the independence of the German Public Auditor, of related firms, firms within his network, or such firms associated with him, to which the independence requirements apply in the same way as to the German Public Auditor in other engagement relationships, the German Public Auditor is entitled to terminate the engagement for good cause.

5. Reporting and oral information

To the extent that the German Public Auditor is required to present results in writing as part of the work in executing the engagement, only that written work is authoritative. Drafts are non-binding. Except as otherwise agreed, oral statements and explanations by the German Public Auditor are binding only when they are confirmed in writing. Statements and information of the German Public Auditor outside of the engagement are always non-binding.

6. Distribution of a German Public Auditor's professional statement

(1) The distribution to a third party of professional statements of the German Public Auditor (results of work or extracts of the results of work whether in draft or in a final version) or information about the German Public Auditor acting for the engaging party requires the German Public Auditor's written consent, unless the engaging party is obligated to distribute or inform due to law or a regulatory requirement.

(2) The use by the engaging party for promotional purposes of the German Public Auditor's professional statements and of information about the German Public Auditor acting for the engaging party is prohibited.

7. Deficiency rectification

(1) In case there are any deficiencies, the engaging party is entitled to specific subsequent performance by the German Public Auditor. The engaging party may reduce the fees or cancel the contract for failure of such subsequent performance, for subsequent non-performance or unjustified refusal to perform subsequently, or for unconscionability or impossibility of subsequent performance. If the engagement was not commissioned by a consumer, the engaging party may only cancel the contract due to a deficiency if the service rendered is not relevant to him due to failure of subsequent performance, to subsequent non-performance, to unconscionability or impossibility of subsequent performance. No. 9 applies to the extent that further claims for damages exist.

(2) The engaging party must assert a claim for the rectification of deficiencies in writing (*Textform*) [Translator's Note: *The German term "Textform" means in written form, but without requiring a signature*] without delay. Claims pursuant to paragraph 1 not arising from an intentional act expire after one year subsequent to the commencement of the time limit under the statute of limitations.

(3) Apparent deficiencies, such as clerical errors, arithmetical errors and deficiencies associated with technicalities contained in a German Public Auditor's professional statement (long-form reports, expert opinions etc.) may be corrected – also versus third parties – by the German Public Auditor at any time. Misstatements which may call into question the results contained in a German Public Auditor's professional statement entitle the German Public Auditor to withdraw such statement – also versus third parties. In such cases the German Public Auditor should first hear the engaging party, if practicable.

8. Confidentiality towards third parties, and data protection

(1) Pursuant to the law (§ [Article] 323 Abs 1 [paragraph 1] HGB [German Commercial Code: *Handelsgesetzbuch*], § 43 WPO [German Law regulating the Profession of Wirtschaftsprüfer: *Wirtschaftsprüferordnung*], § 203 StGB [German Criminal Code: *Strafgesetzbuch*]) the German Public Auditor is obligated to maintain confidentiality regarding facts and circumstances confided to him or of which he becomes aware in the course of his professional work, unless the engaging party releases him from this confidentiality obligation.

(2) When processing personal data, the German Public Auditor will observe national and European legal provisions on data protection.

9. Liability

(1) For legally required services by German Public Auditors, in particular audits, the respective legal limitations of liability, in particular the limitation of liability pursuant to § 323 Abs. 2 HGB, apply.

(2) Insofar neither a statutory limitation of liability is applicable, nor an individual contractual limitation of liability exists, the liability of the German Public Auditor for claims for damages of any other kind, except for damages resulting from injury to life, body or health as well as for damages that constitute a duty of replacement by a producer pursuant to § 1 ProdHaftG [German Product Liability Act: *Produkthaftungsgesetz*], for an individual case of damages caused by negligence is limited to € 4 million pursuant to § 54 a Abs. 1 Nr. 2 WPO.

(3) The German Public Auditor is entitled to invoke demurs and defenses based on the contractual relationship with the engaging party also towards third parties.

(4) When multiple claimants assert a claim for damages arising from an existing contractual relationship with the German Public Auditor due to the German Public Auditor's negligent breach of duty, the maximum amount stipulated in paragraph 2 applies to the respective claims of all claimants collectively.

(5) An individual case of damages within the meaning of paragraph 2 also exists in relation to a uniform damage arising from a number of breaches of duty. The individual case of damages encompasses all consequences from a breach of duty regardless of whether the damages occurred in one year or in a number of successive years. In this case, multiple acts or omissions based on the same source of error or on a source of error of an equivalent nature are deemed to be a single breach of duty if the matters in question are legally or economically connected to one another. In this event the claim against the German Public Auditor is limited to € 5 million. The limitation to the fivefold of the minimum amount insured does not apply to compulsory audits required by law.

(6) A claim for damages expires if a suit is not filed within six months subsequent to the written refusal of acceptance of the indemnity and the engaging party has been informed of this consequence. This does not apply to claims for damages resulting from scienter, a culpable injury to life, body or health as well as for damages that constitute a liability for replacement by a producer pursuant to § 1 ProdHaftG. The right to invoke a plea of the statute of limitations remains unaffected.

10. Supplementary provisions for audit engagements

(1) If the engaging party subsequently amends the financial statements or management report audited by a German Public Auditor and accompanied by an auditor's report, he may no longer use this auditor's report.

If the German Public Auditor has not issued an auditor's report, a reference to the audit conducted by the German Public Auditor in the management report or any other public reference is permitted only with the German Public Auditor's written consent and with a wording authorized by him.

(2) If the German Public Auditor revokes the auditor's report, it may no longer be used. If the engaging party has already made use of the auditor's report, then upon the request of the German Public Auditor he must give notification of the revocation.

(3) The engaging party has a right to five official copies of the report. Additional official copies will be charged separately.

11. Supplementary provisions for assistance in tax matters

(1) When advising on an individual tax issue as well as when providing ongoing tax advice, the German Public Auditor is entitled to use as a correct and complete basis the facts provided by the engaging party – especially numerical disclosures; this also applies to bookkeeping engagements. Nevertheless, he is obligated to indicate to the engaging party any errors he has identified.

(2) The tax advisory engagement does not encompass procedures required to observe deadlines, unless the German Public Auditor has explicitly accepted a corresponding engagement. In this case the engaging party must provide the German Public Auditor with all documents required to observe deadlines – in particular tax assessments – on such a timely basis that the German Public Auditor has an appropriate lead time.

(3) Except as agreed otherwise in writing, ongoing tax advice encompasses the following work during the contract period:

- a) preparation of annual tax returns for income tax, corporate tax and business tax, as well as wealth tax returns, namely on the basis of the annual financial statements, and on other schedules and evidence documents required for the taxation, to be provided by the engaging party
- b) examination of tax assessments in relation to the taxes referred to in (a)
- c) negotiations with tax authorities in connection with the returns and assessments mentioned in (a) and (b)
- d) support in tax audits and evaluation of the results of tax audits with respect to the taxes referred to in (a)
- e) participation in petition or protest and appeal procedures with respect to the taxes mentioned in (a).

In the aforementioned tasks the German Public Auditor takes into account material published legal decisions and administrative interpretations.

(4) If the German Public auditor receives a fixed fee for ongoing tax advice, the work mentioned under paragraph 3 (d) and (e) is to be remunerated separately, except as agreed otherwise in writing.

(5) Insofar the German Public Auditor is also a German Tax Advisor and the German Tax Advice Remuneration Regulation (*Steuerberatungsvergütungsverordnung*) is to be applied to calculate the remuneration, a greater or lesser remuneration than the legal default remuneration can be agreed in writing (*Textform*).

(6) Work relating to special individual issues for income tax, corporate tax, business tax, valuation assessments for property units, wealth tax, as well as all issues in relation to sales tax, payroll tax, other taxes and dues requires a separate engagement. This also applies to:

- a) work on non-recurring tax matters, e.g. in the field of estate tax, capital transactions tax, and real estate sales tax;
- b) support and representation in proceedings before tax and administrative courts and in criminal tax matters;
- c) advisory work and work related to expert opinions in connection with changes in legal form and other re-organizations, capital increases and reductions, insolvency related business reorganizations, admission and retirement of owners, sale of a business, liquidations and the like, and
- d) support in complying with disclosure and documentation obligations.

(7) To the extent that the preparation of the annual sales tax return is undertaken as additional work, this includes neither the review of any special accounting prerequisites nor the issue as to whether all potential sales tax allowances have been identified. No guarantee is given for the complete compilation of documents to claim the input tax credit.

12. Electronic communication

Communication between the German Public Auditor and the engaging party may be via e-mail. In the event that the engaging party does not wish to communicate via e-mail or sets special security requirements, such as the encryption of e-mails, the engaging party will inform the German Public Auditor in writing (*Textform*) accordingly.

13. Remuneration

(1) In addition to his claims for fees, the German Public Auditor is entitled to claim reimbursement of his expenses; sales tax will be billed additionally. He may claim appropriate advances on remuneration and reimbursement of expenses and may make the delivery of his services dependent upon the complete satisfaction of his claims. Multiple engaging parties are jointly and severally liable.

(2) If the engaging party is not a consumer, then a set-off against the German Public Auditor's claims for remuneration and reimbursement of expenses is admissible only for undisputed claims or claims determined to be legally binding.

14. Dispute Settlement

The German Public Auditor is not prepared to participate in dispute settlement procedures before a consumer arbitration board (*Verbraucherschlichtungsstelle*) within the meaning of § 2 of the German Act on Consumer Dispute Settlements (*Verbraucherstreitbeilegungsgesetz*).

15. Applicable law

The contract, the performance of the services and all claims resulting therefrom are exclusively governed by German law.