Annual Activity Report

For the Period from January 1 through December 31, 2006

- English Translation-

Contents

Our Mission:

In the interest of the capital markets we wish to contribute to the accurate and transparent accounting of companies listed on capital markets. The focus we set for our activities is based on the applicable accounting principles and practice, the highest professional quality, personal integrity and independence, excellence in our work and prudent judgment.

Our 2006 Goals Were Achieved.

The Panel achieved its goals completely by

- commencing 158 and completing 109 examinations,
- coming in € 1.6 million under the budgeted expenses to a total of € 3.5 million, and
- achieving a significantly recognizable impact through its preventive measures.

This success is particularly the result of the high level of technical abilities and the large personal commitment of the Panel members and also of the good cooperation with those companies examined and their auditors.

The existence and the enforcement examinations of the Panel have a preventative impact. Accounting questions and accounting solutions are now more critically and intensely discussed by management, audit committees of the Supervisory Board and auditors, including experts from legal offices or accounting firms. A survey by the Deutsche Aktieninstitut at the end of 2006 pertaining to companies which had been reviewed by the Panel confirmed the effectiveness and technical competence of the Panel. The business press has reported positively about the Panel’s work and praised the general success of the privately-organized solution in conjunction with the two-tier enforcement process.

We believe that the courage of the German government to provide for a privately-organized enforcement at the first level has paid off.

1. Assignments and Goals of the Enforcement Panel

The Financial Reporting Enforcement Panel (FREP or the Panel) is responsible, as an institution organized under private law, for the first level of enforcement within a two level process (§§ 342 b HGB et seqq. (German Commercial Code) and §§ 37n et seqq. WpHG (German Securities Trading Act)). To monitor accounting, the Panel enforces the applicable accounting standards. It has to examine whether:

- the most recently adopted individual financial statements and the related management report, or
- the most recently adopted consolidated financial statements and the related management report

of companies listed on capital markets comply with the applicable regulations and principles, including the accounting standards permitted by law.

The Panel will initiate an examination if

- there are concrete indications of an infringement of financial reporting requirements; (*examination with cause*);
- *at the request of the Federal Financial Supervisory Authority(BaFin)*, when concrete indications exist; or
- without any concrete indications based on *random sampling*.

The examination will not occur if an action has been filed under § 256 of the German Stock Corporation Act to declare the adopted financial statements void or if a special auditor has been appointed in accordance with § 142 or § 258 of the German Stock Corporation Act (= *Hindrance Reasons*).

The Panel only examines financial statements if the company under examination is willing to cooperate with the Panel. If the company declares its willingness to cooperate (=*Cooperation Declaration*), the legal representatives of the company and the other persons assisting the legal representatives during the Panel's examination shall be obliged to provide accurate and complete information and to submit accurate and complete documents.

The Panel's examination process as well as the responsibilities and independence requirements for those Panel Members involved in the examination and any additional persons included in the examination are defined in the Code of Procedure dated August 16 / 24, 2005, which is published on the Panel's webpage (www.frep.info). The *Sample Selection Method* is also available on the Panel's webpage.

The basic principles and the process of enforcement examinations are presented in the „Information Relating to the Examination Process of the Financial Reporting Enforcement Panel", attached to this report.

2. Progression and Status of the Enforcement Cases

a) Cases Initiated

In 2006 the Panel initiated 158 examinations, of which 137 were randomly selected, 19 were examinations with cause and 2 were requested by BaFin. All companies selected agreed to cooperate with the Panel.

11 of the indications for initiating the examinations with cause came from third parties (the Chamber of German Public Accountants, BaFin, and others). 8 indications arose from the Panel's own research.

In 35 cases, no examination was ultimately initiated due to liquidation, dissolution or delisting of the company selected or due to the cessation of the original cause for the initiation of the examination.

Upon *initiating a Panel examination*, which requires the Cooperation Declaration from the company, the Panel requests the auditor reports (long-form report) and any interim financial statements that have been issued after the balance sheet date, in addition to the financial statements and the management report for the year under examination. (In the future the Panel will also request the list of unadjusted audit differences.)

The *auditor reports* facilitate the selection of the critical audit areas, on which the Panel will focus. With regard to the audit areas, the Panel will request specific supplementary information and explanations, primarily in writing. To the extent appropriate, meetings may take place with company representatives and the Panel, if requested either by the company or deemed necessary by the Panel. These meetings serve to clarify complicated issues, to understand the accounting intention, as well as to discuss judgment decisions or complicated accounting standards.

Since time elapses between the Panel's questions and the companies' responses, the Panel Member responsible for a particular case (*the Responsible Panel Member*) will work on several cases simultaneously. It takes about three weeks from informing BaFin about the intention to initiate an examination and the inquiry as to any potential Hindrance Reasons exist, up through receipt of the company's Cooperation Declaration, generally including a copy of the requested financial statements, management and auditor reports. The subsequent review of the documentation and additional requested information requires a certain *amount of time* for complex issues and difficult accounting questions. In average an examination lasts 4 months.

In 12 examinations the Panel involved external appraisers (i.e. for property appraisals or special industry experts) or auditors relating to contentious application of IAS/IFRS, industry-specific accounting questions or to perform extensive audit procedures.

In few, yet critical cases companies tried to procrastinate which caused unnecessary delays. The Panel does not possess any means of applying pressure to expedite the examination process. However, unwarranted delays bring into question the (continued) willingness of the company to cooperate. In this case, the Panel will discontinue its examination and forward the case to BaFin. To date such measures have not been required.

In general, the companies under examination and their accountants, who are often designated as the company's respondent, have cooperated willingly and efficiently with the Panel.

In the reporting period, *109 examinations have been completed*, of which 98 were based on random-sampling, 10 with cause and 1 requested by BaFin. Of the completed examinations, 8 related to DAX companies, 13 to MDAX and 8 to SDAX and 8 to TecDAX companies. 72 companies were not included in an index. This examination rate corresponds to that envisioned by the Panel, in which index-listed companies will be reviewed every 4 to 5 years.

b) Examination Areas of Emphasis

While the examinations with cause concentrate on the indicated cause, the random-sampling examinations focus on company-specific critical issues or areas with significant risk of error.

Irrespective of the company-specific selected review areas, all random-sample examinations included the following audit topics, to the extent that they were relevant to the specific entity:

- Development costs
- Goodwill
- Discount rate used in the pension accrual calculation
- Convertible debt
- Share-based payments
- Deferred tax asset relating to loss carryforwards.

c) Examination Findings

The Panel is required to examine whether the financial accounting complies with the respective accounting standards and practices and to conclude whether the financial statements on the whole are erroneous (§ 342b paragraph 2 and 5 HGB). According to IAS 8.41, a financial statement does not comply with IFRS, if it either contains material errors or if immaterial errors are made intentionally to achieve a particular presentation of an entity’s financial performance or cash flows.

Of the Panel’s 109 completed examinations, 19 cases were determined to be erroneous. That results in an error rate of over 17%. The errors related to 13 randomly selected examinations (error rate 13%) and to 6 with cause (error rate over 50%). Erroneous financial statements were determined at 2 MDAX companies, 1 SDAX and 16 non-indexed companies.

When reviewing the error rate, it should be noted that the cases primarily relate to small or mid-sized companies, for whom the conversion to the complex IFRS standards is difficult due to limited personnel capacity. Most accounting infringements relate to missing or insufficient footnote disclosure requirements, which are significantly more comprehensive than under HGB. The financial statement auditor qualified his opinion in two of the cases. In another case, the financial statement auditor included an explanatory paragraph in his opinion.

Since its inception on July 1, 2005 the Panel has initiated 208 examinations and completed 116. The 21 financial statements which were determined to be erroneous (of which 13 were random-sample examinations and 8 examinations with cause) translate to an error rate of 18%.

In 11 cases the related companies concurred with the Panel's error evaluation. In 2 cases the companies partially agreed, which is treated similarly to a total disagreement. In 8 cases the related companies declined to recognize the errors. These 10 cases will be reviewed in the second enforcement level by BaFin. Of the 10 cases, 2 cases were completed by mid-February 2007 and the Panel's decisions were upheld. The remaining cases are still pending.

The *errors identified* relate primarily to the management report and the application of IAS/IFRS. The most prevalent errors relate to the following issues:

- insufficient or incomplete discussion in the management report relating to risks (4 cases),
- deficient purchase price allocation in conjunction with business combinations (3 cases),
- unsubstantiated future benefits of deferred tax assets relating to loss carryforwards (3 cases),
- missing or deficient disclosures relating to segment reporting (3 cases),
- missing or deficient disclosures relating to the changes in shareholders' equity (3 cases),
- unsubstantiated valuation of receivables (3 cases),
- missing or deficient recognition of provisions (2 cases),
- missing or deficient related party disclosure (2 cases),
- missing or deficient disclosures relating to the cash flow statement (2 cases),
- other missing or deficient footnote disclosures (5 cases).

In those cases in which the Panel determined that the financial statements were erroneous, the Chamber of German Public Accountants was notified of a potential infringement of professional duties.

d) Advice Provided to Examined Companies

The Panel takes the opportunity to advise the examined companies relating to items not necessarily falling within the scope of the examination, information concerning the (not yet reviewed) interim financial statements (see chapter 7), or items that may potentially have a material effect on subsequent reporting periods. The advice is provided as a preventative measure of the Panel to make the company aware of new accounting standards or the accounting for critical issues. The advice should help prevent future errors. This may also apply to immaterial infringements of the accounting standards.

The advice provided by the Panel focuses on *future financial reporting*. The advice addresses the following situations: (1) the accounting treatment of material transactions or events after the balance sheet date, (2) new or changed accounting standards and complicated transitional provisions or (3) immaterial errors that could become material in the future, i.e. due to future development and material impact.

The advice provided by the Panel focused generally on the following:

- Presentation and statements in the management report that require improvement,
- Disclosures relating to research and development,
- Determination of the companies to be consolidated,
- Distinction between non-current and current assets,
- Disclosures relating to financial instruments,
- Disclosures relating to impairment testing,
- Discount rate used in the calculation of the pension provision,
- Improvement of the documentation of hedge accounting,
- Composition of cash equivalents,
- Disclosure of the fees paid to the financial statement auditor.

3. Other Activities of the Enforcement Panel

Panel representatives regularly attended the monthly meetings of the European Enforcers (EECS[1]). To enhance consistent application of the IAS/IFRS standards and a consistent enforcement within the European Union, difficult accounting questions are discussed based on actual cases. A consistent application of IAS/IFRS among the EU countries is particularly meaningful considering the mutual recognition of US GAAP within the European markets and

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[1] European Enforcers Coordination Sessions. EECS is included under the umbrella of the Committee of European Securities Regulators (CESR).

IAS/IFRS in the USA. A consistent application should be ensured through, among other things, a databank of all cases discussed in the EECS. A national enforcer should not deviate from a previously discussed decision without proper justification. Currently, discussions are underway to create a similar databank at the IOSCO[2] level.

The President and Vice President presented several speeches with subsequent discussion describing the Panel and its activities and answering related questions. Participants to these forums were often Management and Supervisory Board members of companies listed on the capital market, and other companies as well as accountants. It was noted with satisfaction that many participants of the events commented on the preventative effect of enforcement and that the companies and accountants concerned confirmed an effective examination with the necessary level of professional skepticism, as well as the appropriate amount of prudent judgment.

All members of the Panel attended internal and external continuing professional education courses.

4. Enforcement Costs from the Panel's View

Since the public has been discussing the cost of enforcement, for example, in respect to the Transparency Directive Implementation Law (TUG) proceedings, it is discussed in this report. The costs for the enforcement of individual and consolidated financial statement of approximately 1,200 listed companies were budgeted at € 6.5 million, of which € 5 million was for the Panel and € 1.5 million for BaFin. The € 6.5 million was allocated among approximately 1,200 listed companies based on the stock exchange sales. The minimum amount per company was € 250; the highest amount is fixed € 15,000.

The *Panel* spent only about 70% of the budgeted € 5 million in 2006, resulting in savings of € 1.6 million. The individual expenditures are as follows:

[2] International Organization of Securities Commissions

- in 1,000 Euro -	Actual	Budget
Personnel expense	2,460	2,880
Material expenditure	736	1,126
External services	227	935
Investments	34	100
Total	3,457	5,041

The Panel plans to examine all 160 DAX-, MDAX-, SDAX- and TecDAX companies every 4 – 5 years, the rest every 8 – 10 years.

In addition to the allocated costs[3], the companies may incur additional costs relating to the examination, either internally or externally. The amount of these costs has not yet been quantified. The Panel's experience has provided some indications of these costs.

About half of the companies respond to the Panel's inquiries without significant assistance from third parties. The internal expenses for explanations, telephone conferences etc. are not estimated to be material. By some smaller, medium-sized companies, which are dependent on the support of the financial statement auditor for the complicated IAS/IFRS regulations and which require written accounting analyses or discussions with the Panel, external expense from € 10,000 to € 30,000 may arise. The time required by the financial department as well as that of the Management Board Members is also incurred, ranging from about three to six man-weeks.

In few cases higher expenses could be incurred, particularly when contentious accounting issues arise. When companies recognize that the Panel may potentially conclude that an accounting error has arisen, they may ask their financial statement auditors for a (written) accounting analysis or even external, third party opinions may be sought, so that costs may exceed € 100,000. The corresponding internal expense is estimated to increase accordingly. However, such high expenses have yet been limited to only a few cases.

Additional expenses for the Panel of € 0.5 million are estimated for the enforcement of the half-year financial statements, which has been required by TUG and which will occur only if indications for an examination with cause are identified.

[3] The allocation is determined annually.

The Panel will continue to strive to be conscientious with its spending and with the financial burden it places on companies, while continuing to duly fulfill its legal mandate. We believe we have succeeded in doing so for 2006.

5. General Advice for Preparers

The following themes have been identified by the Panel while performing its examinations, where repeated deficiencies have been found or room for improvement may be necessary.

a) The Presentation of the Income Statement (IAS 1)

IAS/IFRS standards do not specify a particular classification scheme for the individual or consolidated financial statements. IAS 1 only lists the minimum components of the balance sheet, profit and loss statement etc. The requirement not to offset assets, liabilities, expenses and gains (IAS 1.32) should be observed.

The income statement should include the following positions at a minimum (IAS 1.81): (1) revenue; (2) finance costs; (3) share of profit and loss of associates and joint ventures; (4) tax expense; (5) result from discontinued operations, as well as (6) profit or loss. Additional line items, titles and subtotals shall be presented on the face of the income statement when such presentation is relevant to an understanding of the entity's financial performance (IAS 1.83). The nature and amount of material income and expense items shall be disclosed separately in the income statement or the footnotes (IAS 1.86 f.).

Subtotals must be comprised of income statement line items, be clearly defined and consistently applied. The subtotals shall agree with the segment reporting. The subtotal for Operating Results may be presented if it appropriately represents the results of the standard operations. It should be noted that the presentation of extraordinary items is explicitly prohibited (IAS 1.85).

b) Stock-based Compensation (IFRS 2)

Significant factors of the valuation model such as the risk-free interest rate, the expected dividend assumption, the expected exercise date and volatility shall be disclosed (IFRS 2.47).

c) Business Combinations (IFRS 3)

The acquisition costs relating to business combinations must be allocated to the identified assets and liabilities based on their fair values in accordance with IFRS 3.37. In particular, intangible assets shall be separated from the acquired goodwill, even if they were previously not separately recorded by the acquired company.

IFRS 3.67 requires extensive disclosures. This includes the name and description of the company or business acquired, the acquisition date, the percentage of the purchased shares, the acquisition cost and the profit contributed from the acquired company.

d) Deferred Taxes on Loss Carryforwards (IAS 12)

Deferred taxes on loss carryforwards may only be capitalized if it is probable that the loss carryforwards will actually be able to reduce tax expense. Thus, it must be determined whether and to what extent such probability exists. This requires a related tax plan and convincing evidence after a loss history. The timeframe over which the loss will be used provides an indication of this probability. See related details in IAS 12.34 f.

e) Cash Flow Statement (IAS 7)

The purpose of the cash flow statement is to present the cash flows for the period from operations as well as from investing and financing activities of the company. The cash flow statement supplements the balance sheet and the income statement for payment-related information. It presents the financial situation without being influenced by accounting or valuation standards.

According to IAS 7.11, cash flows should be divided amount three main sources to which they best relate within the company. The *operating cash flows* express the cash flows resulting from sales-related activities or the utilization of services provided by the company (sale, rentals, or the like). The *cash flows from investment activities* relate to company resources that should be used by the company over the long-term, at least over one year. The *cash flows from financing activities* encompass cash payments and receipts that are associated with shareholders' capital and financial liabilities.

Only *cash and cash equivalents* can be included in the liquidity position. Cash comprises cash on hand and demand deposits. Cash equivalents are short-term, highly liquid assets that are readily convertible to known amounts of cash and which are subject to an insignificant risk of changes in value. Financial investments with a maturity exceeding three months may not be included in cash equivalents.

f) Risk Report

The management report must identify the material company-specific risks and opportunities of the company in addition to the disclosure relating to risk management. Furthermore, the management report must be consistent with the financial statement and present an appropriate picture of the financial situation and development of the company (see DRS 5 (German accounting standard 5)).

g) Published Financial Statements (The "Glossy")

The published financial statement (the "Glossy") is an important, potentially even the most important, informational instrument relating to exchange-listed companies for (potential) shareholders and capital investors. However, it has not yet clearly been distinguished as such in the law. Thus, it is not a formal component of accounting. Its primary components are, however, the financial accounting information (individual or consolidated financial statement, management report, accountant's opinion as well as the report from the Supervisory Board.) Thus, the Panel generally uses the published Glossy as the basis for its examinations. The Panel reviews that the Glossy's contents do not deviate from the auditor's opined version.

The Panel has noted in certain instances that the financial statement components (balance sheet, income statement, footnotes, cash flow statement, the rollforward of equity, the segment reporting and the management report) are not clearly distinguishable from one another. In the interest of clarity and transparency, all components of the financial statements, as well as the notes and the management report should each individually incorporate an intact presentation.

To the extent that information provided in the Glossy differs from that signed by the financial statement auditor, this fact must be clearly stated within the Glossy (see § 328 HGB). The deviations – for which no comments were made- shall not lead to incomplete or misleading disclosure in the Glossy. The presentation may not impart an inappropriate or concealed depiction of the financial situation and development of the individual or consolidated company.

6. Acknowledgements

As President of the Panel, I would like to thank my colleague, Dr. Axel Berger, and all the Panel members for their professional diligence and outstanding commitment. The same acknowledgement also goes to the other Panel employees. Without their dedication and high professional ability, the realization of the self-imposed goal and the high efficiency of the Panel’s work would not have been possible.

The Panel also owes its appreciation to the companies it examined and their auditors, who have supported us through their willing and helpful cooperation during our examinations.

Special thanks go to the members of our Advisory Council, Dr. Baumann, Prof. Dr. Baums and Dr. Gentz, who have supported us with their advice.

Lastly, we thank BaFin, the German Ministries of Justice and Finance as well as the Chamber of German Certified Accountants for the good, constructive cooperation.

7. Outlook

According to the Transparency Directive Implementation Law (TUG), *half-year financial statements* will be covered by the enforcement examinations to the extent that an indication exists for potential accounting errors (examination with cause or at the request of BaFin.) The financial statement auditor is not required to audit or review the half-year financial statements. Since examinations with cause have a relatively high error rate and an audit or review by the auditor is not mandatory, such an examination is expected to be time-consuming. Thus, the Panel plans to expand the Panel by three members.

The Panel has chosen these general *Examination Focal Points for 2007* (see chapter 3b):

- Business combinations (IFRS 3)
- Valuation of assets (IAS 36)

- Deferred tax on loss carryforwards (IAS 12.34 ff)
- Composition of cash equivalents (IAS 7.7)
- Share-based payments (IFRS 2)
- Risk and opportunities report (§ 315 HGB)
- Disclosure as to Management compensation and to fees paid to the financial statement auditor (§ 285 sentence 1 N°. 9a and § 314 paragraph 1 N°.6 HGB and § 285 Sentence 1 N°. 17 and § 314 paragraph 1 N°. 9 HGB).

Berlin, February 22, 2006

The President of the Panel
(Prof. Dr. Eberhard Scheffler)

Appendix

Information
Relating to the Examination Process of the Financial Reporting Enforcement Panel (Panel)

This information is intended to explain the basic principles and the process of the examination to those companies and persons involved with enforcement. Published information from the Panel is also available on its website. In addition, the Code of Procedure and the Principles of the Sample Selection are also found there.

1. Legal Basis

In order to enforce the required accounting practices, the **Balance Sheet Control Law** established a two-tier enforcement regime on December 15, 2004.

The first tier involves the **Financial Reporting Enforcement Panel (the Panel),** an institution organized under private law and recognized by the German Ministry of Justice together with the German Ministry of Finance (§§ 342b to 342e HGB (German Commercial Code)). In the second tier, the **Federal Financial Supervisory Authority (BaFin)** joins in (§§ 37n to 37s WpHG (Securities Trading Act) to determine whether an error has occurred when the Panel's opinion differs from that of the company, to order the publication of identified errors, or to perform an examination with sovereign means when a company is not willing to cooperate with the Panel.

The addressees of the enforcement process are capital market oriented companies; i.e. those, whose financial instruments are authorized to trade within official or regulated markets on domestic stock exchanges.

The Panel and BaFin, as appropriate, have to examine whether the most recently adopted individual financial statement and the related management report or **the most recently adopted consolidated financial statements and the related management report** comply with the applicable principles and regulations, including the accounting standards permitted by law.

If through the examination it is determined that the financial statements are erroneous, the related company must publish the error and the reasoning in the electronic Federal Gazette and a multi-regional financial newspaper, when ordered to do so by BaFin.

2. Initiation of an Examination

The Panel will initiate an examination

1. if there are concrete indications of an infringement of financial reporting requirements (**examination with cause**)
2. at the request of BaFin, when certain indications exist, or
3. without any concrete indications based on random sampling (**random sampling examination**)

No examination with cause shall be conducted if it is evidently not in the public interest to conduct such an examination.

An enforcement examination will generally not occur if an action has been filed under § 256 of the German Stock Corporation Act to declare the adopted financial statements void or if a special auditor has been appointed in accordance with § 142 or § 258 of the German Stock Corporation Act (**= Hindrance Reasons**).

The Panel only examines financial statements if the company under examination is willing to cooperate with the Panel. If the company declares its **willingness to cooperate,** the legal representatives of the company and the other persons assisting the legal representatives in their cooperation with the Panel's examination shall be obliged to provide accurate and complete information and to submit accurate and complete documents.

The Panel shall notify BaFin if the company refuses to declare its willingness to cooperate or does not declare its willingness to cooperate within a reasonable period. Subject to its discretionary authority, BaFin will order an examination at the second tier level.

3. The Company's Cooperation with the Examination

The Panel contacts the **legal representatives** of the company under examination, usually the Management Board. They must declare whether they are willing to cooperate with the examination by the Panel or not, evidenced through a sufficient number of signatures so that it is legally enforceable. In addition, they are requested to name other people who are able to provide information about the company, to whom the Panel can address its questions.

The **financial statement auditor** may also be considered as another person who is able to provide information about the company. Including him in the examination process is preferable to facilitate an efficient and appropriate examination process. This should generally be in the interest of both the company and its financial statement auditor. If the financial statement auditor is named as a person who will provide information to the Panel, the company shall release him from his confidentiality obligation. It is also appropriate to involve the financial statement auditor because he is required to provide information to BaFin at the second enforcement tier without any additional conditions. The examination at the first tier should have access to the same sources of information as that on the second tier.

4. First Documents

When initiating its examination, the Panel requests the **audit reports** in addition to the individual or consolidated financial statements and the related management reports. These documents provide the Panel with an immediate overview of the material, company-specific accounting topics and facilitate in the selection of critical examination areas.

The Panel also requests the **list of unadjusted audit differences** as well as a statement from the legal representative that he believes that the effect of the unadjusted audit differences does not have a material effect, individually or in total, on the individual or consolidated financial statements or uncorrected disclosures in the management reports.

5. Examination Process

Once the company has declared its willingness to cooperate in the Panel's examination, the appropriate Panel **chamber**, determined based on the allocation plan and consisting of the President, Vice President and one additional Panel member, will name a Responsible Panel Member and the Quality Control Panel Member. The Responsible Panel Member and the

Quality Control Panel Member, who assists the Responsible Panel Member, are also both full-time Panel Members.

It is ensured that the Panel personnel involved in a specific case are independent from the company and its financial statement auditor in order to perform the examination in an impartial and unbiased manner. All persons are committed to a strict confidentiality requirement.

The **Responsible Panel Member** contacts the company. He will set the areas for examination based on the documents received when the company declared its cooperation. Additional correspondence, discussions and examination procedures will also take place with or relating to the company.

The Panel corresponds with the company in writing, either via mail or fax. The company may communicate with the Panel also using electronic means; however, it alone bears the dangers involved with sending emails. However, the company must make binding statements in writing.

It can be appropriate in certain cases to evaluate difficult accounting issues directly in a **discussion**, to which the financial statement auditors are also included, or to review detailed documents at the company's location. The Responsible Auditor will coordinate this with the company.

6. Scope of the Examination

The scope of an **examination with cause** is limited to each issue for which indications of an erroneous accounting treatment were identified. The Panel is not prevented, however, from extending the scope of the examination if other deviations from accounting standards are observed.

Regarding a **random-sample examination**, the Panel determines critical examination areas usually based on its review of the requested financial statements and audit reports. These areas focus on critical accounting issues or financial statement positions for which questions could exist concerning the appropriateness of the financial statements. Hence, also in this case the Panel examines based on a limited scope.

7. Examination Result

At the end of his examination, the Responsible Panel Member and the Quality Control Panel Member report to the responsible **chamber** which then determines whether the company's accounting complies with the required standards or whether erroneous accounting exists.

If the chamber determines that **the accounting is not erroneous**, the Panel reports this to the company and BaFin.

If the Panel decides that **the accounting is erroneous**, it asks the company whether it concurs with the presentation of the facts, the error and its reasoning. If it agrees, BaFin is informed and orders the publication of the error; unless no public interest for such a publication exists or, in rare cases, overwhelming company interests conflict with a publication.

If the company completely or partially does not concur with the error assertion, BaFin will initiate an enforcement examination at the second tier and subsequently confirm or refute the Panel results. Afterwards, BaFin will order a publication of the error, if appropriate.

8. Time and Costs of an Examination

The Panel is interested in an efficient enforcement examination; this must also apply to the companies and persons involved. Thus, the Panel requests adequate but short deadlines to respond to its questions or submit requested documentation.

Unnecessary delays to questions or submission or requested documents will be viewed by the Panel as a discontinuation of the company's corporation and the enforcement case will be referred to BaFin.

Since the examination concentrates on key issues or accounting questions, these should have already been reviewed in connection with the preparation and the audit of the financial statements. Therefore, if everything was properly documented, the information and explanations requested by the Panel should be available with minimal time and costs.

The Panel expenses are allocated to all capital market oriented companies, so that no additional costs arise for the company. In contrast, the costs incurred at the second enforcement tier by BaFin will be assessed if erroneous accounting has been determined.

For additional information, the Panel Members, in particular the Responsible Panel Member, are available.

Status as of February 2006