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# WHO AUDITS THE AUDITORS?

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## **List of Abbreviations**

AG: Aktiengesellschaft, listed company  
AI: Artificial Intelligence  
AktG: Aktien Gesetz, German Stock Corporation Act  
APAReG: Abschlussprüferaufsichtsreformgesetz, Auditor Oversight Reform Act  
APAS: Abschlussprüferaufsichtsstelle, the German auditor Oversight authority  
BAFA: Bundesamt für Wirtschaft und Ausfuhrkontrolle, German Federal Office of Economics and Export Control  
BaFin: Bundesanstalt für Finanzdienstleistungsaufsicht, German Federal Financial Supervisory Authority  
Big4: Biggest four auditing companies in the world (KPMG, EY, PwC and Deloitte)  
BMWK: Bundesministerium für Wirtschaft und Klimaschutz der Bundesrepublik Deutschland, German Federal Ministry for Economic Affairs and Climate Protection  
CEO: Chief Executive Officer  
CFO: Chief Financial Officer  
COO: Chief Operation Officer  
DAX/ DAX30: Deutscher Aktien Index, German Stock Index of Germanys largest 30 companies and euqivalent to the Dow Jones  
e.V.: eingetragener Verein, German association  
ESG: Environmental Social and Governance  
EU: European Union  
EY: Ernst&Young  
FISG: Finanzmarktintegritätsstärkungsgesetz, the Financial Market Integrity Strengthening Act  
FIU: Financial Intelligence Unit  
FT: Financial Times  
HGB: Handelsgesetzbuch, German Commercial Code  
IB program: International Business Program  
IDW: Institut der Wirtschaftsprüfer, Institute of the auditors  
IESBA: International Ethics Standards Board for Accountants  
IFRS: International Financial Reporting Standards (IFRS)  
ISA: International Standards on Auditing  
ISAR: International Standards on Auditing and Review  
IT: Information Technology  
KPMG: Klynveld Peat Marwick Goerdeler  
M&A: Mergers and Acquisitions  
Non-PIE: Non-Public Interest entity  
PCAOB: Public Company Accounting Oversight Board  
PIE: Public Interest entity  
PwC: Price Waterhouse Coopers  
SdK: Schutzgemeinschaft der Kapitalanleger”, a protection group for investors  
SEC: Securities and Exchange Comission  
SOX: Sarbanes-Oxley Act  
US: United States  
WPK: Wirtschaftsprüferkammer, German chamber of the auditor profession

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# 1. Introduction

## 1.1 Industry analysis

While there have been auditing and control bodies for state institutions for a long time, the auditing of asset management and accounting was not required by law in Germany until the early end of the 19th century and was therefore of voluntary nature. However, this changed in the year of 1870 when German law stipulated that “Aktiengesellschaften” (stock corporations) had to form a “Aktionärsvertretung” (shareholder representation) in the form of a “Aufsichtsrat” (supervisory board). Additionally, the supervisory board was obliged to examine the proposals for the distribution of profits and the annual financial statements of the company, which, however, quickly led to the said supervisory board often being overwhelmed with its new auditing task in all its complexity. Conscientious supervisory board members therefore often commissioned experienced bookkeepers from related companies or external freelance auditors to carry out the audit. Anyhow, the auditing activities at that time cannot be compared with today's auditing standards, since at that time it was mostly a matter of pure formal reconciliation of the items on the inventory sheet with the items in the financial statements. The audition of stock corporations by an independent auditor was only mandatory from the year 1931 onwards. This, however, led to the fact that many companies were found to have manipulated their balance sheets which in turn led to a spectacular series of corporate collapses in the early 1930s, right after the new independent auditor rule got legally binding. These large company collapses also brought to light that the sole audit of checking books and final reports was not sufficient, since it was found that the book values and closing values were manipulated in such a way that they matched each other and were according to the auditing law at the time. The German legislature therefore found it necessary to expand the profession of the accountant and so created the institution of the “Wirtschaftsprüfer”, the auditor, a profession that previously and officially only existed in the USA.<sup>1</sup>

The auditing market has two distinctive categories that are subject to different regulatory conditions, the audit of companies of public interest, so-called “public interest entities” (PIE) and the audit of companies that are not PIEs, so-called “non-PIEs”.<sup>2</sup> According to the International Ethics Standards Board for Accountants (IESBA) and from December 2024 onwards a PIE will be defined as one of the following: “a publicly traded entity, an entity one of whose main functions is to take deposits from the public, an entity one of whose main functions is to provide insurance to the public or an entity specified as such by law, regulation or professional standards to meet the purpose set out in paragraph 400.10”. Under the definition of PIE's also fall Charities, systemically significant entities and stock and commodity exchanges. In other words, a PIE is for example a large publicly traded company such as Volkswagen, a non-PIE would be any for example privately held company that does not fall under the above definitions.<sup>3</sup> What started in 1932 with around 500 auditors and 76 auditing companies rose to 14.624 auditors and more than 3000 auditing companies (January 2022) in Germany today.<sup>4</sup> In Germany, the 25 largest auditing companies achieve together a turnover of 10.1 billion euros and thus cover around 60% of the market (2021). Although there are numerous smaller audit companies, PIEs are more likely to choose an accounting firm affiliated with one of the four market dominant auditing companies, the so called “Big 4”, for a variety of reasons. One reason for example is that the Audit firms can decide for themselves who to take on as clients and reject some smaller PIEs to devote their resources to more prestigious and larger PIEs. Another reason

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<sup>1</sup> Leffson, 1991

<sup>2</sup> Prangenberg, 2016

<sup>3</sup> IESBA, 2022

<sup>4</sup> Wirtschaftsprüferkammer, 2022

is that PIE mandates are often large multinational corporations which require a large amount of back-office capacity and a wide range of expertise. PIE's therefore often have audit requirements that smaller Audit firms with fewer staff and less technologically advanced resources cannot provide.<sup>5</sup> In the year of 2022, Germany's 30 biggest DAX ("Deutscher Aktienindex" German equivalent to the Dow Jones<sup>6</sup>) corporations all have been audited by one of the Big 4. Together the Big 4 accounted for EUR 8 billion in turnover in 2021.<sup>7</sup> The Big 4 auditing firms include the accounting firms Deloitte, Ernst&Young (EY), Klynveld Peat Marwick Goerdeler (KPMG) and Price Waterhouse Coopers (PWC).<sup>8</sup> The largest auditing company in Germany with the highest turnover is PWC Germany which in 2022 had a total output of 2,447 billion euros (with 843 million euros in the area of assurance).<sup>9</sup> With an annual revenue of 59.3 billion US Dollars in 2022, Deloitte is the biggest accounting/audit company worldwide.<sup>10</sup> Based on the Lünendonk study 2022 on "Wirtschaftsprüfung und Steuerberatung in Deutschland" (Auditing and Tax advice in Germany) which surveyed the leading auditing companies in Germany, the industry is currently primarily driven by three topics:

-**ESG:** stands for "Environmental Social and Governance" and refers to the ongoing legislative and social development that forces companies to include sustainability and environmental reporting in their annual financial statements.

-**Digitization** of the audit sector: AI, Advanced Software tools like DataSnipper, Client Delivery Programs

-**Separation:** Due to the development of new consulting fields by the auditing companies such as ESG or digitization of accounting, there is currently a discussion within the industry to separate the coexisting consulting and auditing departments into independent Sector companies.

## 1.2 Problem analysis

Auditors and public accountants both work in a liberal profession. In their main field of activity, they examine and prepare annual financial statements for companies of all different legal forms and sizes. In the case of a balance sheet total of more than 19.25 million euros, an annual turnover of more than 38.5 million euros or a size of more than 250 employees, companies in Germany are obliged to be audited by an auditor if two of the three criteria mentioned apply to them. Since around 85% of German auditors have passed the tax consultant exam prior to passing the auditor exam, tax advisory is a common field of work for auditors. Another business area of Audit companies is in consulting, where they are accompanying corporate transactions. In the case of mergers and acquisitions (M&A), they audit, among other things, the financial statements of the merger or takeover candidate. The merger and acquisition price of a company is therefore also negotiated based on the Auditors financial evaluation. Other fields of expertise of Audit companies in consulting can be in strategy, implementation, and organizational consulting and even in IT. (A list of the various possible fields of activity for auditors in Germany can be found in Appendix A) Auditors provide professional due diligence and give independent identification of a company's financial book values on behalf of shareholders and the public.<sup>11</sup> The central function of the audit is to reduce the information discrepancy between the owners (shareholders) and the management of the company. Through the Audits control function the auditor's work takes an important part in financial market stability because he can potentially protect investors from wrong investment decisions. The

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<sup>5</sup> O'Dwyer, 2023

<sup>6</sup> Wikipedia, 2023

<sup>7</sup> Bocksch, 2023

<sup>8</sup> Lünendonk & Hossenfelder GmbH, 2022

<sup>9</sup> PriceWaterhouseCoopers Wirtschaftsprüfungsgesellschaft, 2022

<sup>10</sup> Statista, 2022

<sup>11</sup> Wirtschaftsprüferkammer, 2022

auditor therefore grants a certain level of owner and investor protection.<sup>12</sup> Because of their expertise, auditors are also frequently consulted on court cases and other publicly important tasks.<sup>13</sup> In summary, there are high ethical and professional requirements for the profession of an auditor.

Nevertheless, the past has shown time and again that auditing can fail as a control body despite the high requirements and standards it has set itself. A case of recent history and one of the largest German balance sheet scandals in Germany is the Wirecard case. Wirecard was a German payment service provider that collapsed spectacularly in a very short time in 2020. What remained was a balance sheet fraud in the billions of dollars of the former and so far, only DAX 30 company that has ever gone bankrupt. Due to the subsequent investigations by the German judiciary, not only Wirecard and its management but also the auditing company EY Germany was in the focus and in the media limelight. The reason for this was that EY had carried out the audit at Wirecard for more than a decade and issued the company with unrestricted attestation for the years of 2009 to 2018. EY had therefore overlooked the accounting fraud and/or discrepancies in the balance sheet for years.<sup>14</sup> After a long and extensive investigation, EY was found to be in serious breach of professional responsibilities in the accounting industry. In April 2023, it was announced that EY would not be allowed to carry out any new mandates for statutory audits of PIE's for a period of two years. However, what is far more serious is the severe image damage, which is not only devastating for EY but also casts the entire German auditing industry in a bad light.<sup>15</sup> Despite a strictly regulated auditing market, shortcomings in the market have not only been known since the Wirecard scandal. In a reaction to the 2008 global financial crisis, there were not only various new rules for the financial markets but also significant adjustments of the auditing industry to avoid another financial crisis of this scale. Due to the public pressure in the aftermaths of the Wirecard scandal, the German government felt compelled to act and passed a draft law. The so called "Finanzmarktintegritätsstärkungsgesetz" is a law to strengthen the financial market integrity. The law has been in force since July 1, 2021.<sup>16</sup> However, as the Wirecard case has demonstrated, neither the extensive regulatory changes in recent decades or substantial accounting and auditing legislation reforms have been able to sufficiently address the functional deficiencies in the audit market.<sup>17</sup> The question still arises to what extent the German audit oversight authorities are sufficiently equipped and organized. Therefore, the aim is to find clues on what could be done to Strengthen German Audit Oversight. The research of this report will concentrate on Germany but will make a comparison with the Audit Oversight in the US. In addition to that the report will mostly concentrate on the developments of the audit sector of the last ten years until the present time of writing this report, (Spring/Summer 2023) Due to the loss of reputation of the Sector it is important for the German Audit industry as well as the German Audit oversight authorities to re-establish trust. If Germany decides to not act on behalf of their shortcomings this could send the wrong signals to audit customers and bear the risk of economic instability. Shortcomings in the audit oversight might be solved by partly reforming audit rules and regulations as well as the overseeing institutions.

### 1.3 Research questions

#### **What can be done to strengthen the controlling position of APAS in the German Audit industry?**

1. How can APAS be compared to the US Public Company Accounting Oversight Board (PCAOB)
2. What are the conclusions that can be drawn from the comparison?

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<sup>12</sup> Haucap et al., 2022

<sup>13</sup> Wirtschaftsprüferkammer, 2023

<sup>14</sup> Farr WPG, 2023

<sup>15</sup> Fehr, 2023

<sup>16</sup> BMF, 2021

<sup>17</sup> Haucap et al., 2022



3. What is the Wirecard scandal and how did it unfold?
4. Given the Wirecard scandal and their given possibilities, what are the implications for the German oversight authorities?

## 1.4 Project aim

The Wirecard Scandal has once again brought the Audit companies, the auditors and the audit oversight institutions into a spotlight for their professional code of conducts. This report therefore has the goal to examine what control bodies there are for auditors and how they work. In addition, it examines the case of the Wirecard scandal and whether there are any possibilities for auditing supervision to prevent a scandal like Wirecard in the future. The following professional report has been delivered in month June of 2023:

Analysis of the Wirecard scandal and drawn conclusions for a stronger Audit oversight

This research report could be used by personnel of Audit oversight authorities, affiliated institutions as well as individuals involved in the Audit industry to better understand the German Audit oversight and its potential room for improvement and integrity strengthening. The topic of this report is current and relevant because the auditor supervisory authorities and the media public are still working through the Wirecard scandal. The professional product which will be Management Advise is also serving as proof of the author's competence in the IB program learning outcome of Organisation & People with a focus on Finance & Accounting.

## 2. Research approach

The following chapter will present the research approach and methods that have been used to answer the research question and its sub questions.

### 2.1 How can APAS be compared to the US Public Company Accounting Oversight Board (PCAOB)?

#### 2.1.1 review of relevant literature

The following concepts had to be defined in order to answer the research question:

**Legal and regulatory framework:** According to the World Bank (2022), legal framework refers to the structure of laws, regulations, rules, and principles that govern a particular jurisdiction or area of activity. Legal framework provides the foundation for establishing and enforcing legal rights, obligations, and procedures within a society or organization. A legal framework helps ensure consistency, predictability, and fairness in legal processes and outcomes.<sup>18</sup>

**Organizational Structure:** The Economic Times defines Organizational Structure as “a system that outlines how specific activities are handled to fulfill a strategic mission and is known as an organizational structure. Rules, roles, and obligations are all part of these activities. The organizational structure also determines the flow of information between divisions within the corporation. A centralized structure, for example, makes choices from the top-down, whereas a decentralized structure distributes decision-making power throughout the organization.”<sup>19</sup>

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<sup>18</sup> The World Bank, 2022

<sup>19</sup> The Economic Times, 2023

**Regulatory Rules:** According to Law Insider regulatory rules are “all corporate and securities laws, regulations, rules, policies, notices, instruments and other orders of any kind whatsoever which may, from time to time, apply to the implementation, operation or amendment of this Plan or the Options granted from time to time hereunder including, without limitation, those of the applicable Regulatory Authorities.”<sup>20</sup>

**The APAS:** The “Abschlussprüferaufsichtsstelle” (APAS) is the German auditor Oversight authority based in Berlin. It is organizationally integrated into the Federal Office of Economics and Export Control (BAFA). The APAS is responsible for evaluating the Assurance carried out by Auditing companies on the financial statements of companies of public interest.<sup>21</sup>

**Profile PCAOB:** The “Public Company Accounting Oversight Board” (PCAOB) is the US equivalent of the APAS and exists as a non-profit organization. The PCAOB is responsible for registering public accounting firms, establish or adopt auditing regulation, inspect registered public accounting firms' audits and quality control systems as well as investigate and discipline registered public accounting companies.<sup>22</sup>

**Audit Supervisory:** The German APAS is subject to (EU) Law No. 537/2014, which stipulates the following characteristics of Audit Supervisory: the supervision of the approval and registration of auditors and auditing firms, the adoption of professional principles as well of standards for the internal quality assurance of auditing firms and of examination standards, to oversee continuing education, to oversee quality assurance systems, and to oversee investigative and administrative disciplinary systems.<sup>23</sup>

The following variables have been found suitable to conduct a benchmark.

**Independence of the organizational body:** The Institute of Internal auditors defines Organizational independence (2016) as “the conditions under which organizational independence is effectively achieved, which Includes examples of functional reporting.”

**Funding source:** According to Eustat (2023), Funding sources are “predominantly that which accounts for over 50% of the centre’s budget. Public funding is financing with funds originating from the State Administration, Autonomous Administration and Local Administration. Private funding is financing with funds originating from companies, private non-profit institution, private donations (funded by individuals) and own funds.”

**Regulatory Standards:** Black’s Law dictionary (2023) defines Regulatory Standards as “Benchmarks circulated by a regulatory agency that were created to enforce the provisions of a legislation.”

**Oversight Tools:** According to the Canadian Audit & Accountability Foundation (2023) “Oversight refers to the actions taken to review and monitor public sector organizations and their policies, plans, programs, and projects, to ensure that they: are achieving expected results; represent good value for money; and are in compliance with applicable policies, laws, regulations, and ethical standards. Oversight is a critical governance function performed by boards of directors, committees, councils, and external bodies.”

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<sup>20</sup> Law Insider, 2023

<sup>21</sup> Wikipedia, 2023

<sup>22</sup> PCAOB, 2023

<sup>23</sup> European Parliament & Council of the European Union, 2014

**Punitive instruments:** According to Bamboo HR (2023), a “disciplinary action is a reprimand or corrective action in response to employee misconduct, rule violation, or poor performance. Depending on the severity of the case, a disciplinary action can take different forms.”

**Transparency:** According to Wikipedia (2023) Transparency “describes the extent to which a corporation's actions are observable by outsiders. This is a consequence of regulation, local norms, and the set of information, privacy, and business policies concerning corporate decision-making and operations openness to employees, stakeholders, shareholders and the general public.”

**Benchmarking:** According to Schaad, K., Hofer, S. (2020) “Benchmarking is the process of comparing strategies, processes, performances and/or other entities against practices of the same nature, under the same circumstances and with similar measures”.

### 2.1.2: Operationalization research question

The APAS and PCOAB have been compared based on the following questions:

- Is organizational independence of the Oversight authorities given?
- How are the Oversight institutions financed?
- What are the standards of “Audit Oversight”?
- How do the Oversight Authorities work?
- What instruments of deterrence do the Oversight Authorities have?
- How is Transparency at the Audit Oversight Institutions achieved?
- What is the purpose of the Audit Oversight institutions within the industry?

(A table of the Operationalization of the above variables can be found in Appendix C.

### 2.1.3. Unit of analysis

Units of analysis for this research question are the German APAS and the PCAOB from the US and its organizational characteristics, legal framework, and ways of working.

### 2.1.4 Data collection & data analysis

The research question has been answered by desk research. This method has been used to gather general and available information from accessible documents of organizations, websites, and articles. (A list of sources sorted by research question can be found directly after the regular list of sources) The goal is to get a good and comprehensive overview of both organizations using variables that make it possible to compare both organizations at the end. For that reason, it was decided that the benchmarking method is suitable to visualize the comparison of both organizations. Furthermore, interviews have been conducted with auditors working for a German Big 4 auditing company to validate the research findings and approach. For the interviews it was decided that a semi-structured interview would suit the research the best.

### 2.1.5 limitations, reliability & validity

Limitations are a lack of publicly accessible or missing information on some areas of the organizations. The research is valid and reliable because the author only used recognized sources and conducted interviews with auditors to validate his findings. Regarding the interviews, another limitation is that no interviews were conducted with auditors who work for the APAS. Since the author is a native speaker of the German language, it helped him to assess and process reliable resources on behalf of the German APAS Oversight Institution.

## 2.2 What are the conclusions that can be drawn from the comparison?

### 2.2.1 review of relevant literature

Please see the review of relevant literature of sub question 1.

### 2.2.2: Operationalization research question

The conclusions has been drawn from the comparison and benchmarking of the following questions:

- Is organizational independence of the Oversight authorities given?
- How are the Oversight institutions financed?
- What are the standards of “Audit Oversight”?
- How do the Oversight Authorities work?
- What instruments of deterrence do the Oversight Authorities have?
- How Transparent are the Audit Oversight Institutions?

### 2.2.3. Unit of analysis

Units of analysis for this research question are the German APAS and the PCAOB from the US and its organizational characteristics, legal framework, and ways of working.

### 2.2.4 Data collection & data analysis

The research question has been answered by drawing conclusions from the collected information and benchmarking of the previous research question. This research question is about the interpretation of the findings. Interviews with auditors working for a Big4 auditing company have been conducted in order to validate the research findings. (A list of sources sorted by research question can be found directly after the regular list of sources)

### 2.2.5 limitations, reliability & validity

A limitation regarding the interviews is that no interviews were conducted with auditors who work for the APAS. The research is valid and reliable because the author only used the findings of the previous research question which are based on recognized sources.

## 2.3 What is the Wirecard scandal and how did it unfold?

### 2.3.1 review of relevant literature

The following information is relevant in order to answer the question.

**Wirecard:** Wirecard was a German company operating in the payment services business. In 2020 it was found that the Wirecard AG is missing 1.9 billion euros on the balance sheet. According to Wirecard, this money was reportedly held in accounts at two Philippine banks. However, both Phillipine banks denied having any commercial ties to Wirecard. As a result, Wirecards stock crashed, it was discovered that Wirecard had manipulated the accounts' financial data and a weeks' time later Wirecard officially filed for bankruptcy.<sup>24</sup>

**Corporate Governance:** According to the Chartered Governance Institute UK & Ireland (2023) “Corporate Governance... identifies who has power and accountability, and who makes decisions. It is, in essence, a toolkit that enables management and the board to deal more effectively with the challenges of running a company. Corporate governance ensures that businesses have appropriate decision-making processes

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<sup>24</sup> Amon, 2023

and controls in place so that the interests of all stakeholders (shareholders, employees, suppliers, customers and the community) are balanced.”

**EY:** EY Germany is a Big 4 auditing company which has been in the media focus in recent years mainly due to its involvement as an Auditor in the Wirecard scandal. In the past fiscal year 2021/22, EY’s turnover in its German audit division were 659 million euros. In total, EY had a turnover of around 2.3 billion euros in Germany which makes it, after PwC, the second largest auditing company in Germany.<sup>25</sup>

### 2.3.2 operationalisation of the variable(s) contained in the sub question

The following questions were concluded from the operationalization table in Appendix D.

- What is the chronological order of the Wirecard scandal?
- Did Wirecard's corporate governance structures fail?
- What was EY’s role in the Wirecard Scandal?

### 2.3.3 units of analysis

In order to answer this research question the units of analysis are the Wirecard company as well as the Audit company EY that attested Wirecard’s audit.

### 2.3.4 data collection & data analysis

To answer the research question it was aimed at providing a complete and relevant picture of what happened in the Wirecard scandal. The answer of the research question was based on information collected by desk research. The method is was used to gather information from valid resources including documents, websites and articles. (A list of sources sorted by research question can be found directly after the regular list of sources)

### 2.3.5 limitations, reliability & validity

A limitation is that there was no access to original documents or primary forensic data of Wirecard besides its archived annual reports and public statements. The desk research, which was the only research method, is therefore mostly based on secondary data and information.

## 2.4. Given the Wirecard scandal and their given possibilities, what are the implications for the German oversight authorities?

### 2.4.1 review of relevant literature

Please see the relevant literature review of sub-question 3.

### 2.4.2 operationalisation of the variable(s) contained in the sub question

The following questions have been investigated to answer the research question:

- How effective was the German Audit Oversight on the case of Wirecard?
- What are the implications of the Wirecard Scandal for the German Oversight?

The operationalization table can be found in Appendix E.

### 2.4.3 units of analysis

In order to answer the research, question the German Audit Oversight authorities and their role during the Wirecard scandal have been analyzed.

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<sup>25</sup> Reuters, 2023

#### 2.4.4 data collection & data analysis

To answer the research question, it was tried to provide a complete and relevant overview of the actions of the German Oversight Authorities in the events of the Wirecard scandal. The research question has been based on information collected by desk research. This method has been used to gather information from valid resources including documents, websites and articles. Furthermore, interviews with auditors of an big4 auditing company have been conducted to validate the research findings and to gain insights about their views on Audit Oversight in Germany. For the interviews it was decided that a semi-structured interview would suit the research the best. (A list of sources sorted by research question can be found directly after the regular list of sources)

#### 2.4.5 expected limitations, reliability & validity

A limitation is that the desk research is primarily based on secondary literature and that no auditors of the Oversight Authorities itself have been interviewed for this research. The research is valid and reliable because the author only used the findings of recognized sources and validated his findings through interviews.

### 3. Results

#### 3.1 How can APAS be compared to the US Public Company Accounting Oversight Board (PCAOB) – Results

To get an overview of both organizations, both organizations are first introduced and presented using the following three organizational characteristics: Legal and regulatory framework, Organizational Structure, Regulatory Rule and Tasks.

##### **Profile APAS:**

The "Abschlussprüfer Aufsichts Stelle" (APAS), the Audit Supervisory Authority, carries out the profession-independent supervision of auditors in Germany. The APAS is headquartered in Berlin and has further locations in Düsseldorf and Eschborn with a total of 55 employees (Dec. 2022). Most of the employees at APAS have a business and legal background and are employed as inspectors or subject specialists.<sup>26</sup>

**Legal and regulatory framework:** The APAS was established through the German "Abschlussprüferaufsichtsreformgesetz" (APAReG) Auditor Oversight Reform Act on March 31, 2016.<sup>27</sup> The APAReG serves to implement the supervisory and professional regulations of the 2014/56/EU directive of the European Parliament and the council from April 16th, 2014. The APAS is therefore based on a European amendment to the Audit Directive which introduced new regulation on specific audit requirements for public interest entities (PIE's). The aim of the reform was to improve the quality of final exams throughout Europe and to increase the validity of the exam results to maintain the functionality of the markets.<sup>28</sup>

**Organizational Structure:** The APAS is technically an autonomous and independent authority that is integrated as a division in the German Federal Office of Economics and Export Control (BAFA). In its organization, the APAS maintains two main departments, with each four sub-departments, the two main departments are: "Inspections and Quality Control" and "Professional Supervision and Market Observation".<sup>29</sup> (An Organizational structure is provided in Appendix F)

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<sup>26</sup> APAS, 2023

<sup>27</sup> APAS, 2023

<sup>28</sup> European Parliament & Council of the European Union, 2014

<sup>29</sup> APAS, 2023

**Regulatory Rule and Tasks:** The work of the APAS is based on the “Geschäftsordnung”, the rules of procedure of the German Federal Ministry for Economic Affairs and Climate Protection (BMWK). To ensure a uniform way of working of the APAS, in addition to the legal basis in the auditing regulations and the regulation (EU) No. 537/2014, the APAS is working according to an additional “Verfahrensordnung”, rules of procedure. The “Verfahrensordnung” regulates the tasks of the APAS which are for example the organisation, planning and implementation of the inspections and the professional supervision procedures for Auditors.

**Profile PCAOB:**

The Public Company Accounting Oversight Board (PCOAB) supervises SEC-registered brokers and dealers as well as the audits of public companies in the United States. The PCAOB is headquartered in Washington, DC and has in total ten offices across the US with a total of 800 employees. In 2022, the PCAOB imposed 42 public enforcement orders within total more than \$11 million in penalties on auditors and their companies, the highest total annual fines in the organization's 20-year-old history.<sup>30</sup>

**Legal and regulatory framework (PCAOB):** The PCAOB was created by the US congress based on the Sarbanes-Oxley Act of 2002 on the 30th of July 2002. The Sarbanes-Oxley Act (SOX or Sarbox) was a reaction to numerous accounting scandals in the early 2000’s and contains eleven sections that include for example topics such as Auditor independence, Corporate Responsibility and Corporate Fraud Accountability.<sup>31</sup> The PCAOB also sets and stipulates new rules and standards which must be approved by the U.S. Securities and Exchange Commission (SEC).<sup>32</sup>

**Organizational Structure (PCAOB):** The PCAOB is a non-profit organization that is overseen by the SEC. The PCAOB has five board members and its chairman, currently Mrs. Erica Y. Williams, is appointed by the SEC. Furthermore, the PCAOB is organized in Divisions and Offices. The two divisions are “Enforcement and Investigations” and “Registration and Inspections”, the Offices include departments such as “Communications and Engagements”, “Enterprise Risk Management” or “International Affairs”.<sup>33</sup> (An Organizational structure is provided in Appendix G)

**Regulatory Rules and Tasks (PCAOB):** In its Oversight function the PCAOB has five main Tasks which are: 1. Implementing Standards and Rules, 2. Inspections (of for example firms Audits), 3. Enforcement (of for example sanctions), 4. Formal cooperative arrangements with international audit regulators, 5. Registration and Reporting (of Fees and Audit Firms).<sup>34</sup>

To present the main characteristics of both organizations in a summarized way, it was decided to use the method of comparative benchmarking: An Explanation of the Variables used in the benchmarking below are provided in Appendix H. The supporting Research findings for each variable are presented in Appendix I.

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<sup>30</sup> PCAOB, 2023

<sup>31</sup> Wikipedia, 2023

<sup>32</sup> PCAOB, 2023

<sup>33</sup> PCAOB, 2023

<sup>34</sup> PCAOB, 2023

**Table 1: Benchmarking**

<b>Organizational Characteristics</b>	<b>APAS</b>	<b>PCOAB</b>
<b>Independence</b>		
Independence of the organizational body	Yes	Yes
Board Members (Number of...)	0	5
Advisory Committee	Yes With 5 members	Yes 2 Advisory Groups
Involvement of the Audit profession at the organization	Yes	Yes
<b>Funding Source</b>		
Funding Source	mixed	Private sector
<b>Regulatory Standards</b>		
Standard Setting	No	Yes
Public Auditor List	No	Yes
Profession Entry Regulation	No	No
Continuing Education Offers	No	No
<b>Oversight Tools</b>		
Inspections	Yes	Yes
Quality Control	Partly	Yes
Whistle-blower Support	Yes	Yes
<b>Punitive Instruments</b>		
Investigations	Yes	Yes
Sanctions	Yes	Yes
<b>Transparency</b>		
Annual Reporting	Yes	Yes
Inspections Reporting	No	Yes
Sanctioning Reporting	Yes	Yes
International Collaboration	Yes	Yes

During interviews with members of the auditor profession, the above presented research approach and the method of comparative benchmarking were considered a valid and a sensible approach by all participants. The following chapter will present the conclusions that can be drawn from the above conducted comparison.

### 3.2 What are the conclusions that can be drawn from the comparison?- Results

After having conducted a comparison of both organizations in the previous chapter, this chapter will present the most important findings. The research findings are supported by information gathered through interviews conducted with auditors from Big4 auditing firms.

#### **Organizational Independence:**

Comparing the independence variables of the German Oversight Authority APAS with the US Oversight Authority PCOAB it was found that the German APAS has no Supervisory Board. The reason for this may lie in the organizational structure of the APAS, while the American PCOAB is set up as an independent non-profit organization, the German APAS is integrated into the "Bundesamt für Wirtschaft und Ausfuhrkontrolle" (BAFA), the German Federal Office for Economic and Export Control. The supervision of the APAS employees is therefore in the hands of the President of BAFA. Yet, the integration at the ministry also has a downside. In his foreword in the 2022 annual report, the head of the APAS Michael Sell stated that "timely recruitment of suitable personnel to existing positions is a key task ensuring the ability to work." The APAS with its 55 employees therefore has a shortage of skilled personnel and, according to Michael Sell, "auditing companies and regulators are competing for the same employees.... in comparison



with the other German financial supervisory institutions such as BaFin or Deutsche Bundesbank there is no level playing field." This means that the APAS not only competes with the significantly more attractive salaries of the auditing companies, but also with other ministries, institutions, and supervisory authorities.<sup>35</sup> During the interviews when asked about the absence of a supervisory board, it was found that the interviewed auditors see the impact of this absence on the organizational independence of APAS differently. Some auditors believe it doesn't have a significant effect, while others couldn't provide a definitive answer. The interviewed auditors generally express confidence in the independence of APAS, citing its integration into the Federal Ministry of Economics and adherence to professional principles as safeguards. Further they believe that the APAS being controlled by the government can enhance independence. There is a consensus that both APAS and PCAOB operate within legal and regulatory frameworks that aim to guarantee their organizational independence. Specific provisions, such as the Auditors' Code and internal statutes, are mentioned as factors ensuring independence. However, the PCAOB is perceived to audit in more detail and to have stricter requirements in place compared to the APAS. The PCAOB is noted to have greater enforcement powers and international enforcement possibilities compared to APAS. This is seen as a significant difference between the two organizations. For Christoph Trautvetter from the German association "Netzwerk Steuergerechtigkeit" (Network Tax Justice) the dire situation to find Audit professionals threatens the independence of the APAS: "They are based in the Ministry of Economics, but they have their own separate floor there and were mainly taken over from the Big Four there. That means they are actually a state within the state with their own people in the Ministry of Economics on their own floor."<sup>36</sup> As can be seen from the benchmarking comparison, the research findings and according to the interviewed auditors, generally both organizations are perceived to have measures in place to uphold organizational independence. The role of a supervisory board at APAS is not considered crucial for maintaining independence, and the integration of APAS into the government is seen as a potential strength in ensuring independence.

### **Funding Source**

While the APAS financing is proportionately covered by fees charged for services as well as from the German federal budget, the PCAOB finances itself only from annual and registration fees. Auditors and Auditing companies in the US therefore pay for their own supervision by the PCAOB authority. The interviews with the auditors revealed that auditors as individuals do not typically pay fees directly to the APAS. Instead, they may pay fees to auditing chambers or professional organizations such as the Wirtschaftsprüferkammer (WPK) in Germany. Audit companies are mentioned as being subject to potential fees payable to APAS. However, there is some uncertainty among the auditors regarding whether audit firms specifically pay fees to APAS. In addition, the issue of funding is seen as a potential concern for maintaining independence. Some auditors express the view that funding should primarily come from the government to avoid conflicts of interest. Overall, there is a lack of precise knowledge among the auditors regarding the specific details of fee structures and whether audit firms directly contribute to APAS funding. However, it is generally understood that auditors pay fees to professional organizations like the WPK, and the funding of APAS includes a mix of government support and potential fees from audit firms.

### **Regulatory Standards**

When comparing the organizational characteristic of regulatory standard setting of the PCAOB with the APAS, it was noticed that the APAS as a supervisory authority is not involved in the development and implementation of new standards. Further it was noticed that in Germany these characteristics are the responsibility of two other organizations, namely the Institute of the Public Accountants (IDW) and the Chamber of Public Accountants (WPK). The Wirtschaftsprüferkammer (WPK) is a corporation under public

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<sup>35</sup> APAS, 2023

<sup>36</sup> Scholtes, 2021

law and its members are all auditors, chartered accountants, auditing firms and auditing companies in Germany.<sup>37</sup> The Institute of Public Accountants in Germany e.V. (IDW) is a registered association that promotes and supports the further development of the profession. The members of the IDW association represent approx. 80% of all auditors in Germany.<sup>38</sup> Since the IDW is responsible for the development of new auditing standards, the auditors in Germany basically develop and set their own rules and standards. During the interviews the auditors stated that the most important standards and guidelines for them are the Handelsgesetzbuch (HGB) (German Commercial Code) and the auditing standards issued by professional organizations such as the Wirtschaftsprüferkammer (WPK). According to them these standards form the basis for auditing practices in Germany. Auditors note that there are also internationally recognized standards that auditors must adhere to. They mention the International Financial Reporting Standards (IFRS) and the International Standards on Auditing (ISA). The introduction of the ISAR (International Standards on Auditing and Review) framework aims to harmonize German and international auditing standards. The interviews also revealed that the supervisory institutions, such as APAS and PCAOB, are expected to adhere to international standards. Auditors believe that there should be a uniform catalog of standards for these oversight institutions. However, it is noted that differences exist, with APAS being state-run and PCAOB being private, making standardization challenging. Furthermore, Auditors mention the importance of internal quality assurance systems and review processes. They explain that they participate in internal reviews, which resemble the external reviews conducted by APAS but have different perspectives and focus areas. Overall, auditors emphasize the significance of national standards like the HGB and auditing standards issued by professional organizations. They also acknowledge the move towards international standards such as ISAR, ISA, and IFRS. The oversight institutions' assessment primarily focuses on compliance with these standards, as well as the implementation of regulatory requirements and the assurance of independence.

### **Oversight Tools**

The APAS and the PCAOB do not differ in their basic tasks and oversight tools. Both organizations carry out inspections, quality controls and offer to take whistle-blower reports. In a direct comparison between the APAS and the PCAOB, the clear difference in size and resources between the two authorities is also noticeable. While the APAS, with its 55 employees, carries out inspections in the mid double-digit range every year, the PCAOB has more than 800 employees and has carried out more than 800 inspections in 2022. On the topic of the audit quality controls, it was noticed that although APAS has the final supervision over the quality controls, the actual quality controls are not carried out by the APAS but by the “Quality Control Committee” of the Chamber of Public Accountants (WPK).<sup>39</sup> According to the interviewed auditors the Oversight Authorities main tasks is to check the auditors' financial statements, ensuring compliance with professional law, ensuring high-quality standards through quality insurance and creating transparency between the legislator and auditing companies. The APAS interacts with audit firms by selecting them for inspection, requesting documentation, and inspecting specific areas for compliance with professional law.

Overall, the interviews highlight the role of regulators in monitoring audit firms, enforcing compliance with standards, and maintaining quality assurance in the auditing process. The interactions between regulators and auditors involve inspections, questionnaires, documentation requests, and the exchange of information. Additionally, the confidentiality of audit information and potential sanctions for non-compliance are emphasized.

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<sup>37</sup> Wirtschaftsprüferkammer, 2023

<sup>38</sup> Institut der Wirtschaftsprüfer, 2023

<sup>39</sup> Wirtschaftsprüferkammer, 2023

### **Punitive Instruments**

The PCAOB and the APAS do not differ in their punitive instruments. Both organizations carry out inspections and investigations and are authorized to impose sanctions in the case of violations against Audit rules and regulation. Furthermore, both organizations impose monetary fines as well as professional penalties. This was confirmed during the interviews with the auditors which highlighted the potential penalties and sanctions that regulators can impose on non-compliant audit firms, including fines, professional bans, revocation of audit and individual auditor licenses, and criminal proceedings. However, the exact legal or regulatory provisions granting enforcement powers to the supervisory authorities, such as APAS and WPK, were not explicitly specified in some cases.

### **Transparency**

Comparing both organizations, the PCAOB and the APAS on transparency, both organizations publish annual-, inspection- and sanctions reports. In addition, both supervisory authorities maintain and are part of international Audit Oversight networks and associations. Through events and fairs with other audit supervisory bodies both Oversight authorities strive for a professional exchange of information, standards and trends in global audit regulation. During research on both organizations, the American PCAOB provided significantly more information on its website than the APAS. This is also reflected in the inspection and sanction reporting. While the American PCAOB publishes measures, monetary penalties and criminal convictions through a PCAOB database in the form of a detailed report including the naming of those responsible and/or responsible companies, the APAS only publishes announcements that sanctions or convictions have taken place without revealing the company or sanctioned individual. Due to this fact, the PCAOB is considered more transparent than the APAS. Through the interviews with the auditors, it surfaced that there is a general understanding that the Oversight Authorities have some level of interaction with stakeholders and the public, but the extent of transparency and disclosure obligations is not entirely clear. Some reporting is done, such as annual reports and disclosures of fines, but there is a need for further clarity on the specific requirements and mechanisms for promoting transparency.

In summary the research findings compared the independence, funding, regulatory standards, oversight tools, punitive instruments, and transparency of the German Oversight Authority APAS and the US Oversight Authority PCAOB. The comparison in combination with the conducted audit expert interviews revealed several key insights. In terms of independence, the absence of a supervisory board at APAS was not considered crucial for maintaining independence, and the integration into the government was seen as a potential strength. However, the shortage of skilled personnel at APAS posed a challenge to its independence. Regarding funding, the APAS receives funding from fees charged for services and the German federal budget, while the PCAOB is financed solely through annual and registration fees paid by auditors and auditing companies. There was a general view that government funding could help avoid conflicts of interest. In terms of regulatory standards, the APAS is not directly involved in the development and implementation of new standards, which are the responsibility of the Institute of Public Accountants (IDW) and the Chamber of Public Accountants (WPK) in Germany. Auditors in Germany primarily adhere to national standards such as the German Commercial Code (HGB) and auditing standards issued by professional organizations. A trend and move towards international standards like ISAR, ISA, and IFRS was recognized. Both APAS and PCAOB have similar oversight tools, including inspections, quality controls, and whistle-blower reports. However, there is a significant difference in size and resources, with PCAOB conducting a larger number of inspections. The actual quality controls for APAS are carried out by the Quality Control Committee of the WPK. Regarding punitive instruments, both APAS and PCAOB have the authority to impose sanctions, including fines and professional penalties, for violations against audit rules and regulations. In terms of transparency, both APAS and PCAOB publish annual, inspection, and sanctions reports. However, PCAOB provides significantly more detailed information on its website and in its reports compared to APAS. Overall, the research findings and interviews with auditors suggest that both APAS and

PCAOB have measures in place to uphold organizational independence and regulatory standards. The integration of APAS into the government is seen as a potential strength, while the funding and transparency aspects require more clarity and understanding.

### 3.3 What is the Wirecard scandal and how did it unfold? - Results

After the functionality of the PCAOB and the APAS were presented in the previous chapters, the following chapter will present one of the largest and still media current accounting scandals of recent German history - the Wirecard scandal. To get an understanding of the Wirecard case, a summary of the timeline of the scandal is presented first.

#### **Timeline Wirecard Scandal**

The Wirecard AG has its beginning in 1997 when the two Germans Detlev Hoppenrath and Peter Herold had the idea to revolutionize online payments using software.<sup>40</sup> However, Wirecard's official founding year was in 1999 and the company primarily was earning money by processing payments for adult and gambling websites.<sup>41</sup> A year later in 2000, Markus Braun and the Austrian Jan Marsalek joined Wirecard. After some internal conflicts and changes in leadership Markus Braun takes over as CEO in 2002. Wirecard made significant strides in the following years, including the merger with the InfoGenie AG, renaming it Wirecard AG and listing on the German stock exchange, as well as receiving a German banking license for its subsidiary, the Wirecard Bank AG, in 2006. Doubts about Wirecard's financial reports began to surface already in 2008, leading to a fall in the company's share price. However, the "Schutzgemeinschaft der Kapitalanleger" (SdK), a protection group for investors, who initially raised the concerns about Wirecard's financial reporting faced backlash when it was revealed that some of its members had shortlisted Wirecard shares. In 2015, doubts about Wirecard's Financials arose again. The Financial Times (FT) published critical articles about Wirecard, questioning its acquisition of an Indian payment processor called GI Retail. In addition to that Allegations of fraud and corruption emerged in a report titled "Zatarra Report," which led to investigations by German prosecutors. However, the investigations by the German authorities were conducted against the authors of the report, rather than Wirecard.<sup>42,43</sup> In 2019, another FT article gets published about evidence of invoice falsification and balance sheet manipulation within Wirecard's Singapore branch. In the aftermaths Wirecard's ASIA-CFO admits that balance sheets in Asia were forged, and authorities begin to search Wirecard's Singapore office.<sup>44</sup> Under pressure of the allegations Wirecard decided to commission the auditing company KPMG with a special audit on the allegations. The situation escalates in June 2020 when the auditing firm KPMG reports to have found insufficient evidence for certain sales revenues and alleged deposits in trust accounts totaling around one billion euros. In addition, EY, the auditing firm responsible for Wirecard's annual financial statements, refuses to provide an attestation for the 2019 balance sheet, prompting Wirecard to postpone its financial reporting.<sup>45</sup> On June 18th, 2020, the German authorities reported the entire Wirecard board to the police for suspected market manipulation and misleading statements during the KPMG audit.<sup>46</sup> The next day, Wirecard announced that CEO Markus Braun had resigned, and board member James Freis takes over. Meanwhile, former COO Jan Marsalek flees and remains a fugitive up to the day of writing of this report.<sup>47</sup> On June 22, Wirecard as a company admits

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<sup>40</sup> Fricke & Kleinen, 2023

<sup>41</sup> Meyer-Fünffinger & Streule, 2022

<sup>42</sup> Fricke & Kleinen, 2023

<sup>43</sup> Meyer-Fünffinger & Streule, 2022

<sup>44</sup> Redaktions Netzwerk Deutschland, 2020

<sup>45</sup> Meyer-Fünffinger & Streule, 2022

<sup>46</sup> Manager Magazin, 2022

<sup>47</sup> Meyer-Fünffinger & Streule, 2022

that the missing 1.9 billion euros likely did not exist. Jan Marsalek gets officially fired, and the German public prosecutors initiate investigations into alleged balance sheet falsification.<sup>48</sup> The former CEO Markus Braun gets arrested on June 23, and on June 25, Wirecard files for bankruptcy, becoming the first German DAX company in history to do so. Until the very end, more than 5.800 people at 26 locations worldwide worked for Wirecard and customers of the payment-service-provider included for example the Dutch airline KLM, the O2 parent company Telefónica, Aldi and Ikea.<sup>49</sup> Instantly, Wirecards share prices crashed and the insolvency administrator later discovers that significant portions of Wirecard's business had been fabricated. On top of that, the Wirecard scandal begins to become politically relevant when the Federal Finance Minister at the time and now German Chancellor, Olaf Scholz, faced scrutiny for his ministry's oversight of the Financial Oversight Authority BaFin, which had been criticized for inadequate action despite numerous warnings. In December 2022, the court proceedings against those responsible at Wirecard were opened and are expected to last until the end of 2023.<sup>50</sup> Up to this day the Wirecard scandal is in the limelight of the German media because it exposed a massive fraud that shook the financial and technology sectors in Germany and beyond.

A more detailed chronological timeline of the Wirecard scandal is provided in Appendix K. An overview of Wirecard's business model is provided in Appendix L.

### **Corporate Governance at Wirecard**

When scandals occur, the search for Accountability is often sought and the question arises as to whether the company had functioning corporate governance structures. At first glance it seemed that Wirecard was trying to communicate a picture of a company with an adequate corporate governance system in place. During research it proved useful that Wirecard's Internet pages were archived. For example, in January 2020, Wirecard published its last so-called "Statement of Compliance with the German Corporate Governance Code... pursuant to Section 161 of the German Stock Corporation Act (AktG)". In this declaration Wirecard's Management and Supervisory Boards declare that the company has complied with the recommendations of the German Corporate Governance Code.<sup>51</sup> The German Corporate Governance Code is formulated by the "Government Commission on the German Corporate Governance Code" and includes recommendations, suggestions and reviews that include "the best practice" of good corporate governance. The purpose of this Code is primarily to foster trust and confidence in Business and companies in Germany. Nevertheless, the code is only a voluntary commitment to good governance.<sup>52</sup> Besides the declaration, Wirecard also published a "Corporate Governance Report" as part of its annual report, however in its latest version for the year of 2018. In this Corporate Governance Report it can be found, among other things, that Wirecard had in addition to its Management board also a so called "Aufsichtsrat", a Supervisory Board. The Management Board and the Supervisory Board were separate in terms of their composition and their areas of responsibility. The corporate governance report also defined the requirements for staffing and risk management.<sup>53</sup> By definition, Wirecard thus fulfilled the corporate control and monitoring model of a two-tier board.<sup>54</sup> Nonetheless, in the aftermaths Wirecard's corporate governance structure has been criticized in a position paper published by the Institute of German Auditors (IDW). The IDW condemns for example that Wirecard's Management Board and Supervisory Board have explained numerous deviations from the German Corporate Governance Code in its declaration of compliance. Furthermore, it was also criticized that Wirecard did not have an audit committee in place

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<sup>48</sup> Manager Magazin, 2022

<sup>49</sup> Redaktions Netzwerk Deutschland, 2020

<sup>50</sup> Meyer-Fünffinger & Streule, 2022

<sup>51</sup> Wirecard, 2020

<sup>52</sup> Regierungskommission Deutscher Corporate Governance Kodex, 2023

<sup>53</sup> Wirecard, 2019

<sup>54</sup> Aluchna, 2013

until the year of 2019 and then when it had one, the position of the chairman of the committee was temporarily held by the chairman of the supervisory board at the same time.<sup>55</sup> The Audit and Nomination Committee, are in particular important for a Corporate Governance structure at Wirecard because they could have supported the management with required specialized expertise.<sup>56</sup> Having looked at the Corporate Governance Code Report in the final report from 2018 it was discovered that Wirecard used the longer legal deadlines instead of the 90-day publication period for financial statements that are required in the German Corporate Governance Code.<sup>57</sup> The IWD also sees further objections in the fact that until 2016 Wirecard's "Aufsichtsrat", supervisory board, consisted of only three people. In 2018, the supervisory board consisted of five members and was supposed to get a sixth additional member in 2019, a financial expert, whose name never has been disclosed.<sup>58</sup> An overview of the management and board of directors is presented in Appendix M. According to the journal article "Corporate Governance and Financial Fraud of Wirecard" by Jo et. Al. (2021), one of the most important measures to reduce the risk of fraud is to have a functioning corporate governance system in place. Corporate governance should here be executed by the Management Board and its committee meetings as well as by the external auditors which are checking the completeness of the annual financial statements. In the end the authors of the article conclude that it is not possible to rule out fraudulent behavior entirely through corporate government regulations. In other words, if the incentive to commit fraud is big enough, individuals with lower ethical and moral understandings will find ways to commit fraud. Nevertheless, since both control functions failed it "created a favorable environment for management to run a fraud scheme for several years".<sup>59</sup>

### **EY's role in the Wirecard Scandal**

When Wirecard collapsed in June 2020, the auditing company that had certified Wirecard's annual financial statements for years was also targeted by the investigations. In Wirecard's case that was the Ernst & Young GmbH Wirtschaftsprüfungsgesellschaft, the German EY branch, which was the auditing company responsible for the audit of Wirecard's annual financial statements for the years 2009 to 2018. EY was primarily in the focus because EY issued Wirecard "uneingeschränkte Bestätigungsvermerke", unqualified confirmations, for its annual reports up and including the year 2018, although the Financial Times (FT) had already reported in 2015 on discrepancies in the balance sheets. When the FT reported on money laundering and account forgery again in early 2019, EY's auditors explained in their annual Attestation report that they have investigated these "significant" allegations. EY even declared that a forensic expert investigated the allegations but has been unable to discover any irregularities in Wirecard's annual financial statements.<sup>60</sup> According to EY, the focus of forensic experts in public accounting is, in case of suspicion, on identifying evidence of irregularities in the financial statements. Forensic experts use a corresponding risk assessment with a focus on the conventional annual audit which is supplemented by further fraud risk factors.<sup>61</sup> According to the head of the Institute for Accounting and Auditors at the University of Ulm, Kai-Uwe Marten, this does not mean that EY has not done its job properly. The German legislator deliberately does not require a full audit, since it is not possible for an auditor to check all thousands of invoices, documents and evidences of an annual business year of a company as big as Wirecard under effectiveness and efficiency points. In response to the allegations made by the FT, Wirecard commissioned the auditing company KPMG with a special audit at the end of 2019. KPMG then found that the evidence for some transactions were missing. As in previous years, EY was commissioned to audit the 2019 annual financial

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<sup>55</sup> IDW, 2020

<sup>56</sup> Jo et. al., 2021

<sup>57</sup> Wirecard, 2019

<sup>58</sup> IDW, 2020

<sup>59</sup> Jo et. al., 2021

<sup>60</sup> Herrmann, 2020

<sup>61</sup> Strohäker, 2022

statements and, thanks to the KPMG audit, finally knew exactly where to look. On April 28th, KPMG published its special report. On April 30th EY initially wanted to hand over the audited annual financials to Wirecard but decided to postpone the attestation due to KPMG's report. Based on the KPMG report, EY revised its audit of the annual financial statements and refused to give Wirecard the unqualified certification of the annual financial statements. On June the 18<sup>th</sup> Wirecard reports that EY has stated that "the existence of bank balances in trust accounts to be consolidated in the consolidated financial statements totalling 1.9 billion euros was not yet able to obtain sufficient audit evidence".<sup>62</sup> In the aftermaths, it came out that EY did not recognize the inconsistencies in the balance sheet of the previous years because it fell for Wirecard's forged documents. For example, Wirecard manipulated sales confirmations in PDF format by subsequently inserting the signature and the stamp as a graphic. According to EY, the client's documents were only available as paper documents, from which the manipulation was not evident. In the case of missing information on other documents or incorrect date formats, apparently, not enough attention was paid to them, even if the transactions involved were worth several million euros. In addition, EY's independence was questioned when it got public that an independent subsidiary of the German EY Audit branch, namely the EY Law GmbH and its lawyers, were responsible for handling and supervising Wirecard's numerous company acquisitions. EY Law did not seem to object to the fact that some of these acquisitions were shell companies with opaque increases in value and bloated finances.<sup>63</sup> The APAS then investigated whether the auditors had fulfilled their professional obligations or whether they had violated them. The APAS examined EY's audit procedures for the annual and consolidated financial statements of the Wirecard AG for the financial years 2016 to 2019 as well as the annual financial statements of the Wirecard Bank AG over several financial years. For Wirecard's last year of 2019, for which EY refused an attestation of the financials, no violations were found. The APAS not only investigated EY as a company but also twelve of its employees. However, before the professional oversight proceedings against the accused auditors could come to a conclusion, seven of the individuals involved in the APAS investigations handed back their license as auditors.<sup>64</sup> Due to a special audit profession regulation, EY's auditors avoided with this move possible penalties from the APAS since the APAS only takes action against auditors with an active license. One of the auditors who had returned his audit license stated that he had audited Wirecard "to the best of his knowledge and belief" and that he himself "was massively deceived", he also stated that the public and media pressure was said to have been so burdensome that he "wanted to draw a line" in order to "carry on".<sup>65</sup> In April 2023 the APAS imposed fines of between EUR 23,000 and EUR 300,000 for proven "breaches of professional duty" on the remaining auditors who kept their licenses for the time being. EY as a company, however, got punished by the APAS with a fine of 500,000 euros. In addition, EY is allowed to continue processing its existing client base (including PIE's) but may not perform new statutory audit engagements for public interest entities (PIE) for a period of two years. PIE's are an important customer group for large audit companies like EY and the sanction is considered a hard hit for EY's reputation.<sup>66</sup>

In summary; Since its beginning Wirecard's growth has been marked by controversy. Doubts about Wirecard's financial reports emerged as early as 2008, but the concerns were initially dismissed. In 2015 and 2019, critical articles by the FT raised further doubts about Wirecard's financials, leading to investigations. The situation escalated in June 2020 when KPMG reported insufficient evidence for certain sales revenues and alleged deposits in trust accounts. Wirecard's CEO resigned, and the company filed for bankruptcy shortly after admitting that 1.9 billion euros were likely non-existent. The scandal exposed a

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<sup>62</sup> Meyer-Fünffinger & Streule, 2022

<sup>63</sup> Ahrens, 2021

<sup>64</sup> Fehr, 2023

<sup>65</sup> Zdrzalek, 2023

<sup>66</sup> Fehr, 2023

massive fraud that affected the financial and technology sectors in Germany and beyond. In hindsight, despite appearing to have a functioning corporate governance system, Wirecard's corporate governance structure was criticized for deviations from the German Corporate Governance Code and deficiencies in audit committees. EY, the auditing company responsible for certifying Wirecard's annual financial statements faced scrutiny for issuing unqualified confirmations despite previous reports raising concerns about Wirecard's balance sheets. It was discovered that EY did not recognize inconsistencies in the balance sheet due to forged documents and faced questions about its independence. The auditing company was fined and prohibited from performing new statutory audit engagements for public interest entities for two years. Overall, the Wirecard scandal revealed failures in corporate governance and auditing practices, leading to significant consequences for the company and those involved. The following chapter will investigate the implications from the Wirecard scandal for the German oversight authorities.

### 3.4. Given the Wirecard scandal and their given possibilities, what are the implications for the German oversight authorities?- Results

After the Wirecard scandal, the question arose who had failed on behalf of Oversight over Wirecard and what consequences were derived from the scandal.

The following oversight mechanisms have failed:

Entity	Reason
1. Management Board	Corporate Governance Rules were not followed, no minutes and documentary were maintained at board meetings, highly fraudulent <sup>67</sup>
2. Supervisory Board	Not adequately staffed, no audit committee
3. APAS	Reacted too slow, head of APAS traded Wirecard shares himself in spring 2020 <sup>68</sup>
4. BaFin	Reacted too slow, BaFin employee held Wirecard shares themselves, BaFin investigated the authors of initial allegations instead of Wirecard, BaFin didn't classify Wirecard as a financial company (which would have subjected it to its strict rules) <sup>69</sup>
5. Bundesbank	In 2016 a young Bundesbank employee discovered the fraud and reported it to her superiors which didn't take her seriously. <sup>70</sup>
6. German Stock Exchange	Wirecard remained in the DAX even though it was bankrupt due to the DAX criteria measurement of market capitalization, The "Deutsche Börse" had to change its regulation to kick Wirecard out of the listings. <sup>71</sup>
7. Financial Intelligence Unit (FIU)	Received more than 30 reports about suspicious transaction and money laundering but did not react to them. <sup>72</sup>
8. EY	Fell for falsified evidence and found no objections in the annual reports despite external information (FT)

After the Wirecard scandal became politically relevant and it was foreseeable that media coverage would not stop in the years to come, politicians felt compelled to act. In response to the Wirecard case, the German Federal Council passed the new Finanzmarktintegritätsstärkungsgesetz (FISG), the Financial Market Integrity Strengthening Act, on May 28, 2021. The FISG's aim is to strengthen the balance sheet

<sup>67</sup> Farr WPG, 2023

<sup>68</sup> Astheimer, 2020

<sup>69</sup> Bloomberg, 2020

<sup>70</sup> Focus Online, 2021

<sup>71</sup> Kindermann, 2021

<sup>72</sup> Bender & Holtermann, 2021



controls and further regulate the auditing of financial statements in order to ensure the correctness of the accounting documents of companies. The most important changes through the new FISG act are now presented.

The German Federal Financial Supervisory Authority (BaFin) gained examination rights over all capital market-oriented companies. Under the new FISG regulations, BaFin has now the authority to directly and immediately intervene with sovereign powers when there are suspicions of balance sheet violations by capital market companies. The BaFin has been granted the right to summon and question the members of the organization, employees, and auditors of the examined company if necessary for carrying out its tasks related to the examination of financial statements and reports. Additionally, the BaFin has been granted the power to conduct searches and seizures of business and residential premises. The changes aim to make balance sheet controls faster, more transparent, and more effective. Furthermore, the mandatory auditor rotation after 20-24 years has been set to ten years and a separation of auditing and consulting services for companies of public interest has been introduced. In other words: if an auditing company examines a company the auditing company is no longer allowed to offer any other consulting services such as tax advice at the same time. In addition, the civil liability of auditors has been tightened. The liability limits for grossly negligent actions have been increased for auditors, their assistants, and representatives of audit firms. Depending on the type of company, the liability limits range from unlimited to specific amounts. However, auditors cannot claim these liability limits in cases of intentional actions which means in that case their liability is unlimited. Additionally, the penalties under the balance sheet criminal law have been enhanced. Company representatives who provide false "balance sheet oaths" may face imprisonment of up to five years or fines. Corporate governance has been reinforced through the establishment of an appropriate and effective internal control and risk management system for publicly traded companies. For this reason, it is now mandatory for PIE's to form an audit committee in supervisory boards which is also responsible for monitoring the quality of the audit. Members of the audit committee have the authority to request information directly from relevant departments within the company. As a reaction to the revelation about BaFin employees who had traded Wirecard shares, employees of the BaFin are now prohibited from trading certain financial instruments to ensure their integrity and prevent conflicts of interest. Furthermore, there will be improved information sharing and coordination between state and federal authorities, especially the BaFin, to facilitate analysis and evaluation of suspicion reports. This aims to enhance the effectiveness of combating money laundering and terrorism financing.<sup>73</sup> In contrast to the BaFin, the rules for the APAS have only been slightly improved. The new FISG law now stipulates that APAS employees can hold company shares worth up to €5,000 before they are withdrawn from a supervisory case. Since this amendment reacted to the case in which the then APAS boss Ralf Bose had traded Wirecard shares, the APAS management is now considered biased regardless of the value of the shares.<sup>74</sup>

The German legislature already reacted to the Wirecard scandal by passing the FISG act. However, based on the insights into the organizational characteristics and the Wirecard scandal, the question still arose what other implications there are for the oversight of auditors. For that reason, the author addressed the question of how German auditors view auditing in Germany by conducting interviews with auditors of an Big4 auditing company. It was found that the sufficiency of audit oversight in Germany among auditors is subjective, with some auditors believing that the current system is effective for public interest entities, while others highlight differences with the US system and potential room for improvement in the area of power. When asked about the difference in available resources between the PCAOB and the APAS and whether the German APAS should be expanded after the American model, varying opinions arose. While some suggested that it would make sense to increase APAS resources and capacity for inspections, other

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<sup>73</sup> Müller, 2021

<sup>74</sup> Farr WPG, 2021

auditors raised the concern that the PCAOB model of increased control would only lead to higher audit costs. Further, the question arose if APAS independence could be strengthened by taking over the task of setting auditing standards from the IDW. The interviewed auditors however countered that the increasing internationalization of auditing standards reduces the need for the APAS to take over the task of setting standards in Germany, with some specific adjustments to German laws. It was also considered important and right that the standards are being developed by an institution that is close to the daily and practical work of the auditors. Regarding the lack of qualified personnel at APAS and whether the interviewed auditors could imagine working for an auditor supervisory authority, those interviewed replied that they couldn't imagine doing so, at least not at the present time. The main reason for that is that extensive experience in the audit profession is considered crucial for working in a supervisory authority, as it helps in accurately assessing audit mistakes and understanding their significance. Furthermore, it became clear that personal contact with clients and gaining in-depth knowledge of companies is valued by auditors, which may not be possible in a regulatory authority role. Another point mentioned was that the auditors imagined that they would earn less when being employed by a governmental authority. When asked whether the auditors could name who or what failed in the Wirecard scandal, the auditors primarily see the Wirecard company itself and its management and supervisory board responsible for the fraud and failure of supervision. Furthermore, the interviewed auditors share the view that EY's auditors have overlooked some things, however, the complexity and the interaction of many fields of mistakes have contributed to the failure to detect the fraud. Interestingly the auditors generally do not believe that the new FISG Act will be effective in preventing future scandals. In the words of one of the interviewed auditors "The measure to introduce this law is, in my opinion, a political measure and has hardly any value in terms of content. This law will only lead to higher prices in auditing, but not necessarily to an increase in quality."

In summary the German government responded to the Wirecard scandal by passing the Financial Market Integrity Strengthening Act (FISG). In doing so, partially a reform of the audit regulations has already taken place. The FISG aims to enhance balance sheet controls and regulate financial statement auditing more effectively. The key changes introduced by the FISG have been outlined. The chapter provided insights into the failures and consequences of the Wirecard scandal and examined the auditors' views on auditing in Germany. However, the effectiveness of the new FISG Act has been questioned, with some auditors expressing scepticism about its ability to prevent future scandals. The following chapter will present the Conclusions.

## Conclusion

The following Conclusions are based on the desk research and interviews conducted in the previous chapters. Limitations of the research conducted are that in some cases only secondary literature has been available and no auditors from the Oversight Authorities themselves have been audited.

### **1.How can APAS be compared to the US Public Company Accounting Oversight Board (PCAOB)?**

It was found that the German Audit Oversight Authority APAS can be compared with the PCAOB from the US based on the following Organizational characteristics, Independence, Funding Source, Regulatory Standards, Oversight Tools, Punitive Instruments and Transparency. Furthermore, the comparative benchmarking approach used in this analysis provides a comprehensive understanding of the organizational characteristics, regulatory rules, and tasks of APAS and PCAOB. The approach and the method of comparative benchmarking were confirmed to be valid and useful by the auditors interviewed.

### **2.What are the conclusions that can be drawn from the comparison?**

In conclusion, the comparison between the German Oversight Authority APAS and the US Oversight Authority PCAOB reveals several important findings. While the absence of a supervisory board in APAS is not seen as a significant factor affecting organizational independence, there are concerns about the shortage of skilled personnel. Both APAS and PCAOB operate within legal and regulatory frameworks to ensure independence, but PCAOB is perceived to have stricter requirements and greater enforcement powers. Regarding funding, APAS relies on a combination of fees charged for services and government support, while PCAOB is funded solely through fees paid by auditors and auditing companies. Some auditors believe that government funding would enhance independence and avoid conflicts of interest. In terms of regulatory standards, APAS is not involved in the development and implementation of new standards, which are handled by other organizations such as IDW and WPK in Germany. The harmonization of German and international auditing standards is being pursued through the ISAR framework, but differences between APAS and PCAOB due to their respective structures pose challenges to standardization. Both APAS and PCAOB share similar oversight tools, including inspections, quality controls, and whistle-blower reports. However, there is a significant difference in size and resources between the two authorities, with PCAOB having a larger workforce and conducting more inspections. While APAS has final supervision over quality controls, the actual controls are carried out by the Quality Control Committee of WPK. Both organizations have punitive instruments and can impose sanctions for violations, including monetary fines and professional penalties. Transparency practices differ between APAS and PCAOB. PCAOB provides more detailed information on its website, including the naming of responsible parties and companies in inspection and sanction reports. APAS, on the other hand, only announces that sanctions or convictions have taken place without revealing specific details. There is a general understanding of the oversight authorities' interaction with stakeholders and the public, but further clarity is needed on transparency requirements and mechanisms.

### **3.What is the Wirecard scandal and how did it unfold?**

In conclusion, the Wirecard scandal stands as one of the largest and most significant accounting scandals in recent German history. The scandal unfolded over several years, exposing a massive fraud. Despite Wirecard's attempts to present itself as a company with adequate corporate governance structures, the case revealed significant shortcomings in its governance practices such as deviations from the German Corporate Governance code's recommendations. The absence of an audit committee until 2019, the temporary dual role of the chairman of the audit committee and the supervisory board, and the use of longer legal deadlines for financial statement publication has put the effectiveness of Wirecard's governance practices in question. In addition to Wirecard's corporate governance failures, the role of EY, the auditing firm responsible for certifying Wirecard's annual financial statements, came under scrutiny.

Despite prior reports and allegations of discrepancies in Wirecard's balance sheets, EY had provided unqualified attestations for its annual reports. The subsequent revelations of fraud and manipulation indicated that EY failed to recognize inconsistencies and fell victim to Wirecard's forged documents. EY's independence was also called into question when it was revealed that its subsidiary, EY Law GmbH, was involved in handling and supervising Wirecard's acquisitions. The lack of objection to questionable practices within these acquisitions raised concerns about EY's oversight and potential conflicts of interest. The Auditor Oversight Body (APAS) conducted investigations into EY's audit procedures and the actions of its auditors. EY as a company as well as the imposed auditors who kept their licenses received substantial fines and EY as a company was prohibited from performing new statutory audit engagements for public interest entities (PIEs) for two years. The Wirecard scandal serves as a reminder of the importance of robust corporate governance structures and independent, thorough auditing practices. It highlighted the need for effective oversight and accountability to prevent and detect fraudulent activities.

#### **4. Given the Wirecard scandal and their given possibilities, what are the implications for the German oversight authorities?**

The Wirecard scandal revealed significant failures in various oversight mechanisms. These failures ranged from not following corporate governance rule, too slow reaction, overlooking fraudulent activities and conducting inadequate investigations. As a response, the German Federal Council passed the Financial Market Integrity Strengthening Act (FISG) to strengthen balance sheet controls and regulate the auditing of financial statements. The FISG grants BaFin examination rights over all capital market-oriented companies and is significantly strengthening its intervention powers. The act also introduced mandatory auditor rotation, tightens auditors' civil liability, enhances penalties under balance sheet criminal law, reinforces corporate governance, and improves information sharing and coordination between authorities. Despite these legislative efforts, some auditors see room for improvement in the expenditure of APAS resources and capacity, comparing it to the US system. Further due to the increasing internationalization of standards the auditors see a reduced need for the suggestion that the APAS should take over the standard setting task of the IWD. The lack of qualified personnel at APAS is recognized, since it was uncovered that auditors generally prefer to work in the private sector due to the value, they place on client contact and in-depth knowledge of companies. The auditors interviewed primarily hold Wirecard's management and supervisory board responsible for the fraud and failure of supervision, with EY also sharing some blame. Overall, the FISG Act represents a response to the implications uncovered by the Wirecard scandal and aims to strengthen oversight mechanisms and enhance financial market integrity. Interestingly, the interviewed auditors do not believe that the new FISG Act will effectively prevent future scandals, considering it more of a political measure with limited content value. There are concerns that the law will lead to higher audit prices without necessarily improving quality.

In conclusion, this report provided insights into the characteristics of the German Audit Oversight Authority APAS and the PCAOB from the US and the comparative benchmarking approach confirmed that APAS and PCAOB share similarities and differences in organizational characteristics, independence, funding source, regulatory standards, oversight tools, punitive instruments, and transparency. Further the report discussed the Wirecard scandal as one of the largest accounting scandals in recent German history and revealed significant failures in corporate governance structures, particularly within Wirecard itself. It also raised questions about EY's auditing practices and independence. APAS conducted investigations and imposed substantial fines on EY, emphasizing the importance of robust corporate governance and independent auditing. Overall, the FISG Act represents a response to the implications uncovered by the Wirecard scandal, aiming to strengthen oversight mechanisms and enhance financial market integrity. Despite the legislative efforts, there are still areas for improvement, as some auditors suggest enhancing APAS resources and capacity.

## Recommendations

Based on the conclusions drawn from the comparisons and the implications of the Wirecard scandal, the following recommendations can be made:

1. **Strengthen Organizational Resources:** In order to strengthen APAS as an organization it would be suitable to address the shortage of skilled personnel within APAS by focusing on attracting and retaining qualified professionals. This could be achieved through competitive compensation packages and training programs. This would be acceptable since it would create a work environment that fosters professional development and expertise. In addition to that it is advised to promote the work and profession of the Oversight auditor to make it more attractive. Due to the Wirecard scandal and the new FISG law, there is a current political and public interest in strengthening auditor supervision. Since the APAS is subordinate to a ministry and is financed by the state budget, it would be feasible to allocate more funding to the APAS and/or the time for negotiations to create new civil service positions at APAS is favorable.
2. **Harmonize Regulatory Standards:** In order to encourage collaboration and coordination between APAS, IDW, and WPK it would be suitable to streamline the development and implementation of auditing standards. This would be acceptable since it would help align German and international standards and be feasible since it would contribute to greater consistency and facilitate international cooperation in oversight activities.
3. **Strengthen Oversight Tools and Transparency:** Besides the recommendation to explore opportunities in increasing resources allocated to APAS which could enable more inspections and quality controls, it would be acceptable to consider adopting a more transparent approach similar to the PCAOB, where specific details of inspections, sanctions, and responsible parties are publicly disclosed. A good start would be to improve the information density and user interface of the APAS website. This would be feasible since it would enhance accountability and promote trust in the auditing profession. Increasing the information content of the website or publishing reports more regularly is only considered a minor expense.
4. **Learn from International Best Practices:** While maintaining a focus on the specific needs and context of the German oversight system, it would be suitable to study the experiences and best practices of other international oversight bodies, including the PCAOB. One suggestion would be to send APAS auditors for a limited time to America to see how they work there. This would be acceptable since it would provide valuable insights into effective strategies for organizational structure, enforcement powers, and transparency mechanisms. According to the author himself, this would be feasible since the number of staff required for such an exchange of information would be less than the overall benefit to be gained from a strengthened and internationally recognized supervisory authority.
5. **Continuous Improvement:** It would be suitable to regularly review and assess the effectiveness of oversight mechanisms and regulations, considering feedback from auditors and other stakeholders. This would be acceptable since it will help identify areas for improvement and enable proactive adjustments to regulatory frameworks and practices, aiming to prevent and detect fraudulent activities more effectively. Continuous improvement and prevention are considered feasible since it would be cheaper than the expected economic damage in case of a scandal.

By implementing these recommendations, the German oversight authorities can enhance their capabilities, strengthen independence and transparency, and effectively contribute to maintaining integrity and trust in the financial markets.

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## **Appendix**

### **A: Fields of activity of an auditor in Germany (as of spring 2023)**

(Source: Wirtschaftsprüferkammer, 2023)

Only certified public accountants and their professional associations (auditing companies and accounting firms) are authorized to conduct statutory audits in Germany. Because of their given responsibility, they fulfill a public mandate and significantly contribute to the stability and the health of the economy.

#### **Audit**

- Auditing or preparation of annual financial statements for companies of various legal forms and sizes (e.g. GmbH, AG, KG);
- Auditing or preparation of consolidated financial statements;
- Examination or preparation of financial statements of companies in a specific economic sector (e.g. credit institutes, insurance companies);
- Special audits (e.g. creditworthiness check, embezzlement check, broker and property developer check, use of funds check, restructuring check, check of capital increases/contributions in kind, foundation check, check on conversion and merger, prospectus check);
- Company valuations, investigations when buying or selling a company.
- Company stakeholders are provided with audited annual financial statements as a basis for their investment decisions
- the supervisory bodies of the companies are supported in their control function.

#### **Tax advice**

- Preparation of tax balance sheets and tax returns for legal and natural persons;
- Assistance with external tax audits and correspondence with the tax authorities and filing appeals;
- Advice on tax planning, effectiveness and structuring in national and international law;
- Drafting of company (purchase) contracts, articles of association, articles of association, employment and other contracts from a tax point of view or the aspect of minimizing the tax burden;
- Choice of corporate legal form, corporate mergers;
- Tax structuring advice in connection with company start-ups and structuring of company succession;
- Development of national and international holding companies, business premises, subsidiaries, etc. under tax aspects, advice on questions of customs and tax law, tax advice in connection with investment and financing decisions (leasing, factoring, derivatives).

#### **Fiduciary activity**

- Management of third-party assets (e.g. shareholder rights and shares, management of loan collateral);
- executor, administrator of the estate, executor of the estate;
- Insolvency administrator, settlement administrator, liquidator.

#### **Economic and business consulting**

- business start-up advice;
- organizational consulting;
- Construction and design of reporting and information systems;
- financial and liquidity planning;
- Cash flow analyses, balance sheet and success analyses;
- Advice on over-indebtedness, creation of a restructuring plan;
- performance improvement analysis;
- Construction, design and analysis of cost accounting systems;
- Accounting service using DATEV and other software (financial accounting and payroll accounting)

Activity	Week 1/ Date deadline	Week 2/ Date deadline	Week 3/ Date deadline	Week 4/ Date deadline	Week 5/ Date deadline	Week 6/ Date Deadline	Week 7/ Date deadline	Week 8/ Date deadline	Week 9/ Date deadline	Week 10/Date deadline	Week 11/ Date Deadline
<b>Graduation Internship</b>											
Internship start and Getting acquainted with Graduation Host company PwC Deutschland	7 15.02.23										
Getting acquainted with task(s)	X	X	9 03.03.23								
<b>Graduation Report</b>											
Gather information								14 Start	X		X
Write POA Step 1									15 10.04.23		17 24.04. Final
Write Portfolio best practices											17 Start
Write POA Step 2											
Write Research Approach											
Write Results											
Write Conclusions											
Write Recommendations											
Write Professional Product											
<b>Other Activities:</b>											
Meeting HZ Coach J.M.Weggemans		8 Start		10 X		12 X		14 X			17 X
Organization of Presentation											
Organization of Self-Assessment											
Resit of Last Exam (Excel)										16 17.04.23 (Passed)	

### Planning: Research and Graduation activities and milestones

Activity	Week 12/ Date deadline	Week 13/ Date deadline	Week 14/ Date deadline	Week 15/ Date deadline	Week 16/ Date deadline	Week 17/ Date Deadline	Week 18/ Date deadline	Week 19/ Date deadline
<b>Graduation Internship</b>								
Internship start and getting acquainted with Graduation Host company PwC Deutschland								25 Final Internship week
Getting acquainted with task(s)								
<b>Graduation Report</b>								
Gather information	X	X	X	X	X	23 Final		
Write POA Step 1								
Write Portfolio best practices	X	19 9.05.23 Final						
Write POA Step 2		19 10.05.23 Start	20 17.05.23 Final					
Write Results			20 Start 18.05.23	X	22 Final			
Write Conclusions					22 Start	23 Final 06.06.23		
Write Recommendations					22 Start	23 Final 09.06.23		
Write Professional Product						23 Start	24 Final	
<b>Other Activities:</b>								
Meetings with HZ Coach Mr. J.M.Weggemans	18 X		20 17.05.23		22 X	23 X	24 X	
Organization of Presentation							24 Final 18.06	
Organization of Self-Assessment							24 Final	

## Appendix C

Concept	Variables	Indicators	Specific research questions
Benchmark for comparison of 'audit supervision' between the German APAS and the US PCOAB.	Independence (of the organizational body)	Advisory Committees, board members, independence of Oversight personnel	Is organizational independence of the Oversight authorities given?
	Funding Source	Independently financed, Publicly financed or mixed	How are the Oversight institutions financed?
	Regulatory Standards	holding of a public list of auditors, regulation of entry to the profession, establishment of internal quality controls and standards of professional conduct, creation of procedures for continuous education.	What are the standards of "Audit Oversight"?
	Oversight tools	Inspections, professional procedures.	How do the Oversight Authorities work?
	Punitive instruments	Investigations & Sanctions	What instruments of deterrence do the Oversight Authorities have?
	Transparency	Publishing of Annual Reports, Inspections & their results, imposed sanctions, international collaboration	How Transparent are the Audit Oversight Institutions?

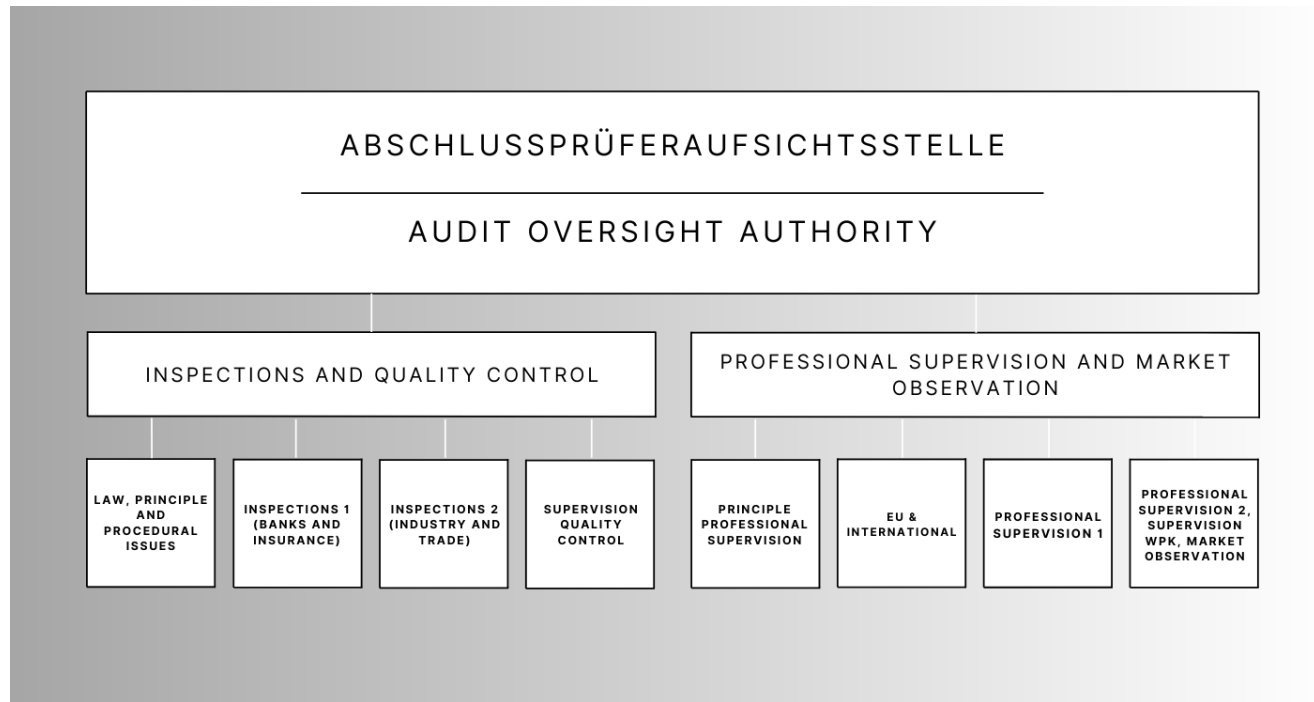
## Appendix D

Concept	Variables	Indicators	Specific research questions
The Wirecard Scandal	Timeline	Points in time and special events in connection with the Wirecard scandal	What is the chronological order of the Wirecard scandal?
	Corporate Governance	Wirecard's corporate governance structure and its shortcomings	Did Wirecard's corporate governance structures fail?
	The Auditor	The role and misconduct of the auditors (EY) in the Wirecard scandal	What was EY's role in the Wirecard Scandal?

## Appendix E

Concept	Variables	Indicators	Specific research questions
Implications for the German Oversight	The German Oversight in the events of the Wirecard scandal	The role and acting of the German public audit oversight during the Wirecard scandal, inspections, investigations and enforcement	How effective was the German Audit Oversight on the case of Wirecard?
	Oversight implications	Prevention, Detection and Punitive Measurements	What are the implications of the Wirecard Scandal for the German Oversight?

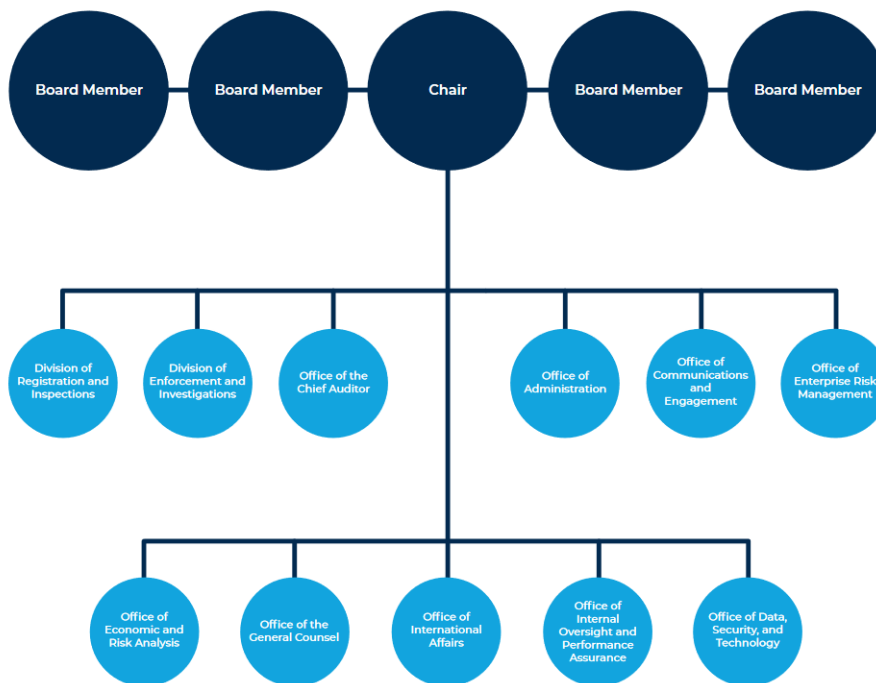
## Appendix F



(Source: Translation of German Organizational Chart, APAS, Annual Report 2022)

## Appendix G

### The PCAOB: Organization and Responsibilities



Note: The Office of Internal Oversight and Performance Assurance reports to the full Board.

Source: PCAOB, Strategic Plan 2022-2026 Report, (2022)

## Appendix H

### Explanation of Benchmark Variables

Organizational Characteristics - Dimension	Variable Explanation
<b>Independence</b>	
Independence of the organizational body	Identification of independence of the organizational body
Board Members	The numerical amount of Board Members.
Advisory committee	Identification of existence of Advisory committee (for example Org. Chart)
Involvement of the profession	Identification whether there are members of the Audit or Accounting profession working for the organization.
<b>Funding Source</b>	
Funding Source	Identification how the Organization is financed, through fees, charges, governmental funding or private sector funding (financed by audit companies).
<b>Regulatory Standards</b>	
Standard Setting	Identification whether Standard Setting takes place (for example Ethical Standards).
Public Auditor List	Identification if the organization maintains a list of auditors working in their profession.
Profession Entry Regulation	Identification whether the organization is regulating the entry into the Auditor profession.
Continuing Education Offers	Identification whether the organization offers procedures for continuous education.
<b>Oversight Tools</b>	
Inspections	Identification whether the organization is involved in conducting inspections
Quality Control	Identification whether the organization is conducting quality controls.
Whistle-blower support	Identification if there is a possibility to fill out a whistleblower form on the organizational website.
<b>Punitive Instruments</b>	
Investigations	Identification if investigations took place in the last annual year as well as number of investigations.
Sanctions	Identification if organization can stipulate sanctions over companies and number of sanctions in the last annual year.
<b>Transparency</b>	
Annual Reporting	Identification if organization publishes a publicly available Annual Report.
Inspections Reporting	Identification if the organization publishes the results of the inspections and if they are publicly accessible.
Sanctioning Reporting	Identification if the organization publishes sanctions it imposed.
International Collaboration	Identification if the organization is part of an international Professional Alliance or Organization.



## **Appendix I**

### **Research Findings (Benchmarking)**

#### **Independence**

##### Independence of the organizational body **APAS:**

"The APAS is an authority in functional sense, professionally autonomous and independent." (APAS Annual Report 2022, (2023))

##### Independence of the organizational body **PCAOB:**

The PCAOB is an independent, non-profit corporation that has been created under the Sarbanes-Oxley Act of 2002. The PCAOB is overseen in its regard to its regulatory activities by the U.S. Securities and Exchange Commission (SEC). Although the PCAOB is overseen by a governmental body (SEC), the PCAOB is not an agency of the U.S. government. (PCAOB, 2023)

##### Board Members **APAS:**

The APAS makes its decisions in two decision making chambers called "Inspections" and "Professional Supervision", the APAS does not maintain a Board. (APAS, 2023)

##### Board Members **PCAOB:**

The PCAOB has five Board members, including the chair, which are appointed by the Securities and Exchange Commission (SEC) to staggered five-year terms. (PCAOB, 2023)

##### Advisory committee **APAS:**

According to Art.2 §3 of the APAREG, the APAS has an Advisory Board which advises the APAS on the performance of their duties as well as the development of supervisory practices. (APAS, Annual Report 2022, (2023))

##### Advisory committee **PCAOB:**

As of annual 2022 the PCAOB has two advisory groups: the Investor Advisory Group (IAG) and the Standards and Emerging Issues Advisory Group (SEIAG). (PCAOB, Annual Report 2022, (2023))

##### Involvement of the profession **APAS:**

During desk research, it was found that "Wirtschaftsprüfer", auditors, work for APAS and that APAS has advertised vacancies on its website for auditors. (APAS, 2023)

##### Involvement of the profession **PCAOB:**

During desk research, it was found that auditors work for the PCAOB and that the PCAOB is looking for auditors that are currently holding the Certified Public Accountant (CPA) or Certified Information Systems Auditor (CISA) license. (PCAOB, 2023)

#### **Funding Source**

##### Funding Source **APAS:**

The APAS is financed through cost-covering fees and the federal budget which shall provide Independence of the APAS from the profession. The APAS funding source is therefore mixed. The fees are mainly for conducting inspections of auditors and for the implementation of professional supervisory measures at the audit companies. (APAS, Annual Report 2022, (2023))

##### Funding Source **PCOAB:**

The PCOAB finances itself through accounting support fees (ASF) as well as registration- and annual fees. The ASF, which is the PCOAB's largest funding source (more than 85%) is an annual fee issued on SEC-registered broker-dealers and audit companies. Because the PCOAB does not receive any other additional money from the government, the funding source is therefore classified by the author as private. (PCOAB, Annual Report 2022,(2023))

#### **Regulatory Standards**

##### Standard Setting **APAS:**

The basis of the auditors in Germany is the so-called Wirtschaftsprüfungsordnung (WPO) and the Handelsgesetzbuch (HGB), the German Commercial Code, both of which form the legal framework for the work of auditors in Germany. (Wikipedia, 2023) In addition, however, there are "principles of proper auditing" which are not legally considered laws but are professional principles and are nevertheless important for auditors. The development of these professional principles or "auditing standards" in Germany is not part of the tasks of the APAS but part of the "Institut der Wirtschaftsprüfer in Deutschland e.V." (IDW). The IDW is an association that represents the professional opinion of the auditors on certain auditing questions and topics and its members are all Auditors or Auditing

company. The standards defined by the IDW must therefore always be taken into consideration by the auditor when conducting audits. (Beeck, 2018)

#### Standard Setting PCOAB:

In the United States, auditors are required to follow three different auditing standards, the American Institute of Certified Public Accountants (AICPA) "Auditing Standards Board" (ASB) standards, the AICPA "Accounting and Review Services Committee" (ARSC) standards, and the PCOAB standards. (Georgetown University Law Library, 2023) The PCAOB recognizes the need for conducting research on standards-related issues and is therefore involved in setting and maintaining standards that consider current and emerging auditing issues. (PCAOB, 2023)

#### Public Auditor List APAS:

The maintenance of a public professional Auditor register is not part of the tasks of the APAS. In Germany the "Wirtschaftsprüferkammer" (WPK), the chamber of auditors, is responsible for maintaining a professional register for auditors and auditing companies. The register of auditors is kept electronically and is accessible to the public on the Website of the WPK under "Berufsregister". The register contains the legally required information about for example Chartered Accountants, Accounting Firms, EU and EEA audit firms and Third country. (WPK, 2023)

#### Public Auditor List PCOAB:

On its website through the sub section "AuditorSearch" the PCAOB provides a public database of audit companies and engagement partners in audits of the U.S. Through the sub section "Registered Firms" it is also possible to find information on audit companies currently registered with the PCAOB. (PCAOB, 2023)

#### Profession Entry Regulation APAS:

The professional entry regulation is not part of the tasks of the APAS. In Germany, the Wirtschaftsprüferkammer (WPK) is responsible to swear in and appoint auditors as well as to recognize auditing and accounting firms. The WPK is also responsible for the cancellation of appointments or approvals. (WPK, 2023)

#### Profession Entry Regulation PCOAB:

The professional entry regulation is not part of the tasks of the PCOAB. In the US, to work as an auditor in an audit company it is required to have a bachelor's degree and to hold the certified public accountant (CPA) license. The CPA license is issued by the state board of accountancy, depending on the US federal state an auditor wants to obtain a license at. (NASBA, 2023)

#### Continuing Education Offers APAS:

The provision of further training offers for auditors were not to be found to be part of the tasks of the APAS. Continuing education courses and training opportunities are offered by various other organizations and institutions.

#### Continuing Education Offers PCOAB:

The SEC uses the term Continuing Professional Education (CPE) to describe mandatory educational activities that help an Audit companies professionals "achieve and maintain quality in professional service". Although the PCAOB does not offer direct continuing education opportunities, the PCAOB does offer a scholarship program for accounting students, professional brochures, publications, conferences, events, and live streams. (PCAOB, 2023)

### **Oversight Tools**

#### Inspections APAS:

The APAS carries out regular and randomized inspections. In 2022 the sub-department "Inspections and Quality Control", inspected 13 Audit companies. In total the APAS completed 21 inspection procedures and inspected 61 audit mandates. At least one remark was found and made in 19 of the 61 audit mandates. (APAS, Annual Report 2022, (2023))

#### Inspections PCOAB:

The PCOAB carries out regular inspections. In 2022, 207 auditing companies were reviewed and more than 800 audit engagements in 36 jurisdictions around the world were inspected. (PCOAB, Annual Report 2022, (2023))

#### Quality Control APAS:

Through its department "Inspections and Quality Control" the APAS is "ultimately responsible" for monitoring the quality of statutory Audits at all other Audit companies. However, the actual quality control is carried out by the Wirtschaftsprüferkammer (WPK). The quality control on behalf of the APAS therefore includes the supervision of the quality control system at the WPK and its established quality control procedures and processes. The APAS monitors in particular the extent to which the quality control system as a whole contributes to improving the quality of the audit. Supervision by the APAS takes part in meetings with representatives of the APAS and the commission of for quality control of the WPK. (APAS, 2023)

#### Quality Control PCOAB:

With the QC20 "System of Quality Control for a CPA Firms Accounting and Auditing Practice" the PCAOB has a standard which prescribes quality control standards for auditing companies. In addition, the PCAOB inspection teams conduct quality reviews by evaluating the company's quality control systems, interviewing management and employees and analysing audits for quality control deficiencies. (PCAOB, 2023)

#### Whistle-blower support APAS:

According to the APAS annual report for 2022, under the mailbox [infoAPAS@APASbafa.bund.de](mailto:infoAPAS@APASbafa.bund.de) everyone by name or in an anonymous form has the possibility to report any Violations of legal regulations or otherwise indications of breaches of professional duty. In 2022, around 20 noteworthy reports were received by the APAS in this way. (APAS, Annual Report 2022, (2023)) When researching the APAS homepage, it was not easy to find an anonymous contact form or a specific reference to the possibility of whistle blowing.

#### Whistle-blower support PCOAB:

Under "Tips and Referrals" on the PCOAB website, there is a page where everyone can anonymously submit tips, referrals or other information indicating that PCOAB rules and laws have been broken or violated. (PCAOB, 2023)

### **Punitive Instruments**

#### Investigations APAS:

The APAS not only investigates annual and consolidated financial statements from companies and their audit opinions but also on an incident related basis, e.g., by a tip or whistle blower. Professional supervisory measures including investigations of the APAS can be, in case of an unsuccessful objection, be proceeded by the court. (APAS, Annual Report 2022, (2023))

#### Investigations PCOAB:

The PCAOB investigates potential violations, such as referrals, public filings, and whistle-blower tips, by audit companies and individuals of their standards, laws, and regulations. The PCAOB Board initiates formal investigations and enforcement actions. Investigations at the PCAOB include for example written requests and demands for information and documents as well as Sworn testimony of individuals and company representatives. (PCAOB, 2023)

#### Sanctions APAS:

In the case of indications for violation of standards, laws, and regulations the APAS investigates and sanctions breaches of professional duties. Hereby the APAS Chamber "Berufsaufsicht", professional supervision, assesses in the last step whether a case is to be sanctioned or investigations are to be discontinued. The APAS has various sanctioning measures it can impose such as a complaint, possibly combined with a fine of up to EUR 500 thousand, a temporary ban on carrying out certain activities, or a professional exclusion. In addition to the individual auditor, auditing companies can also be held accountable and are subject to professional investigations and sanctions. (APAS, 2023)

#### Sanctions PCOAB:

In the case of proven violation of standards, laws, and regulations the PCAOB investigates and sanctions breaches of professional duties. The PCAOB has various sanctioning measures it can impose such as censures, monetary penalties, and limitations on a company or an individual's ability to audit public companies. Sanctions of the PCAOB are imposed by its Board. (PCAOB, 2023)

### **Transparency**

#### Annual Reporting APAS:

In the middle of every following year, the APAS publishes a publicly available annual report from the previous year on its website under the heading Publications and "Jahresberichte". (APAS, 2023)

#### Annual Reporting PCOAB:

The Sarbanes-Oxley Act mandates that the PCAOB submits an annual report to the SEC for distribution to the Senate Committee, which must include audited financial statements. The annual reports of the PCOAB are published on their website under the Heading "About" and are publicly accessible. (PCAOB, 2023)

#### Inspections Reporting APAS:

The APAS publishes summarized information about the findings and conclusions from the inspections in its annual reports. However, the individual inspection reports are not publicly accessible. It is up to the decision of an inspected Audit company/ individual to make the inspection report accessible to third parties. (APAS, 2023)

#### Inspections Reporting PCOAB:

The PCOAB publishes summarized information about the findings and conclusions from the inspections in an individual report. The summarized reports provide information on the inspections carried out on Audit companies and are publicly available on the website of the PCOAB under the Heading "Inspections". (PCAOB, 2023)

#### Sanctioning Reporting APAS:

Final measures and sanctions against auditors or audit firms are publicly announced and published on the APAS website under “Anlassbezogene Berufsaufsicht”, Occasion-related professional supervision, for the duration of five years. The Notice contains information on the type and nature of the violation, however, anonymized. (APAS Annual Report 2022, (2023))

#### Sanctioning Reporting PCOAB:

Final measures and sanctions against auditors or audit firms are publicly announced and accessible through individual reports on the PCOAB website under “Enforcement Actions”. (PCAOB, 2023)

#### International Collaboration APAS:

At the European level, the APAS is a member of the Committee of European Auditing Oversight Bodies (CEAOB) and is working on improving the organization of work between the European supervisory bodies. In addition to the EU level, the APAS is a member of the International Forum of Independent Audit Regulators (IFIAR) and benefits from international exchange of experience with more than 50 audit oversight bodies worldwide. In addition, the APAS has made individual agreements on cooperation with selected audit supervisory bodies of selected countries. Agreements are currently in place with the US Audit Oversight Authority (PCAOB), the Canadian Audit Oversight Authority (CPAB) and the Audit Oversight Authority of Switzerland (RAB). (APAS, 2023)

#### International Collaboration PCOAB:

Internationally the PCAOB works based on agreements with non-US regulators on both a bilateral and multilateral basis. The PCAOB currently has 26 cooperation agreements with foreign Audit Oversight listed on its website. With the PCAOB International Institute, the PCAOB also maintains its own international institute, which regularly invites other Oversight regulators to events and aims to promote the PCAOB's own standards. Furthermore, the PCAOB is a member of the International Forum of Independent Audit Regulators (IFIAR), International Auditing and Assurance Standards Board (IAASB), and the International Ethics Standards Board for Accountants (IESBA). (PCOAB & IAASB, 2023)

## **Appendix J**

The following interviews were conducted with auditors from a Big4 auditing company. For corporate compliance reasons and in order to prevent an restriction notice for this report, the interviews, the auditors interviewed and the auditing company were made anonymous. The interview questions are based on the knowledge gained from desk research. Each question can be assigned to a previously examined topic and aims to validate the knowledge gained and, if possible, to gain new insights. In the Interview transcript a colour coding will indicate to which topics an asked question belongs. The way in which a question is formulated or asked may change during the interview. Since the author will use the method of a semi structured interview, he thus reserves the right to react individually to answers if necessary. The Interview questions are as follows:

### **Part 1: Research Approach Validation**

The following questions were asked to the interviewed professionals in order to find out if the research approach including the benchmarking model is appropriate, complete and makes sense.

**1.1** Does the research approach and the selected variables make sense from your point of view?

**1.2** Is Comparative Benchmarking an appropriate method in your view?

### **Part 2: Research Findings validation**

The following questions were asked to the interviewed professionals in order to find out if the research findings are correct, complete and makes sense. The questions are organized after the organizational characteristics from the Benchmarking in chapter 3.1.

#### **Independence:**

**1.1** What do you think are the main differences in organisational independence between APAS and PCAOB?

**1.2** Would you say that the lack of a supervisory board at APAS affects organisational independence?

**1.3** Are there any legal or regulatory provisions that ensure the organisational independence of the supervisors?

### **Funding Source:**

- 2.1 How are the supervisory institutions financed?
- 2.2 Do the audit firm have to pay fees and/or do you?

### **Regulatory Standards:**

- 3.1 What are the standards of audit oversight?
- 3.2 What do you consider to be the most important standards or guidelines by which the audit oversight body could measure you?
- 3.3 are there internationally recognised standards to which the oversight institutions adhere?

### **Oversight Tools**

How do the supervisory authorities work?

- 4.1 What do you consider to be the main tasks of the supervisors?
- 4.2 How, if at all, do regulators interact with audit firms or auditors?
- 4.3 What mechanisms are in place to monitor the activities of audit firms?
- 4.4 How do regulators enforce compliance with auditing standards and regulations?

### **Punitive Instruments**

- 5.1 What penalties or sanctions can regulators impose on non-compliant audit firms?
- 5.2 Are there specific legal or regulatory provisions that give the regulators enforcement powers?

### **Transparency**

- 6.1 How do regulators interact with stakeholders and the public to promote transparency?
- 6.2 Are there any disclosure or reporting requirements that supervisory institutions must comply with?

### **Other questions:**

- 7.1 As an auditor, could you imagine working for a (supervisory) authority such as the Auditor Oversight Authority?
- 7.2 Currently the IDW sets the auditing standards in Germany, do you think it would promote independence over auditor oversight if the APAS took over this task?
- 7.3 Should the APAS be expanding its functions and resources after the role model of the american PCAOB?
- 7.4 Do you think that the functioning and way of working of the Audit Oversight in Germany is sufficient?

### **Wirecard Questions:**

- 8.1 The Wirecard Case is still in the lime light of the german Audit industry, who or what failed in the Wirecards scandal?
- 8.2 Do you think that the new „Finanzmarktintegrationsgesetz“ can prevent a scandal such as the Wirecard case in the future?

### **Interview 1:**

The interview has been conducted on the 15<sup>th</sup> of June 2023 at 16:45 with an examined Wirtschaftsprüfer (Auditor) of an Big4 Audit company. The original interview was held in the german language, the following interview transcript is a translation.

#### **Janik Brandt**

Here I have contrasted both organisations and then compared them using benchmarking. I created a table and divided it into organisational criteria with Independence funding source, regulatory Standards, Oversight tools, punitive Instruments, and Transparency. I have compared the APAS with the PCAOB, here for now, of course, in an summary. Does that make sense the way I went about it?

#### **Interviewed Auditor**

I would say yes. It is not my standard topic now. But we now have the organisation from A to Z and what both organisations do, as well as the focal points, etc. I think that this is definitely the right way to go. I think that makes sense in any case, yes.

#### **Janik Brandt**

Exactly, then we have already validated it, so to speak. Then we come to the part where I did research and found things out. Furthermore, I have thought of questions for my research which I will now just go through. So my first question would be what do you think are the main differences in both organisations, between the American PCAOB and the German APAS. If you can't answer my question then that's not a problem and we can skip this one.

**Interviewed Auditor**

I have no touching points with that. But I actually used to audit a large telecom service provider. That was in one of my first years and what I learned there is that the PCAOB audits in more detail than the APAS. So in terms of all the auditing standards in the procedure and requirements now compared to Germany. When I look back, I think 3 years ago, the PCAOB already had all the topics such as dependencies and so on, that was somehow already hot and had to be created somehow. I mean, in our country, it is now somehow coming about through paragraph 315. It has now been initiated in Germany for the first time, and in any case, the requirements in the USA are already a bit stricter than ours, so from what I have heard now.

**Janik Brandt**

That's definitely interesting what you say. In my research, I found out that the PCAOB, for example, has a supervisory board and the APAS does not. The APAS is, after all, incorporated into the Federal Office of Economics. Do you think that the lack of a supervisory board affects the independence of APAS?

**Interviewed Auditor**

I don't think so, based on my gut feeling, but I can't really substantiate that now.

**Janik Brandt**

That's OK. Are there any legal or regulatory provisions that ensure the organisational independence of the supervisors?

**Interviewed Auditor**

I'm thinking maybe you need to pick me up there again with the APAS examiners.

**Janik Brandt**

Exactly, there are 3 institutions in Germany. The IDW. They do standard setting, then there is the Chamber of Auditors, which is a company under public law and takes over some of the tasks of the APAS. And then we have the APAS, the Auditor Oversight Body, the counterpart to the PCAOB.

**Interviewed Auditor**

I'm thinking about it. But do auditors also work at APAS then, yes? Yes, well, I mean, you definitely have independence in that sense. Because the professional principles of auditors are already included in this point, i.e. the professional principle of independence as an auditor. That would be one point.

**Janik Brandt**

My next topic would be how do the supervisory institutions finance themselves? I haven't found much on that. How is it? Do audit firms have to pay fees to the APAS? Do you happen to know if you as auditors have to pay fees?

**Interviewed Auditor**

Now as an auditor to the APAS not directly. I would have assumed that the APAS is financed by tax money. So, what we pay as auditors is the IDW fee, but that is also on a voluntary basis, so you are not obliged to join. Furthermore, we pay a fee to the WPK.

**Janik Brandt**

These are the fees from your side as a profession Do you know if the audit firms pay fees to the APAS like the Big 4 do?

**Interviewed Auditor**

No, I can't really imagine that.

**Janik Brandt**

Well, I, I just found out that APAS is mixed, so it is paid by the federal government as well as financially financed by fees.

**Interviewed Auditor**

Yes, of course that could also be the case.

**Janik Brandt**

The next question would be, what are the most important standards or guidelines for you, according to which the auditors, the APAS, could assess you?

**Interviewed Auditor**

That would be, on the one hand, of course, the HGB. That is our basis here in Germany and then of course all the auditing standards. Because, indirectly, as auditors, we also undertake to comply with these standards. Therefore, I would have said the legal standards, but then also these non-qualified auditing standards.

**Janik Brandt**

There are also internationally recognised standards to which the supervisory institutions adhere. Is there an international standard that you know of?

**Interviewed Auditor**

Yes, well, on the one hand IFS and on the other hand through the principles of proper auditing, with the introduction of the Isar, at least now a step has been taken in the direction of unifying standards internationally as well as in Germany. The standards we used to have are now being gradually abolished. Gradually, the ISAs will also apply and at some point they will not differ much from the standards of German auditing. The goal was to unify them a little bit so that every standard looks the same.

**Janik Brandt**

Can you briefly explain to me what ISA is? Where do they come from?

**Interviewed Auditor**

Wait a minute, I can show it to you here (Googles ISA standards).

**Interviewed Auditor**

From your point of view, what are the main tasks of the auditor oversight bodies?

**Interviewed Auditor**

One is to monitor that the laws et cetera that have been laid down are actually being complied with. That when you sign a financial statement as an auditor, you don't just blindly sign it, but actually see that the rules have been observed and that there is no fraud in the sense. Furthermore, you also have to monitor independence. I, for example, also took part in our internal EQR this year, but as a reviewer.

**Janik Brandt**

What is this (EQR)?

**Interviewed Auditor**

It is more or less our internal review. I can imagine that APAS also works in a similar way. Internally, we always have certain volumes per year and we test which audits are tested, there is always a three-year cycle. As an auditor, you just get into an internal 3-year cycle. My work is then similar to the external review. From our experience, it's a metre-long questionnaire with certain focal points. In the reviews, the sales revenues are always looked at in particular, because they are of significant risk. Furthermore, there are other areas and I would have said that it is similar to the work of the APAS. The only difference is that the APAS come in as an external auditor and look at it from a different perspective. We as auditors at the Big 4 have a completely different perspective. The auditors also, maybe they also find out about completely different things, which are perhaps not as sharply focused in the documentation or internal principles as perhaps they should be.

**Janik Brandt**

So you have already had contact with the audit?

**Interviewed Auditor**

The APAS usually always have cause-related audits, where they come and audit. I think there are a few who are independent in a different way, but as a rule they only come when there is actually a cause.

**Janik Brandt**

I can understand that one would not necessarily want to come into contact with a cause-related audit. The next question would be how do regulators interact with audit firms or auditors?

**Interviewed Auditor**

Well, I haven't had any contact with them myself, I just remember from the past, I think I was told once that someone had been to an external inspection. I believe that APAS simply takes the auditor's certificate and the annual financial statement from the Federal Gazette. And I believe that APAS then actually sends out a questionnaire in the post and asks "hey, why is this and this and this like this?" But I don't know whether the system itself has changed in any way, because I personally haven't had any contact with it yet.

**Janik Brandt**

What mechanisms are there to monitor the activities of audit firms?

**Interviewed Auditor**

I think it is the independent investigations.

**Janik Brandt**

How do regulators enforce compliance with auditing standards and regulations?

**Interviewed Auditor**

I think it is in the professional statutes, in the WPO? It should actually be enshrined in professional standards actually.

**Janik Brandt**

What penalties or sanctions can regulators impose on non-compliant audit firms?

**Interviewed Auditor**

I mean, there are fines and even professional bans, and I also believe that they can have their auditor's title revoked. But you should actually be able to find that out from the WPO. We can look that up again.

**Janik Brandt**

That would also be interesting, I'll write that down. Are there certain statutory or regulatory provisions that give enforcement powers to the supervisory authorities?

**Interviewed Auditor**

You're not necessarily looking, but there are definitely some paragraphs I'm wondering if they're HGB or WPO but I think they're anchored in the WPO. So I can't say now, but yes.

**Janik Brandt**

How do the supervisors interact with stakeholders and the public to promote transparency for example?

**Interviewed Auditor**

Yes, I myself have not yet had any contact with them, but I think that they have now also introduced the publication of their findings.

**Janik Brandt**

Exactly, they publish an annual report once a year and they publish findings anonymously.

**Interviewed Auditor**

Yes, but I believe that there has been a change due to the Fisk Act, so that soon the whole thing will actually be mentioned by name. So I know that there was, I think, a change, but I cannot put my hand in the fire that it is now actually the case that it is now also mentioned by name.

**Janik Brandt**

I can check again if necessary. Then on the last topic, are there disclosure or reporting obligations? That the supervisory auditors have to fulfil? That you know about?

**Interviewed Auditor**

I don't think so. If there are, yes?

**Janik Brandt**

I didn't know, that's why I wanted to know from you. Then I have two more questions. Could you imagine working for a supervisory authority such as the Auditors' Oversight Authority?

**Interviewed Auditor**

I think I am still relatively new at this. I think at first you really need this wealth of experience. I think you also notice that somehow, when you have just done a review, you are perhaps not at all familiar with the topics and you don't know OK is this really a dramatic mistake? Or is it simply a careless mistake? I think the more experience you have and the longer you've been involved, the better you can judge such things, but at the moment I would say no.

**Janik Brandt**

I'm sure the auditing firms probably pay better as well...

**Interviewed Auditor**

It depends. I think that's just the way it is. I also have a colleague who moved from here to Bafin. He also said that it's completely different from working for an auditing company. There are really older people working there. I think everything is still a bit like that with older people and not with younger teams.

**Janik Brandt**

Then I have the last question for you. Currently, the IDW sets the auditing standards in Germany. In the US it is the PCOAB, do you think it would promote the independence of APAS oversight if APAS would also take over these tasks.

**Interviewed Auditor**

I don't think so necessarily. I think it's good the way it is, you have all the experts etc. and they come from different sectors or different companies, so I think you have a bit more input and are closer to what's really going on. It's better than making a law but somehow nobody knows how to deal with it afterwards. That's why I think it's quite good when the burden is on several shoulders.



## Interview 2:

The following interview has been conducted on the 19<sup>th</sup> of June 2023 at 13:30 with an examined Wirtschaftsprüfer (Auditor) of an Big4 Audit company. The original interview was held in the German language, the following interview transcript is a translation.

### **Janik Brandt**

I am writing my bachelor thesis comparing the APAS with the PCOAB and in a broader sense I am writing about auditor oversight in Germany. In the first part, I compared both organisations and created a profile. Then I compared both organisations on the basis of the following sub-categories, Regulatory Framework Organisational structure, regulatory rules and tasks. To illustrate this, I then benchmarked the two organisations against the following sub-categories: Organisational independence, funding source, regulatory standards, oversight tools, punitive instruments and transparency. Of course, this is only an overview and only a summary. And my first question would be: Does my approach, as I have examined it, make sense from your point of view?

### **Interviewed Auditor**

From my point of view yes. So you can do it that way I think. It's definitely a possibility to compare both organisations.

### **Janik Brandt**

Well, do you think it is complete, so is there anything missing? From the list here. Or have I covered everything?

### **Interviewed Auditor**

That's not so easy to say at first glance. But I think that you have covered the basic points that I would expect.

### **Janik Brandt**

My next question would be. What do you think are the main differences in organisational independence between the APAS and the PCAOB?

### **Interviewed Auditor**

That's not so easy for me to say because I don't have that much to do with APAS and the PCAOB is a topic that you only really come into contact with if you have US mandates. Since I do not have any US mandates, it is difficult for me to say offhand what the organisational differences are. But I think that at the end of the day, the PCAOB is a private organisation that is not tied to the state and the APAS, on the other hand, is subordinate to the German Federal Ministry of Economics. I can't say that much about it.

### **Janik Brandt**

That's not a bad thing. Again for understanding: The APAS, unlike the PCAOB, does not have a supervisory board because it is integrated into the ministry and my question would be, would you say that the lack of a supervisory board at the APAS has an effect on the organisational independence?

### **Interviewed Auditor**

No, I don't think so. Because APAS also has professionals on the road and they are subject to a certain independence anyway and are then also controlled by the Federal Ministry of Economics, for me the supervision by the Federal Ministry of Economics is actually even better than if a private-law organisation does it now. In my opinion, APAS therefore has a state control or a state control component and does not need a supervisory board.

### **Janik Brandt**

OK, that's interesting. Are there any legal or regulatory provisions that guarantee the organisational independence of the supervisory authorities?

### **Interviewed Auditor**

I'm sure there are. But I can't tell you off the top of my head.

### **Janik Brandt**

Good, no problem. Then we come to the next question. My question would be: Do the auditing companies have to pay fees to APAS? Or you as an auditor?

### **Interviewed Auditor**

We have to pay to the auditing chambers. But whether a certain part of that goes to APAS I don't know. I would say off the top of my head that it shouldn't be. Actually, the whole issue of funding should be financed by the Government

and should not be funded by those who are supposed to audit afterwards, because otherwise APAS would have a conflict of independence.

**Janik Brandt**

I found out that the APAS has a mixed founding source, most by the federal government and some by fees.

**Interviewed Auditor**

There are no direct fees paid by me but of course it could be that you have to pay extra fees on the level of the auditing company, but I am not aware of that.

**Janik Brandt**

Yes, then we come to the next question. **What are the most important standards or guidelines for you that APAS could measure you against?**

**Interviewed Auditor**

For me it is actually the IDW QS 1, which is the quality standard of the Wirtschaftsprüferkammer, and most of the standards are actually listed there. For example, as far as the professional principles are concerned, the quality levels and quality standards. And beyond that, of course, all the other professional standards that exist. In principle as well as in terms of planning, with regard to audit reporting, there are certain auditing standards from the Institute of Public Auditors (IDW) and, depending on what they publish at the moment, as an auditor you naturally look at that. Of course, I then look at what the decisive standard is for me, because they measure me against the auditing standard. At the end of the day, they also look at whether I have complied with all of this or not.

**Janik Brandt**

**Are there internationally recognised standards that the supervisory institutions, i.e. PCAOB and APAS, have to adhere to? Do you know anything about this?**

**Interviewed Auditor**

I don't know for sure if there are international standards for the oversight institutions, but I would expect there to be. There are definitely some for us as auditors, because these auditing standards that I just talked about, they are currently being reworked into so-called ISAs, into international standards. These ISA standards will then also apply more or less worldwide. I would therefore also expect the supervisory authorities to set the same standards. There should therefore also be a uniform catalogue for auditing institutions. However, there is no uniformity internationally. APAS is state-run, the PCAOB is private. Legally, of course, this is still difficult to standardise.

**Janik Brandt**

**From your point of view, what are the main tasks of the supervisory authorities?**

**Interviewed Auditor**

The task of the supervisory authorities is to check the auditors' financial statements. Furthermore, the APAS ensures that the auditors apply high quality standards in their work and also pay attention to the issue of independence. It is also a matter of maintaining confidence in the audit for the external third party.

**Janik Brandt**

**How, if at all, do the APAS interact with the audit firms and or the auditors?**

**Interviewed Auditor**

I haven't had any APAS procedures. And finally, it is actually the case that APAS audits on a sample basis. If you are chosen by APAS and you receive a notice to that effect, you basically have to disclose your documentation to APAS. APAS then selects certain areas for inspection and then looks whether you have acted in accordance with professional law.

**Janik Brandt**

**What mechanisms are there to monitor the activities of audit firms?**

**Interviewed Auditor**

I would say that the auditors in Germany are very closely bound to the applicable laws. When I think of accounting, the first thing that comes to mind is the HGB. There we check whether our activities comply with the law, sometimes we don't know exactly, but we have commentary literature and we have the German accounting standards. In addition, we have the guidelines of the IDW, which provide us with our professional law and the auditing standards. In addition, of course, we have the principles contained in the Auditors' Code. We auditors are bound by them. However, we also have the topics of planning and independence. And beyond that, of course, there are other bodies such as the WPK. Especially on the smaller mandates, the WPK is the quality control authority. The WPK can also set sanctions such as a fine or a reprimand. In the worst case, the title of auditor is taken away. In the Wirecard case, the colleagues from EY feared severe sanctions and fines and voluntarily gave up the title of auditor in order to evade the

laws and the penalties. And then there is also the so-called "internal reviewing". In internal reviewing, auditors have themselves audited by other auditing firms, i.e. not by APAS or WPK.

**Janik Brandt**

Okay, that's a new insight for me, I didn't know that, that's interesting. **So that's a system between audit firms then?**

**Interviewed auditor**

The WPK has introduced this system. And you can actually look it up under the keyword internal review. In the internal review, another auditor from another auditing company looks at your annual accounts.

**Janik Brandt**

**And then they give you feedback? What happens if, for example, a violation of rules is found, is it reported?**

**Interviewed auditor**

Yes, it goes to the professional supervision of the WPK.

**Janik Brandt**

OK, so that is already very closely regulated.

**Interviewed Auditor**

That is regulated in the Auditors' Code. Besides the professional supervision, there are also the normal laws with us. That means you could also go to prison. In the Wirecard case, for example, several people handed in their auditor's title because they didn't want someone else to come and take it away from them. But I also think that the Munich public prosecutor's office would judge this differently, they don't only look at the damage caused but also whether it was done with intent. Auditors can always be held liable, whenever there is a suspicion of intentional fraud, then the public prosecutor's office will also investigate.

**Janik Brandt**

**The requirements of the APAS are also bound by other official regulations, and they also have enforcement powers, so to speak. Is that right?**

**Interviewed Auditor**

There are, of course, limits under criminal law. The APAS and the WPK can at most take away one's title. But in the case of a scandal as big as Wirecard's, the public prosecutor's office also investigates. They then approach you from outside and ask: Where are the 1.9 billion? Did you have something to do with it? Did you somehow deliberately defraud someone? In such cases, even as an auditor, you are operating within the normal criminal law.

**Janik Brandt**

**Do you know of any disclosure and reporting obligations that the supervisory bodies themselves have to fulfil? Keyword transparency?**

**Interviewed Auditor**

The WPK, for example, always discloses what fines have been paid. I think that is actually a good system. The WPK, for example, always publishes a few issues that they have discovered. They then present the audits they have had and the anomalies they have found. In the case of issues with conspicuousness, the WPK says that it will look at these issues more intensively in the near future. There are also other supervisory authorities, such as the BaFin. It is not necessarily responsible for the auditors, but BaFin also set itself priorities, and I don't know exactly, but I could well imagine that APAS also sets audit priorities and looks at audit topics in detail.

**Janik Brandt**

I have now finished my main question catalogue. But I still have a few other questions. For example, I have a personal question. **Could you imagine working as an auditor, in theory, for a supervisory authority such as APAS, and if not, why?**

**Interviewed Auditor**

I actually couldn't imagine that. For me personally, client contact is very important and I think I would miss that in my job, as well as looking into different companies. I could then only look into the companies from the outside and see what others have audited there. But I wouldn't understand the company as well as the person who primarily looked at the company.

**Janik Brandt**

Currently, the IDW sets the auditing standards in Germany. The members of the IDW are all auditors or auditing companies from the private sector, **do you think it would promote the independence of APAS if APAS were to take on this task in addition?**

**Interviewed Auditor**

One could think about that. But the issue is that these auditing standards, which are currently being made by the IDW, have already largely been superseded by the fact that all the auditing standards have been internationalized. But despite the ISA standards, there will always be German specifics. But I think that nothing major will happen in terms of the standards, because in my opinion the standards are already very restrictive. So, I don't think this is a big problem where you can get something out of it.

**Janik Brandt**

Should the APAS be expanded along the lines of the American model like the PCOAB with its available resources and tasks? Compared to the PCOAB, the APAS is quite a small organisation. APAS has about 55 employees and PCOAB 800.

**Interviewed Auditor**

Yes, I think so, simply in order to be able to carry out inspections more often and more frequently. That definitely makes sense. Of course, you have to pay attention to who you hire. I took a look at BaFin once because the authority wanted to expand and only lawyers worked there. That's not much use if a lawyer is supposed to audit. They need more auditors, tax advisors and the like to simply increase the competence and understanding.

**Janik Brandt**

Would you say that the functions and modes of operation of APAS supervision in Germany are sufficient as they are now?

**Interviewed Auditor**

Basically yes. I just think that the "power" needs to grow.

**Janik Brandt**

The Wirecard case is still very explosive, also for German auditing. In your opinion, who or what failed in the Wirecard case?

**Interviewed Auditor**

In my opinion, Wirecard is first and foremost the company itself, because they cheated. That means first the Wirecard Management Board, and then of course directly the Wirecard Supervisory Board. And after that, there comes nothing for a long time, because there has been a lot of fraud and many people were involved. Are there certain accusations that can be made against the auditors? From my point of view, these are all accusations that were also shared in the media. I also think that the media have exaggerated this very much. I don't want to lay any blame at BaFin's door, except that they have suspended the short-selling ban on Wirecard. In the case of APAS, I would also have said that they are actually out of the picture, because they only check downstream and not in the upstream process. In summary: Board of Directors, Supervisory Board and then nothing for a long time.

**Janik Brandt**

In Germany, the reaction to the Wirecard scandal was the Financial Market Integration Act. Do you think that this new law can prevent a scandal like Wirecard in the future?

**Interviewed Auditor**

No, I don't think so. The whole thing is much too populist for that. If you wanted to rule out a scandal like Wirecard at a listed company, you would need a forensic audit or something similar every 3 years. So the whole thing really needs to be regulated in a completely different way. But going to the audit and saying that there are now simply higher penalties doesn't really help that much. At the end of the day, our auditing fees increase because we have to pay higher insurance premiums due to the increased penalties. I therefore believe that this new law will not achieve anything. In the end, this law is mainly about saying in public "I have done something". But the law is not really well thought out.

### **Interview 3:**

The interview has been conducted on the 20<sup>th</sup> of June 2023 at 11:30 with an examined Wirtschaftsprüfer (Auditor) of an Big4 Audit company. The original interview was held in the German language, the following interview transcript is a translation.

**Janik Brandt**

I am writing my bachelor thesis comparing the APAS with the PCOAB and in a broader sense I am writing about auditor oversight in Germany. In the first part, I compared both organisations and created a profile. Then I compared both organisations on the basis of the following sub-categories, Regulatory Framework Organisational structure, regulatory rules and tasks. To illustrate this, I then benchmarked the two organisations against the following sub-categories:

Organisational independence, funding source, regulatory standards, oversight tools, punitive instruments and transparency. Of course, this is only an overview and only a summary. **And my first question would be: Does my approach, as I have examined it, make sense from your point of view?**

**Interviewed Auditor**

Yes, I'm looking at it. Okay, so this is really only related to the structure. So I think it makes sense the way you did it and that it gives you a basic understanding of the organisation and what makes it tick.

**Janik Brandt**

**My first question would be, what do you think are the main differences in organisational independence between APAS and the PCAOB?**

**Interviewed Auditor**

In independence?

**Janik Brandt**

Or in the general sense between the two organisations.

**Interviewed Auditor**

In my opinion, the biggest difference is the PCAOB's ability to intervene compared to APAS. The Americans have much more possibilities in terms of sanctions and the like. They can sanction directly, without going through the profession or the courts or anything like that. Another big difference is the international enforcement possibilities that the PCAOB has and that do not exist with the APAS. These are the two most striking differences for me, at least in practice.

**Janik Brandt**

Okay, that's a new perspective that I haven't had before. I find that very interesting. So again, to understand, APAS is integrated into the Federal Ministry of Economics and has no supervisory board, whereas the PCAOB does. **Would you say that the lack of a supervisory board at APAS has an impact on organisational independence?**

**Interviewed Auditor**

No, I don't think so. But that's just a gut feeling, because I'm not that familiar with the matter. But I don't think so.

**Janik Brandt**

**Are there legal or regulatory provisions that guarantee the organisational independence of the supervisory authorities?**

**Interviewed Auditor**

Yes, at least indirectly. So in the case of APAS. You have already said that they are subordinate to the Federal Ministry. So, in comparison to the former professional supervisory authorities, they are no longer connected to the Chamber of Auditors. This means that APAS is now, at least in theory, decoupled from the auditing profession. One aspect that cannot be avoided, of course, is that auditors or former working auditors also work at APAS. Without the auditors, there would simply be a lack of expertise to carry out this job. So of course there is always a certain conflict. However, I would like to add that if you look at how the APAS proceeds or how the auditors deal with each other in the peer review, I would rather claim that the issue of independence is the least of all risks. Independence is, in my opinion, the least of the problems with these organisations.

**Janik Brandt**

What do you mean by "interacting with each other in peer review"?

**Interviewed Auditor**

Let's put it this way, when you take part in a peer review, the peer reviewers can be pretty hard on you. That's not meant verbally, but they don't hesitate to tell you if your work is bad. In peer review, the competition is reviewing you, which means that the competition's interest in harming you is usually much greater than protecting colleagues from the same profession in some way.

**Janik Brandt**

Okay, that's interesting, because I would have thought it would be the other way round. **How does it look like, do the auditing companies have to pay fees to the APAS or do you as auditors have to pay them?**

**Interviewed Auditor**

Well, certainly not yourself. As an auditor, you only pay the chamber fee to the WPK. As far as I know, the audit firms are not subject to any other regulations. So I don't know one hundred percent. But I don't think so.

**Janik Brandt**

**What are the most important standards or guidelines for you, according to which the APAS could measure you?**

**Interviewed Auditor**

These are the adopted auditing standards, the professional law and ultimately, of course, the HGB. The HGB is the framework for accounting and auditing, but I think the auditing standards and the professional law are more important.

**Janik Brandt**

Are there internationally recognized standards to which the supervisory institutions must adhere?

**Interviewed Auditor**

I don't know, I can't tell you if they are subject to international standards.

**Janik Brandt**

From your point of view, what are the main tasks of the supervisory institutions?

**Interviewed Auditor**

The overriding objective is, of course, to ensure that the requirements of professional law or those resulting from the audits are complied with. This, in turn, determines whether the audits are carried out correctly and thus whether the financial statements are essentially correct. There are various measures. There is the inspection by the APAS, where they certainly only examine companies in random samples. In addition, there is also the superordinate review. APAS also simply examines some financial statements for plausibility or whether any information or the like is missing, without looking at the audit itself in detail. Another task would therefore be quality assurance.

**Janik Brandt**

How, if at all, do regulators interact with audit firms or auditors?

**Interviewed Auditor**

If it takes place within the framework of the inspection, then through direct interaction. It is imperative that there is an exchange with APAS. There are also publications from APAS here and there on certain issues or subject areas, where APAS points out certain things. Furthermore, APAS publishes annual reports which deal, for example, with findings or particularly affected areas. I know that the German specificity of situation reporting is still a hot topic. To my knowledge, there is no institutional exchange there now. I am of the opinion that this would not necessarily make sense either.

**Janik Brandt**

How do regulators enforce compliance with audit standards and regulations?

**Interviewed Auditor**

This is flanked by these quality assurance measures, if necessary. This also includes the appropriate sanctions. This can range from a warning or reprimand to heavy fines and professional bans. All that is possible.

**Janik Brandt**

Are there certain legal or regulatory provisions that give the supervisory authorities enforcement powers? For example, in court?

**Interviewed Auditor**

The PCAOB can definitely impose sanctions directly. In the case of APAS, I would really have to think about whether they can also impose sanctions directly themselves or whether they then have to go through an intermediate body. I can't tell you that for sure off the top of my head. But it could also be that they only report it to the WPK and the WPK then initiates the professional proceedings. I think there could be fines. I can't tell you that in detail and with certainty.

**Janik Brandt**

Do you know if APAS interacts with stakeholders and the public to promote transparency?

**Interviewed Auditor**

I don't really know. So APAS, to my knowledge, publishes an annual report. Beyond that, at least I haven't seen too much public relations from APAS.

**Janik Brandt**

Do you know if there are disclosure or reporting obligations on the part of the supervisory authorities?

**Interviewed Auditor**

I know that their report is disclosed, which is also quite unpleasant if you appear there too thickly and frequently as an audit firm. Otherwise, they certainly have legal obligations. Maybe not to the public, but certainly to the Federal Ministry. But I don't know if they have to disclose anything else besides the report.

**Janik Brandt**

I have now finished with my main question. Now I have a few more questions. I even have a personal question for you. As an auditor, could you personally imagine working for a regulatory authority and if not, why?

**Interviewed Auditor**

No, wait, rather not. I don't know, it's hard to say, I don't know. Their job doesn't appeal to me. I actually don't know how good their income is and whether it's attractive. If I'm honest, I doubt that their salary is attractive. But I don't find their field of activity interesting either. I think their work is too 2-dimensional for me. The APAS examiners really always do the same thing. Whether it's checking whether documentation and the like are in order or whether procedural rules have been followed, I miss this variability and diversity that I have when auditing companies. I like that there are different processes and different products from company to company. I think at least APAS doesn't have that.

**Janik Brandt**

Currently, the IDW sets the standards for auditing in Germany. *Do you think it would promote independence over auditor oversight if APAS took over this task?*

**Interviewed Auditor**

Well, the auditing standards are very comprehensive. In the meantime, however, the auditing standards are in principle taken over 1 to 1 from the ISAs. Compared to the past and in terms of development, the auditing standards are only supplemented with German specifics in really very small parts. Parts such as the management report, for example, which do not exist abroad and in the form they do in Germany, always have to be supplemented, but the rest is largely adopted 1 to 1. So I don't see any independence issue in it now.

**Janik Brandt**

Mhm, that's interesting. *Should the APAS be expanded along American lines like the PCAOB in its available resources and tasks?* Just to compare the size, APAS has 50 employees and the PCAOB has 800 employees.

**Interviewed Auditor**

It depends on what you want to achieve. Personally, I think that the American sector is over-regulated. But that's just my personal opinion, if you have the objective of stronger control, then you have to give up the control that already exists. The question is always, is that effective? Well, I don't know, I mean, you certainly haven't experienced it yet, but if you look at the documentation requirements and then also the effort involved in the PCAOB audit, then it is very extensive. However, this extra control also drives up the price. Whether this is worth it is up to each individual to decide.

**Janik Brandt**

*Would you say that the function and mode of operation of the supervision of auditors in Germany are sufficient?*

**Interviewed Auditor**

I would say that it is sufficient for public interest entities. In the case of public companies, the work is really relevant. There is also another difference between the US and Germany, in the US non-public companies are not audited on principle. Personally, I think that is actually sufficient. The scandals we have had here and there in recent years are not really meaningful. I don't think that scandals can really be prevented, I just think that it will happen every few years and even the supervisory authorities won't change that.

**Janik Brandt**

Speaking of scandals. *The Wirecard case is still very explosive, also for the German auditing landscape. In your opinion, who or what failed in the Wirecard case?*

**Interviewed Auditor**

First of all, of course, the company itself. It has to be said that they did not fail, they cheated. At least from what one has heard and read. In the second instance, one can of course ask oneself why this was not noticed. From what one can gather from reports, mistakes were made by the corresponding auditing company. Even mistakes that could have been avoided, according to what one has heard and read. In the Wirecard case, there were already things that were no longer trivial, someone did not work properly. But I didn't get the impression that the auditors were involved in the fraud itself. There was just negligence in the audit. I have not been able to read out any intent until today. I don't think the German public prosecutor's office ever charged them with that. In the end, I would say that 2-3 people did not work properly, for whatever reason. In my opinion, it is the fault of the supervisors that they did not react to the accusations that had been made years before. After these reports became known and such abuses were pointed out, APAS could have come up with the idea of investigating the case more closely.

**Janik Brandt**

*Do you think that a scandal like Wirecard can be prevented in the future with the new Financial Market Integration Act, which was, so to speak, a quick measure by the Federal Government?*

**Interviewed Auditor**



No, your description of the law as a quick fix is absolutely correct. The measure to introduce this law is, in my opinion, a political measure and has hardly any value in terms of content. This law will only lead to higher prices in auditing, but not necessarily to an increase in quality.

#### **Interview 4:**

The following interview has been conducted on the 21 of June 2023 at 17:30 with an examined Wirtschaftsprüfer (Auditor) of an Big4 Audit company. The original interview was held in the german language, the following interview transcript is a translation.

**Janik Brandt**

And my first question to you would be, does my research approach make sense to you?

**Interviewed Auditor**

Yes I think it does make sense.

**Janik Brandt**

What do you think are the main differences in the organisational independence of the APAS and the PCAOB?

**Interviewed Auditor**

Well, I can't tell you the main differences. APAS is subordinate to the federal government and is commissioned by the Ministry of Finance, isn't it? I don't know how the PCAOB is organised or structured.

**Janik Brandt**

It is true that APAS is integrated into the Ministry. That is why APAS does not have a supervisory board like the PCAOB.

Would you say that the lack of a supervisory board at APAS affects its organisational independence?

**Interviewed Auditor**

No, I don't think so. I don't think APAS needs a supervisory board that plays into it. In my opinion, supervisory boards only have the function to advise and supervise. Does the PCAOB have a supervisory board at all?

**Janik Brandt**

They have a supervisory board.

**Interviewed Auditor**

A supervisory board is good. But you can't compare a supervisory board with the supervisory board of the APAS. But I can't imagine that any advisors have any added value there now.

**Janik Brandt**

Are there legal or regulatory provisions that guarantee the organisational independence of the supervisory boards?

**Interviewed Auditor**

Legal provisions in any case.

**Janik Brandt**

But which ones don't you know?

**Interviewed Auditor**

For APAS, this should also be regulated in the Auditors' Code. Then there is also the statute work in which things are also regulated. And I think that the APAS also have their own statutes to which they have to adhere.

**Janik Brandt**

Do auditing companies or you, for example, as an auditor, have to pay fees?

**Interviewed Auditor**

We definitely pay fees to the WPK. How the APAS is financed in the end, I don't know in detail. I can't tell you whether it's partly through the WPK contributions or whether it's through the Federal Office, i.e. through Bafa.

**Janik Brandt**

What are the most important standards or guidelines for you, according to which the APAS could assess you?

**Interviewed Auditor**

These are IDW auditing standards, but in the meantime they have also been adopted by the new ISA standards. What is also taken into account is our internal quality assurance system, because they always look at it as well.

**Janik Brandt**

In your view, what are the main tasks of the supervisory authorities?

**Interviewed Auditor**



The main function of the APAS is actually to ensure that an audit was carried out in a high-quality manner and that the audit opinion could be issued with sufficient audit certainty, so first and foremost the audit procedure is checked there. The APAS is therefore an external quality assurance system that assesses the audit from the outside. The effectiveness of the audit is also examined from the point of view of content.

**Janik Brandt**

How, if at all, do the supervisory authorities interact with audit firms or auditors?

**Interviewed Auditor**

So basically, auditors are sworn to secrecy and are not allowed to disclose anything about ongoing or completed audits. When it comes to an audit, the APAS examines random samples or on the instructions of the BaFin. They then check the accounting and the financial statements of the companies and see if there are any errors or findings. So these are the points where they become active. Of course, APAS then approaches the auditors on these points. The auditors will then presumably receive a notice from APAS in which APAS specifies the period of the audit. The auditing companies must then make the relevant documents or rooms available for this audit. APAS will then be given full access to our audit documents. Of course, the auditors of APAS are also subject to the confidentiality obligation of an auditor, so that no information leaks out. Or to the public.

**Janik Brandt**

What penalties or sanctions can regulators impose on non-compliant audit firms?

**Interviewed auditor**

A restriction of the tendering process for audit firms and a market entry ban. In the end, EY, for example, will no longer be allowed to participate in capital market-oriented tenders for the next 3 years. The whole thing goes all the way to the worst case, the revocation of the audit licence. Of course, the whole thing also applies to private people, to the individual auditor. I am now unsure whether prison sentences will also end up being imposed by the APAS or whether they will be imposed by the WPK.

**Janik Brandt**

That would have been my next question, whether there are legal or regulatory enforcement powers.

**Interviewed auditor**

Yes, but as I said, I don't know how they are regulated. I think it's up to the WPK because it's against the individual members of the chamber. But how that is in detail has to be clarified by a lawyer.

**Janik Brandt**

Do you know whether the supervisory institutions interact with interest groups and the public?

**Interviewed Auditor**

I know that APAS, for example in the Wirecard investigation, issued certain interim results of the investigation in a press release in order to keep the process transparent. To be honest, I have to say that the information content of this press release was very low. Basically, I think that APAS has the possibility to publish certain information from the investigations that they are conducting and whether they have concluded one or not. At the end of the year, a report on the audits and the findings is presented. There they communicate which topics they want to examine in particular.

**Janik Brandt**

Are there disclosure or reporting requirements that supervisory institutions must fulfil?

**Interviewed Auditor**

I don't think so, but I think that APAS might comply voluntarily. I'm sure they have to report internally to the Ministry of Economic Affairs. I don't think APAS will voluntarily disclose exciting financial statements.

**Janik Brandt**

I have now finished my main list of questions. But I have a few other questions, for example a personal question. As an auditor, could you imagine working for a regulatory body like the Auditor Oversight Authority and if not, why?

**Interviewed Auditor**

I wouldn't be interested in that now. You don't like to work with auditors anyway. I don't really know why that's not the case. But from my point of view it doesn't sound interesting. I want to audit companies, I want to work in Germany, I don't want to work for a public authority.

**Janik Brandt**

Currently, the IDW sets the auditing standards in Germany. Do you think it would promote the independence of auditor oversight if APAS took over this task?

**Interviewed Auditor**

Well, on the one hand, the IDW is only a registered association and therefore the IDW statutes can be seen. A large part of the auditors are members of the IDW and they actually do a very good job. But I also know that there are many critics, but these critics mostly come from the theoretical side. The theorists do not understand the tasks of the IDW and why it also has advantages that the IDW is integrated in the legal form of an association, which can react much faster. The IDW can react faster to developments in the market than an authority could. Therefore, in my view, APAS is not weakened by the fact that it is only an association.

**Janik Brandt**

Should APAS, like the WPK, be expanded in its available resources and tasks, following the American model?

**Interviewed Auditor**

No, just don't. The PCAOB is bad enough as it is, nobody wants it. So from my point of view, I understand that you want to audit auditors and that you want to have a second oversight body. For my part, I can say that through the internal audit, the internal review, we at PwC have at least created so many mechanisms that I don't understand at all how they want to do even more in the external presentation. As far as I am concerned, this can be done for legitimisation purposes, i.e. to promote public transparency. In the past, the auditing profession still had its standing in society and the statement that the auditor stood up for it with his audit certificate and his name still carried weight. Nowadays, the critics come mainly from the theoretical field, these are university professors and lecturers who have no idea about auditing and yet still demand more transparency and more control of the auditors. I don't think it's right to increase the pressure on the market. Furthermore, I also believe that this pressure will not lead to an increase in audit quality, but rather to the opposite. The audits will become more difficult, they will take longer, because more emphasis will be placed on the correctness of the documentation. At some point, not much time will be spent on conducting the audit as a risk-oriented audit and focusing on the issues that are actually relevant. This then tends in the direction of assurance audits, that we as auditors simply try to do everything by sampling in order to have sufficient evidence for the APAS, so to speak.

**Janik Brandt**

The Wirecard case is still very explosive for German auditing. In your opinion, who or what failed in the Wirecard case?

**Interviewed Auditor**

Clearly the board, clearly Wirecard itself. If the management board gets enough employees to cooperate, then you will always have fraud. And as auditors, we explicitly do not carry out a preliminary audit. Because for that you have to commission a forensic audit and they do something completely different than we do. BaFin and APAS did not work properly either. Instead of reacting to the reports from the press and looking at them and the details that the investigative reporters found out, they instead sued the reporters for character assassination and tried to shut them down. I think there were a lot of places that contributed, in my view, to the problem not being solvable. I firmly believe that in the financial statements that EY audited, they were absolutely certain at the time of the audit that they had done everything right. I don't think the auditors really knew what was going on either and they couldn't have known and they never could have known.

**Janik Brandt**

I find that a very interesting assessment. Now we come to my last question, do you think that with the new Financial Market Integration Act a scandal like Wirecard can be prevented in the future?

**Interviewed Auditor**

No I don't think so. I am absolutely convinced that as long as a board member wants to act fraudulently, he can do so under certain circumstances and no auditor will detect it.

## Interview 5:

The following interview has been conducted on the 23rd of June 2023 at 14:00 with an examined Wirtschaftsprüfer (Auditor) of an Big4 Audit company. The original interview was held in the German language, the following interview transcript is a translation.

**Janik Brandt**

My first question would be to you, does it make sense from your point of view how I have proceeded?

**Interviewed Auditor**

Well, it's difficult for me to judge. But I mean, you're comparing these two organizations and if that's the focus here then it certainly makes sense.

**Janik Brandt**

What do you think are the main differences in organizational independence, in terms of the APAS and the PCAOB?

**Interviewed Auditor**

I can't answer that because I don't have any insight into the PCAOB and I'm not involved in that.

Janik Brandt

And what do you think are the main differences between the two organisations in general?

**Interviewed Auditor**

I think there are differences between the organizations in terms of the basic approach to investigations. But I can't tell you anything about that, you have to look at their published reports with their results and focal points. Or you have to look at what they focus on and whether global issues are also relevant. I think both organisations have also grown differently historically.

**Janik Brandt**

In contrast to APAS, the PCAOB has a supervisory board. Would you say that the lack of a supervisory board at APAS has an impact on organisational independence?

**Interviewed Auditor**

I would say that it has no impact. I don't know what the function of the supervisory board is at the PCAOB, what exactly they do and what powers they have. But I think in principle it doesn't make a sufficient difference.

**Janik Brandt**

Are there any legal or regulatory provisions that guarantee the organisational independence of the supervisory authorities?

**Interviewed Auditor**

I think there are. The moment the PCAOB and also the APAS were constructed, corresponding independence requirements were enshrined in the legislation underlying the organisations. In addition, both organisations certainly have bylaws.

**Janik Brandt**

Do the audit firms or you as an auditor have to pay fees to the APAS?

**Interviewed Auditor**

Yes, the audit firms have to pay fees. But the individual auditor, to my knowledge, does not pay fees.

**Janik Brandt**

What do you think are the most important standards or guidelines that APAS could assess you against?

**Interviewed Auditor**

These are ultimately the implementation of regulatory innovations and requirements. This is followed by the topic of error findings. In an APAS examination, the APAS looks at my audit procedure and whether I have adhered to the known auditing standards and legal requirements. And as an auditor, I have to be prepared for that, both in terms of the audit procedure and in terms of general independence. And depending on how much you deviate or how serious the violation is ...

**Janik Brandt**

Are there internationally recognised standards that the oversight institutions have to adhere to?

**Interviewed Auditor**

Yes, I think there are. Auditing standards are set and placed under supervision in the context of the audit. Depending on the type of engagement. You can then orientate yourself on these standards and see exactly what is required and how it has to be implemented.

**Janik Brandt**

In your view, what are the main tasks of the supervisory authorities?

**Interviewed Auditor**

On the one hand, monitoring and control, on the other hand, creating transparency between the legislator or the ministry and the auditing companies.

**Janik Brandt**

How do the supervisory authorities interact with the audit firms or auditors?

**Interviewed Auditor**

There are certain reporting obligations of the auditing companies and the APAS auditors then already report to one that any investigations are being taken up and whether there is already any sample available. And yes, then you have to deal with them.

**Janik Brandt**

**What mechanisms are there to monitor the activities of audit firms?**

**Interviewed Auditor**

I can't tell you, I don't know.

**Janik Brandt**

**How do regulators enforce compliance with auditing standards and regulations?**

**Interviewed Auditor**

Well I mean through the law. Yes, and on the other hand through the professional supervision. There it is also clearly defined what is allowed and what is not allowed in the economy.

**Janik Brandt**

**What penalties or sanctions can the regulators impose on non-compliant audit firms?**

**Interviewed Auditor**

There is, for example, the revocation of the Wirtschaftsprüfer licence. In relation to the audit firms, then they can certainly be prosecuted separately somewhere and any criminal proceedings can be initiated.

**Janik Brandt**

**Are you aware of any statutory or regulatory provisions that give enforcement powers to the regulators?**

**Interviewed Auditor**

I'm not sure, but I don't think they have any.

**Janik Brandt**

**Transparency; How do regulators interact with stakeholders and the public to promote transparency?**

**Interviewed Auditor**

I think that is quite manageable. First and foremost, of course, they have their own reporting in the form of their own homepage with at least a few menu items. But that is certainly expandable, you get some information there, but it is not super transparent.

**Janik Brandt**

**As an auditor, could you imagine working for a supervisory authority such as APAS? And if not, why?**

**Interviewed Auditor**

No. Well, it might change one day, but at some point it will change, and I don't think I want to do it now. I think it's good to be part of the operational business here and to actually do operational audits. And I think as part of a regulatory body you wouldn't do that.

**Janik Brandt**

**Currently the IDW sets the auditing standards in Germany. Do you think it would promote independence over auditor oversight if APAS took over this task?**

**Interviewed Auditor**

No, I don't think so. You always have to think about whether it would change anything. I think that we have a functioning system with technical committees and many different people working on it. In my opinion, there is no reason to change anything. The standards are developed by people from the field, people who know what they are doing. I would question whether the standards would be better if the supervisory body developed them.

**Janik Brandt**

**Should APAS be expanded along the lines of the PCAOB in terms of its resources and tasks?**

**Interviewed Auditor**

That is a question of objectives. If you want to do that, that's okay. If you want to significantly increase the volume of inspections, then of course you also need more staff and more equipment, etc.

**Janik Brandt**

**Would you say that the function and mode of operation of audit oversight in Germany is sufficient?**

**Interviewed Auditor**

Yes (without further explanation)

**Janik Brandt**

**The Wirecard case is still a big deal for German auditing. In your opinion, who or what failed in the Wirecard case?**

**Interviewed Auditor**

I don't know if you can answer that like that, because there was a lot of criminal energy behind it. I think that there were indications of fraud and that it could have been noticed. But I don't know all the details. I just think that it didn't go optimally in many places. Then probably somewhere one cog gets into the next and then things go wrong. According to the motto, if you want to cheat, you can. But it's always a question of time before the fraud comes out. At some point, everything always comes out. As an outsider, however, it is difficult to judge.

**Janik Brandt**

**Do you think that a scandal like Wirecard can be prevented in the future with the new Financial Market Integration Act?**

**Interviewed Auditor**

No, I am of the opinion that even if the law had existed before, the whole thing could not have been prevented. I also don't think that the problem was that the audit and the consultation conflicted with each other or that the rotation periods were too short. It was just big fraud, which would also have happened if there had been a 2-year rotation obligation. This law was introduced under the motto "We have now introduced something new here and are now even stricter, even tougher on the road". but. In the end, however, I think the overall effect is manageable.

## **Appendix K**

### **Timeline Wirecard Scandal**

**1997:** The Wirecard founders Detlev Hoppenrath and Peter Herold came up with the business idea of using software to make online payment more convenient for everyone. (Fricke & Kleinen, 2023)

**1998:** Wirecard has its beginnings in another company, the Securitas Internet Systems GmbH, a company that belonged to the two founders Hoppenrath and Herold. To implement the idea of the Wirecard founders, an initially five-person team developed software that made it possible to forward the customer's payment data to the retailer and credit card organizations and at the same time to analyse it for untrustful data. (Fricke & Kleinen, 2023)

**1998 - June 12th:** The founders register the brand name with the German Patent Office under "Wire Card" with the registration number 39833006. (Meyer-Fünffinger & Streule, 2022)

**1998 – October:** Wire cards initial starting capital was 1.5 million marks (the German currency before the euro) and the first product gets completed in October of the same year. (Fricke & Kleinen, 2023)

**1999:** The official founding year of Wirecard (according to the archived company website). Because of the not yet in widespread used business model Wire Card primarily earns its money by processing payments for porn and gambling websites on the internet. Wire Card is growing and soon has more than 60 employees. (Meyer-Fünffinger & Streule, 2022)

**2000:** The Austrian national Jan Marsalek joins the company, initially as "Project Manager Payment Systems". (Meyer-Fünffinger & Streule, 2022)

**2000 – December:** Wire card founder Peter Herold leaves the Supervisory Board and Markus Braun gets hired as Wire Card's Chief Technology Officer. (Fricke & Kleinen, 2023)

**2001 – May:** The Wire card company relocates its headquarters to Aschheim (Munich) and founder Hoppenrath moves to the supervisory board. (Fricke & Kleinen, 2023)

**2002:** In the course of the takeover of Wire card by the Electronic Billing System AG (EBS), disagreements arise between Braun, Marsalek and Hoppenrath. In the aftermaths Wire card founder Hoppenrath leaves the supervisory board in October 2001 and 5 years after Wire card was founded, both founders have left the company. (Fricke & Kleinen, 2023)

**2002:** Markus Braun, a former project manager at the Big 4 auditing company KPMG becomes CEO at Wire card. (Meyer-Fünffinger & Streule, 2022)

**2005:** After the InfoGenie AG merges with Wire Card, InfoGenie gets renamed Wire Card AG and is listed on the German stock exchange. (Fricke & Kleinen, 2023)

**2006** Wire card joins the index of the largest technology companies in Germany, the so called TecDAX and gets renamed "Wirecard AG". (Meyer-Fünffinger & Streule, 2022) In the same year the Wirecard subsidiary "Wirecard Bank AG" receives the German banking license. (Fricke & Kleinen, 2023)

**2008** The first doubts arise about the financials Wirecard is reporting. Members of the "Schutzgemeinschaft der Kapitalanleger" (SdK), the protection group for investors, articulate doubts about the company's balance sheet at the 2008 general meeting, the Wirecard share price falls dramatically for the first time. However, in the aftermaths the SdK itself get criticised when it got public that some of their members shortlisted Wirecard shares. (Meyer-Fünffinger & Streule, 2022)

**2010:** Jan Marsalek joins the Wirecard board and is now responsible for the operational Wirecard business and in this function also controls the alleged third-party business in Asia. (Meyer-Fünffinger & Streule, 2022)

**2015 - April:** The renowned British business newspaper "Financial Times" (FT) publishes the first critical articles about Wirecard under the title "House of Wirecard". It gets public that Wirecard took over an Indian payment processor called GI Retail for 340 million euros. Conspicuously, the GI Retail company had changed ownership for just 40 million euros right before the deal with Wirecard. The company's alleged spectacular increase in value, among other things, raises questions to this day. (Meyer-Fünffinger & Streule, 2022)

**2016:** A 101-page long, anonymously written report entitled "Zatarra Report" appears on the Internet, in which serious allegations are made against Wirecard. The report indicts "widespread corruption and fraud" and also includes details about the GI retail deal. A little later, however, it turns out that the two British investors and short sellers Fraser Perring and Matthew Earl are behind the report. In autumn 2020, after the collapse of Wirecard, Perring will tell the German news outlet "Bayrischer Rundfunk" (BR) in an interview that he also sent a copy to the Federal Financial Supervisory Authority (BaFin), which, however, did not react. Stock investor Earl later stated in an interview that he and his family were personally threatened after the publication and suspected Wirecard was directly behind the threats. In response to the Perring-Earl report, German public prosecutors in Munich, Bavaria begin investigations, not against Wirecard, but against the authors of the Zatarra report, Fraser and Perring, and against a journalist from the FT. (Meyer-Fünffinger & Streule, 2022)

**2017 – February:** The German banking supervisory authority BaFin, examines together with the German "Bundesbank" whether the parent company, the Wirecard AG, should be classified as a financial holding company. The result turns out to be negative and the BaFin is denied access to the entire Wirecard group with exemption of one subsidiary – the Wirecard Bank. (Manager Magazin, 2022)

**2018:** Wirecard joins the German DAX (the German equivalent in the S&P500) and with that replaces the Commerzbank. Wirecard's ambitious goal is to become the largest member in the DAX. (Meyer-Fünffinger & Streule, 2022) The Wirecard shares rise to a record high of 199 euros per share and the market value climbs to almost 25 billion euros. Wirecard at that time is worth more than the German "Deutsche Bank". (Manager Magazin, 2022)

**2019 - February:** The Financial Times (FT) reports that an external law firm commissioned by Wirecard found evidence for the falsifying of invoices during an audit of the Wirecard branch in Singapore. Another article from the FT follows, in which Wirecard's chief financial officer responsible for Asia writes, how the company in Asia forged balance sheets and that at least two German executives knew about it. Days later, the Wirecard branch in Singapore gets searched by the authorities. At the same time, several law firms in the USA are probing the possibilities of "class action" lawsuits against Wirecard. (Redaktions Netzwerk Deutschland, 2020)

**2019 - February the 15<sup>th</sup>:** The BaFin commissions the German Financial Reporting Enforcement Panel (DPR) to analyze the Wirecard balance sheets. (Manager Magazin, 2022)

**2019 - February 18<sup>th</sup>:** The German BaFin announces to impose a short selling ban on Wirecard shares for two months, the BaFin uses this measurement for the first time in history. (Manager Magazin, 2022)

**2019 - February 19<sup>th</sup>:** Former Federal Finance Minister and now German Chancellor Olaf Scholz gets informed that the BaFin is investigating in the case of market manipulation at the Wirecard AG in all directions as well as that the DPR is investigating possible accounting irregularities. (Manager Magazin, 2022)

**2019 – April 10<sup>th</sup>:** The BaFin files charges against two Financial Times journalists as well as investors on suspicion of market manipulation. (Manager Magazin, 2022)

**2019 - April 15<sup>th</sup>:** The BaFin gives Wirecard a fine of 1.52 million Euros for the delayed publication of its annual reports. (Manager Magazin, 2022)

**2019 – April- June:** – Wirecard wins the telecommunications and Internet group Softbank as a strategic partner. The announcement of the alliance with the Japanese investor lets the share price rise and lets the shareholders ignore the doubts. However, at Wirecards Annual General Meeting some shareholders criticize the “Chaos” and lack of transparency. (Manager Magazin, 2022)

**2019 – July 15<sup>th</sup>:** The BaFin investigates the Wirecard AG’s subsidiary the Wirecard Bank due to the suspicion of money laundering. (Manager Magazin, 2022)

**2019 - October 21:** While Wirecard is denying the allegations, the FT continues its reporting on manipulated Wirecard business figures. In October 2019, the Wirecard Supervisory Board finally feels compelled to commission the auditing company KPMG with a special investigation into the allegations. (Meyer-Fünffinger & Streule, 2022)

**2020- February 25<sup>th</sup>:** The federal government and the Bavarian authorities negotiate for the first time about the money laundering supervision at the Wirecard AG. However, both sides declare themselves for not responsible. (Manager Magazin, 2022)

**2020 - April 22<sup>nd</sup>:** Wirecard publishes an ad hoc announcement according to which the KPMG special investigation provided "no evidence of balance sheet manipulation". Wirecard CEO Markus Braun emailed KPMG the first draft of the ad hoc announcement before it was published. However, KPMG replied to Braun: "This representation does not correspond to our perception of the actual circumstances and is not consistent with our written and oral reports." Markus Braun nevertheless decides to publish the message unchanged. Hours later, the head of a communications agency that advises Braun and Wirecard sends him a written press report. She writes: "We believe that given the circumstances, Wirecard is now optimally positioned." (Meyer-Fünffinger & Streule, 2022)

**2020 - April 28<sup>th</sup>:** The KPMG auditors commissioned by Wirecard with an special investigation into the allegations are giving Wirecard an insufficient report. According to KPMG there is missing evidence for certain sales revenues and alleged deposits in trust accounts. Around one billion euros were not sufficiently proven. (Manager Magazin, 2022)

**2020 - April 30:** Wirecard wants to report the balance sheet for the past financial year by April the 30<sup>th</sup>, however, the auditing company EY commissioned by Wirecard to audit its annual financial statements surprisingly refuses to provide an attestation for the 2019 balance sheet. As a result, Wirecard is forced to postpone the date for the financial year reporting several times. (Meyer-Fünffinger & Streule, 2022)

**2020 - May 11:** The German authorities dismisses the criminal proceedings against the stock market speculator Fraser Perring in exchange for a fine. (Manager Magazin, 2022)

**2020 - June 5<sup>th</sup>:** The Bafin reports the entire Wirecard board to the authorities on the suspicion of market manipulation as well as misleading statements during the KPMG audit. As a consequence the Wirecard Headquarter near Munich gets raided by the public prosecutors. (Manager Magazin, 2022)

**2020 - June 18<sup>th</sup>:** Wirecard again publishes an ad hoc announcement that the company has to reschedule its reporting of the balance sheet because EY has informed Wirecard that "the existence of bank balances in trust accounts to be consolidated in the consolidated financial statements totalling 1.9 billion euros (this corresponds to around a quarter of the consolidated balance sheet total) was not yet able to obtain sufficient audit evidence". There are indications that a trustee could have provided EY with forged receipts for the balance in these accounts. Board Member Jan Marsalek allegedly tried to organize the correct evidence from trustee Mark Tolentino, a divorce attorney in the Philippines. At the evening of the same day, the supervisory board releases Jan Marsalek, who had previously asked for an organized flight to the Philippines in order to allegedly search for the missing 1.9 billion euro. Later at night, Wirecard publishes a video showing CEO Markus Braun surrounded by board members, making the statement that; "It cannot currently be ruled out that the Wirecard AG was the victim of a large-scale fraud case,". (Meyer-Fünffinger & Streule, 2022)

**2020 - June 19<sup>th</sup>:** Wirecard announces that "Dr. Markus Braun resigned today as a member of the Management Board with immediate effect in agreement with the Supervisory Board of the Wirecard AG." Board member James Freis takes over Braun's chair and starts negotiating with the banks that gave Wirecard large loans. In the evening of the same day, Jan Marsalek boards a small aircraft in Vienna that takes him to Minsk in Belarus from where his traces have been lost. Marsalek, who is wanted on an international arrest warrant up to the date of writing this report, is believed to reside in Russia. The German public prosecutor's office has already submitted several unsuccessful extradition requests to Russia. (Meyer-Fünffinger & Streule, 2022)

**2020 – June 22<sup>nd</sup>:** Wirecard themselves announce that the bank balances in question of 1.9 billion euros "with an overwhelming probability do not exist". At the same time, in his absence, Jan Marsalek gets officially fired. The public prosecutors in Munich announce investigations due to the falsification of balance sheets. (Manager Magazin, 2022)

**2020 - June 23:** The German public prosecutor's office in Munich announces to have arrested Markus Braun. There is a suspicion of "incorrect representation in conjunction with market manipulation". (Meyer-Fünffinger & Streule, 2022)

**2020 – June 25<sup>th</sup>:** Wirecard publishes an ad hoc announcement in which the Management Board declares bankruptcy and with that writes history, becoming the first DAX company to file for bankruptcy. The insolvency administrator Michael Jaffé takes over Wirecard and after a few months concludes that, among other things, significant parts of the Wirecard business were made up. Today's German Chancellor and then Federal Finance Minister Olaf Scholz is under pressure because his ministry oversees the Financial Oversight Authority BaFin, which is criticized for doing too little despite numerous warnings. The then Chancellor Angela Merkel is also coming under pressure, in November 2019 she spoke out a recommendation for Wirecard during a state visit to China. The Wirecard scandal is beginning to take on political dimensions. (Meyer-Fünffinger & Streule, 2022)

**2020 - July 22<sup>nd</sup>:** The prosecutors in Munich make public that Wirecard has been falsifying balance sheets and inflating sales since at least the year end of 2015. Furthermore, the prosecutors accuse the former Wirecard management team of "commercial gang fraud" and explain that businesses with third party partners in Asia were invented to make the company look bigger and more successful. Braun, who was initially released on bail, is ordered back into custody. (Manager Magazin, 2022)

**2020 - July 22<sup>nd</sup>:** The German prosecutors report the arrests of the long-time managing director of a Wirecard subsidiary based in Dubai, as well as the former accountant in chief. (Meyer-Fünffinger & Streule, 2022)

**2020 - August 25<sup>th</sup>:** The insolvency proceedings against the Wirecard AG are opened and more than half of the approximately 1300 employees in Germany are being fired. (Manager Magazin, 2022)



**2020 - August 31:** The Wirecard insolvency administrator Michael Jaffé presents the following in his report: Usable assets: €428 million, Of which available bank balances: €27 million, Debt: €3.2 billion, Over-indebtedness: €2.8 billion (Farr, 2023)

**2020 - September 3<sup>rd</sup>:** The German public prosecutors are dismissing their charges and investigations into the two journalists from the Financial Times in connection with their reports on Wirecard. (Manager Magazin, 2020)

**2020 - October 1:** After the Finance Committee of the German Bundestag discussed the Wirecard issue in several special sessions, the opposition fractions of the German federal government decide to set up a “Untersuchungsausschuss”, a committee of inquiry. The question arises what role and function the federal government and the responsible authorities have played in the years of the Wirecard scandal. The committee of inquiry evaluated a vast amount of documents from ministries, authorities and the Wirecard Group as well as interviewed numerous witnesses, including the former chancellor Angela Merkel and several federal ministers. (Meyer-Fünffinger & Streule, 2022)

**2020 - November 3<sup>rd</sup>:** The European securities regulation authority “ESMA) is publicly and harshly criticizing the former Federal Finance Minister and now Chancellor Olaf Scholz and the German authorities for their “shortcomings, omissions and inefficient processes”. (Manager Magazin, 2022)

**2020 - November 19<sup>th</sup>:** Markus Braun is brought to Berlin directly from custody to testify before the committee of inquiry. Braun, however, reads out only a short statement and does not answer any question. The committee of inquiry is also hearing representatives from KPMG, EY, the BaFin and the Bavarian authorities. The apparent failure to act on behalf of the responsible authorities is particularly criticized. (Meyer-Fünffinger & Streule, 2022)

**2021 - January 29:** Due to the heavily criticized role that the Financial Oversight Authority BaFin played in the Wirecard scandal, the head of the authority, Felix Hufeld, and his vice president, Elisabeth Roegele, are vacating their positions. In response to the Wirecard scandal, the BaFin is being given additional powers and staff positions. The authority emphasizes hiring auditors to enhance the quality of their investigations into balance sheets. (Meyer-Fünffinger & Streule, 2022)

**2021 - February 24<sup>th</sup>:** The German Financial Reporting Enforcement Panel (DPR) which is organized as a private association is being accused of conflicts of interest and insufficient control. As a consequence the President of the DPR announces his resignation as of end of the year. (Manager Magazin, 2022)

**2021 - June 22:** The Wirecard inquiry committee publishes its final report with the conclusion that the unprofessional behavior of various authorities at least favored the emergence of the scandal. (Meyer-Fünffinger & Streule, 2022)

**2022 - March 10:** The public prosecutor's office in Munich files charges against Markus Braun, Oliver Bellenhaus and the former Wirecard chief accountant for breach of trust, market manipulation, misrepresentation of the balance sheets and commercial gang fraud. The crown witness Bellenhaus admits his misconduct, while Markus Braun presents himself as a victim of a gang around Jan Marsalek. According to Braun this gang is said to have channeled hundreds of millions of euros abroad into complex company structures without Brauns knowledge. German Secret services still suspect Jan Marsalek to be in Russia. (Meyer-Fünffinger & Streule, 2022)

**2022 - December 8<sup>th</sup>:** The criminal trial against the trio Braun, Bellenhaus and the fugitive Marsalek begins in front of the district court in Munich where a 90-page indictment gets read out and Up to 100 court days are being scheduled until the end of 2023. (Meyer-Fünffinger & Streule, 2022)

## **Appendix L:**

### **Wirecards business model explained**

Wirecard's business model is based on allowing billions of euros in cash to flow between millions of customers and hundreds of thousands of merchants. If payment was made electronically on the Internet or in a shop using the card machine, Wirecard ensured that the money reaches the recipient and collects a fee for doing so. This type of business

required so-called trust or escrow accounts because sometimes customers bought something without a covered account. Escrow accounts managed by Wirecard then settled outstanding balances as a kind of insurance for the retailer. In Europe, Wirecard operated its own bank for these transactions, the Wirecard Bank. In countries where Wirecard did not have its own licenses, Wirecard was dependent on third-party providers. To secure transactions between two contractual partners, Wirecard deposited money in escrow accounts. However, unlike in other parts of the world, Wirecard did not have its own business licenses in Asia. Wirecard's entire Asia business was running via around 100 third-party partners who Wirecard mediated. Escrow accounts were still necessary in Asia, which is why they were maintained in Singapore until 2018 and in the Philippines from 2019 onwards. At least that's what the Wirecard balance sheets claimed before auditors determined in spring 2020 that 1.9 billion euros, which should have been in such escrow accounts, were missing. (Source: Redaktions Netzwerk Deutschland, 2020)

### Overview of products and services of the Wirecard AG

- electronic payments
- The “Wirecard” (Credit-Card): the use of an virtual credit card in online shops that accepts credit cards such as Mastercard or Visa.
- The App “Boon”: a Wirecard service that gave users the option of paying money into a virtual prepaid Mastercard and then using the app for contactless payment (via NFC).
- software technology
- banking products
- End-to-end solutions based on internet technologies and banking services
- Global multi-channel gateway for international payment acceptances and payouts
- fraud prevention
- Payment processing for all sales channels: offline, online and mobile
- “Checkout portal”: a Wirecard payment solution service for online shops that was aimed at small and medium-sized companies and virtual marketplaces. This made it possible to provide customers with the preferred payment method and increase the conversion rate.
- Support for introducing customers payment instruments (card or mobile payment solutions) via end-to-end infrastructure
- Innovative software-based banking products (SCP: virtual credit cards, payout cards, co-branded cards)
- Licensed multi-brand acquirer: global acquiring network and issue

Source: (Merkur, 2020)





(Source: Wirecard Annual Report 2018)

## Appendix M:

### Basic information on Wirecard stock

Year established:	1999	
Market segment:	Prime Standard	
Index:	DAX, TecDAX	
Aktienart:	No-par-value common bearer shares	
Stock exchange ticker:	WDI; Reuters: WDIG.DE; Bloomberg: WDI@GR	
WKN:	747206	
ISIN:	DE0007472060	
Authorised capital, in number of shares	123,565,586	
Group accounting category:	exempting consolidated financial statements in accordance with IAS/IFRS	
End of fiscal year:	31 December	
Total share capital as of 31 December 2018:	kEUR 123,566	
Beginning of stock market listing:	25 October 2000	
Management Board as of 31 Dec 2018:	Dr. Markus Braun	CEO, CTO
	Alexander von Knoop	CFO
	Jan Marsalek	COO
	Susanne Steidl	CPO
Supervisory Board as of 31 Dec 2018:	Wulf Matthias	Chairman
	Alfons W. Henseler	Deputy Chairman
	Stefan Klestil	Member
	Dr. Anastassia Lauterbach	Member
	Vuyiswa V. M'Cwabeni	Member
	Susana Quintana-Plaza	Member
Shareholder structure* as of 31 Dec 2018:	7,05% MB Beteiligungsgesellschaft mbH	
	92,95% Freefloat (gemäß Definition der Deutschen Börse), davon	
	6.7% BlackRock Inc (US)	
	5,1% Jupiter Asset Management Ltd. (UK)	
	4.93% Citigroup Inc (US)	
	3.0% Artisan Partners Asset Management Inc. (US)	

#### Basic remuneration (in EUR)

Dr. Markus Braun	1,600,000
Alexander von Knoop	700,000
Jan Marsalek	1,025,000
Susanne Steidl	700,000

(Source: Wirecard Annual Report 2018)

## Appendix N:

### Audit Supervisory:

In Germany, the term "audit supervision" is regulated by the so-called "Wirtschaftsprüferordnung" (WPO) the law on professional regulations for auditors. According to part 5 "Berufsaufsicht" (professional supervision" of the WPO, the "Wirtschaftsprüferkammer" (WPK), the Chamber of Public Accountants is responsible for Supervision of the Auditors. In the case of explicit indications of a violation of professional duties, the WPK investigates the facts and decides whether professional supervisory measures should be initiated. Should the WPK intend to stop a procedure that has been initiated, for example because a breach of professional duty cannot be determined or does not require a sanction, it must first submit the case to the auditor oversight body APAS. Under section 66 "Audit Supervision" of the WPO, the role of the auditor oversight body APAS is defined as a public, specialist oversight of the Wirtschaftsprüferkammer.<sup>75</sup> The German APAS is subject to (EU) Law No. 537/2014, which stipulates the following characteristics of "Audit Supervisory": the supervision of the approval and registration of auditors and auditing firms, the adoption of professional principles as well of standards for the internal quality assurance of auditing firms and of examination standards, to oversee continuing education, to oversee quality assurance systems, and to oversee investigative and administrative disciplinary systems.<sup>76</sup>

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<sup>75</sup> BMJ, 2023

<sup>76</sup> European Parliament & Council of the European Union, 2014