

# ***Germany. The Influence of IFRS on the German Accounting System: The Half-Hearted Reforms of the German Accounting Law Modernization Act***

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**Abstract** At a first glance the IFRS can be described as an accounting system which favors the asset-liability perspective, using a fair value measurement model. This view conflicts with the German cost-orientated tradition. Nevertheless, in the last years there had been some changes in the accounting system in Germany. One of the most important changes is the German Accounting Law Modernization Act which was enacted in 2009.

This article takes the chance to have a closer look into the German accounting rules in force and to analyze whether they changed essentially—and if so in which way the changes were influenced by the international accounting standards. Thus, the authors analyze similarities and differences in the revenue recognition, the recognition of assets and liabilities in IFRS and the German principles of proper bookkeeping and whether a movement of the principles of proper bookkeeping towards the IFRS took place.

## **1 Introduction**

*JACQUES RICHARD* is one of the most famous accounting scientists in the research field of accounting history and normative accounting. In numerous outstanding articles he sharply analyzes the fundamentals of accounting systems in different countries and systemizes and discusses the contribution of leading accountant theorists and their importance then and now (Richard 2004, 2005; Ding et al. 2008). His own contribution in this research field cannot be overestimated.

Annual financial statements are somewhat like the ‘dating advert’ of the enterprise and often the only information about the financial standing of the entity the external third parties possess. Hence, to make solid decisions it is crucial for them to understand the contents of the financial statements, how they inform, and what they

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hide. This applies even more in the light of the special characteristics of national accounting systems which are strongly different due to the historical background and are coined by social, environmental, and socio-ecological factors.

However, in the leading international accounting journals there are few papers dealing with this topic in a greater depth. It was 1995, when *JACQUES RICHARD* criticized that “apart from a few notable articles, the total number of publications devoted to the various chart of accountants used in Europe is relatively low; moreover, studies of the comparative aspect are almost non-existent” (Richard 1995). His criticism continues to be essential even today. Furthermore, this research area is recently even more important since IFRS increasingly gain worldwide influence on individual accounts.

Keeping in mind the European accounting history, the rise of IFRS is remarkable. In July 1978, the Fourth Council Directive was passed by the Council of the European Communities to coordinate the presentation and content of annual accounts of companies with limited liability (Introduction of the Fourth Council Directive). However, the coordination power of the Directive is limited since 62 paragraphs contain at least 76 explicit Member State options (Clayton et al. 1979)—and numerous implicit options resulting from ambiguous rules. Obviously, the majority of the Member States of the EU were not willing to assimilate foreign accounting rules in traditional national law (Haller 2002).

Nearly in the same time period (in 1973), the IASC was founded as a private registered association with the self-imposed goal to harmonize accounting standards worldwide. Regarding the perceptible reservations of most European countries to accept these accounting rules, there had been limited prospects that the IASC would succeed (see also Rost 1991). This problem was aggravated by the fact that in the case of the Fourth Council Directive each of the European nations could actively participate in the decision making process, whereas their influence on the development of IFRS is restricted. However, things turned out very differently. The IFRS developed into the most important accounting standard systems worldwide and since 2005 European listed companies are obliged to prepare their consolidated financial statement in conformity with IFRS.

However, IFRS strongly differ from the German Commercial Code (*Handelsgesetzbuch*—HGB). On the one hand, the IFRS are developed by a group of private individuals whose members are often directly affected by the standards. The important requirement in the standard setting process is the broad acceptance or consensus. Thus, a new standard is consistent and fits into the accounting system only when it is widely supported by the accountants and analysts (Schulte 2010). Already the term ‘generally accepted accounting principles’ captures this target in its name. In addition, the need to negotiate potential accounting solutions to solve a concrete accounting problem in a way that the new rules or principles are backed by the majority often leads to individual (case-by-case) compromises and tentatively to a rules-based approach with vague contents, which are open to interpretation.

On the other hand, HGB and specifically the principles of proper bookkeeping (*Grundsätze ordnungsmäßiger Buchführung*—GoB) are evolved by the German legislature which is equipped with authoritative support to control the information

the entity has to provide and to protect the addressees of financial reports (Moxter 2003). Due to the fact that the entities are not directly involved in the standard setting process and with the previous understanding of the standard setting body to develop accounting rules in the interest of third-parties which are worthy of protection, there is no substantial need that the rules are generally accepted. Thus, the fundament for a principles-based approach is created and as a result GoB “should not be regarded as synonymous with generally accepted accounting practice” (Ballwieser 2010: 67). Furthermore, the accounting law must be practically applicable in a way that judges are able to decide certainly whether a violation of law has been committed or not (Sachs 2011). This calls for objectified and typecasted accounting rules which are consistent; i.e., so that the accountants can predict the legal consequences of their acting.

Last but not least, the objectives of the annual statements of IFRS and HGB seem to be very different. Recently it appears that the IASB prefers an asset-liability approach as benchmark for new standards with fair value as the dominant measurement method (Wüstemann and Wüstemann 2010). In contrast, HGB is much more orientated on the revenue-expense-approach and the cost principle.

The German parliament recognized the increasing influence of IFRS and that their accounting rules are different from HGB. In 2009 the German Accounting Law Modernization Act (*Bilanzrechtsmodernisierungsgesetz*—BilMoG) became effective. Its aim was to modernize the German accounting rules. Specifically, the German legislator pointed out that the intention of the new law is to change the national accounting law of the German Commercial Code into a set of rules that is on a par with the international accounting standards, but much more cost-effective and simpler to manage in practice (RegE BilMoG 2008).

Therefore, it is particularly important to have a closer look at the German accounting rules and to examine to which extent the German legislator adopted IFRS by BilMoG. Thereby, the paper gives some contribution to the understanding of the German accounting system.

## 2 The Financial Framework in Germany

### 2.1 *The Source of HGB and the Authoritative Principle*

The main area of application of IFRS is the consolidated statement, which has to be prepared by parent companies. Besides them, every merchant has to provide an individual financial statement according to HGB and in line with the principles of proper bookkeeping (section 238 (1) HGB in conjunction with section 1 (1) HGB). In addition, all of these firms have to prepare a single annual tax statement (section 140 and 141 Fiscal Code of Germany (*Abgabenordnung*—AO)). It has to be prepared in accordance with the German Income Tax Act (*Einkommensteuergesetz*—EStG) to determine the annual tax payment.

In Germany, the authoritative principle bridges the gap between the annual commercial statement and the annual tax statement. Specifically, section 5 (1) sentence 1 EStG requires that in the tax balance sheet those assets and liabilities should be recognized which have to be reported in accordance with the principles of proper bookkeeping as defined in commercial law.

The authoritative principle is based on a long historical tradition. Specifically, it was introduced for reasons of simplification (Alsheimer 1974). When the authoritative principle was incorporated into law the marginal tax rate was quite low (range from 0.6 % up to 4 %), so the costs of preparing annual financial statements for tax purposes outweighed the benefits (Weber-Grellet 1996). However, today the individuals have to face a significantly increased tax rate. Hence, simplification can no longer justify the continuance of the authoritative principle. Therefore, its justification has to be grounded on the (nearly) identical objectives of the commercial statement and the tax statement.

## 2.2 *The Objective of the Principles of Proper Bookkeeping*

In Germany, the essential GoB are laid down in sections 243–263 HGB and supplemented by few principles which are not legally codified but generally accepted as unwritten law (e.g., principle of off-balance sheet accounting of pending transactions). Together they form a gapless but flexible accounting system (*GoB-System*) and apply to all merchants “irrespective of such considerations as the legal form or size of an enterprise, or what industry it is in, or whether its shares are listed” or not (Ballwieser 2010: 66). However, it is obvious that these short advices (21 brief sections and few accounting principles) are vague and open to interpretation. They need to be clarified and supplemented by not codified purposive principles.

However, there is no explicit objective in the German Commercial Code which can be used as a basis for deduction or interpretation (Moxter 2003). Thus, the hermeneutical method is employed representing a simultaneous and interdependent definition of the deduction basis and its underlying principles (Moxter 1987).

The main underlying principles are laid down in section 252 HGB. Particularly, these are the realization principle (*Realisationsprinzip*), the recognition-of-loss principle (*Imparitätsprinzip*), and several principles of objectification (*Objektivierungsprinzipien*); e.g., reporting-date principle (*Stichtagsprinzip*), principle of separate valuation, i.e., no offsetting (*Einzelbewertungsprinzip*), and principle of consistency (*Stetigkeitsprinzip*). Keeping them in mind the hermeneutical interpretation leads to the conclusion that the aim of the German accounting system is the prudent and reliable determination of realized income or the distributable profit (*Ausschüttungsbemessung*) (Beisse 1990). No other objective harmonizes with these principles without violating at least one of them.

Within the GoB the realization principle is the cornerstone of the allocation of payments made and received (Moxter 1984b). It demands that revenues should be

matched with expenses that incur to earn those revenues and obliges the entity to anticipate future cash inflows and outflows in the balance sheet if they result from past performance. In addition, it requires to neutralize payments received or made by offsetting the entry in the balance sheet to transfer them to future periods if related turnover is expected after the balance sheet date (i.e., matching principle).

Only the recognition-of-loss principle contravenes the realization principle and requires the recognition of expected but not yet realized losses (Moxter 1984a). The compliance with the recognition-of-loss principle is crucial because the income earned under the realization principle does not contain expected losses which are not yet realized but affect the distributable income as well.

In contrast, the true and fair view principle is not designed as GoB (Beisse 1990). The German Commercial Code acknowledges that it is impossible to inform simultaneously about the distributable income driven by the prudence principle and the unbiased performance of the entity driven by the true and fair view principle (Moxter 2000). Hence, the task to provide true and fair view is placed in a special separate section of the German Commercial Code which solely affects corporations (section 264 (2) HGB). They have to supplement their annual statement with additional notes (*Anhang*) (section 264 (1) HGB) to extend the information given by the balance sheet and the income statement towards a true and fair view. Therefore, the objective of the income statement and the balance sheet can be seen across all legal forms in the presentation of the distributable income, whereas the insight on the true and fair view of the company is provided in notes (*Abkopplungsthese*; Moxter 1986).

Furthermore, payout determination as the main objective of German commercial balance sheet and income statement harmonizes with the objective of the annual tax statement. Due to equality before the law (Article 3 German Basic Law (*Grundgesetz*—GG)) and protection of property (Article 14 GG) the tax authority is only empowered to charge taxes which are based on the entity's economic performance and therefore to tax the annual surplus which is finally earned and open for distribution (Tipke and Lang 2002). Hence, the tax authority can be seen as a minority shareholder sharing the same earned income and the GoB can be interpreted in tax and commercial accounts in identical way (Döllerer 1971; Moxter 2000).

### **2.3 The Interpretation of GoB with Jurisdictional Support**

The Federal Constitutional Court (*Bundesverfassungsgericht*—BverfG) delegates the development and interpretation of the principles of proper bookkeeping to the courts of last resort (BverfG, May 12, 2009, 2 BvL 1/00, BverfGE 123). Therefore, the original competence to interpret the commercial law basically lies with the Federal Supreme Court (*Bundesgerichtshof*—BGH). However, only few of its decisions deal with GoB. In contrast, there are numerous judgments of the Federal Fiscal Court concerning principles of proper bookkeeping. They trace back to 1918

(*Reichsfinanzhof* 1918–1945; *Oberster Finanzgerichtshof* 1945–1950; since 1950 *Bundesfinanzhof*—BFH). Therefore, the Federal Fiscal Court plays a major role in the development and interpretation of GoB. The court has “– in literally thousands of court rulings—established a system of sound accounting principles and detailed standards regarding the recognition and measurement of assets and liabilities” (Leuz und Wüstemann 2004: 457). Even though the commercial law is the source for leading accounting principles for commercial and tax accounts, the interpretation of those principles for both accounts arises from the tax side.

In the following, we have to differentiate between the rules of HGB and GoB. Not all GoB are codified in HGB. They can result from unwritten law (e.g., customary law) or the interpretations of the courts of last resort. And not all rules of HGB represent GoB because they may be driven by the balance sheet policy of the legislator (Moxter 2003).

#### **2.4 Changes Through the German Accounting Law Modernization Act**

Due to the ongoing internationalization of the capital markets the German legislator felt constrained to strengthen the information function of the German financial statements to be competitive with international standards. Therefore, several accounting rules were developed or renewed during the modernization of the German Commercial Code in 2009. However, the legislator underlined that the primary goal of financial statements is still the determination of distributable income and kept the *GoB-system* unchanged (RegE BilMoG 2008).

During the development of the German Accounting Law Modernization Act it was argued that the authoritative principle is no longer up-to-date because the close relationship between the entity’s commercial and tax accounts leads to biased predestination by interpreting the rules (Arbeitskreis ‘Externe Unternehmensrechnung’ 2003). If the management has to decide between two alternative interpretations of rules or principles, it will choose an interpretation which minimizes its tax payments resulting in conservative accounting in the commercial accounts as well. Nevertheless, BilMoG kept the authoritative principle basically untouched. Only slight changes were made to clarify the purpose of the principle. For example, the reverse authoritative principle, which was not in line with GoB, was eliminated to strengthen the provision of information of commercial statements and to align HGB with IFRS.

### 3 Recognition and Measurement Criteria According to HGB and IFRS

#### 3.1 Revenue Recognition

The realization principle (section 252 (1) no. 4 sentence 1 HGB) states that only realized gains might be recognized in income statement. It is supplemented by the recognition-of-loss principle which requires that expected losses from pending contracts are recognized in profit or loss (Moxter 1984a).

In terms of revenue recognition, the realization principle ties the recognition of revenue to the turnover of sales of goods or rendering of services (Moxter 2003). In the management theory there are a lot of sound approaches to measure the performance process. However, they often lead to different pattern of income realization and allow discretionary power which is too ambiguous to pave the way for justiciable reporting. Hence to ensure the principle of objectification and transparency, this crucial point in time is not primarily defined in an economic way but rather from a legal point of view.

In the civil law the transfer of price risk (*Preisgefahrenübergang*) describes a crucial point in the performance process which leads to significant reduction of risk. Often, when the price risk changes from the seller to the buyer, an important part of risk changes between the contracting parties because from that time on the buyer is obliged to fulfill his obligation even if the promised good is destroyed or deteriorated by accident (section 362 German Civil Code (*Bürgerliches Gesetzbuch*—BGB)) (BFH, November 29, 1973, IV R 181/71, BStBl II 1974 202). However, if the price risk has been transferred but significant economic risks remain, which are out of the firm's control and suitable to threaten the payment of the receivable later on, the revenue must be postponed until the corresponding future payment is virtually certain (BFH, February 25, 1986, VIII R134/80, BStBl II 1986 788).

In contrast, IFRS 15 obliges an entity to recognize revenues when it satisfies its performance obligation in a way that the customers obtains control of the promised good or service (IFRS 15.31). That means that the customer is able to direct the use of and obtain substantially all of the remaining benefits from the asset (IFRS 15.33). Control can change over time or at a point in time. While this is not the place for a deeper analyses of the new standard, there are strong indicators that revenue is recognized over time under circumstances which are close to IAS 11, where the revenue of construction contracts have to be recognized under the percentage of completion method (IAS 11.22), irrespective whether the price risk has changed to the customer or not. If the customer has not obtained control over time, the performance is fulfilled at a point in time. IFRS 15 gives some guidelines to the entity, to operationalize this moment where the change of price risk is only one criteria among others and therefore of small importance (IFRS 15.38).

Contrary to IFRS 15, in GoB the control approach plays a minor role and serves primarily as an expression of the substance over form principle to attribute the economic ownership of an object to the entity without answering the question

whether the entity as a legal owner of this object has fulfilled its contractual obligation in the sense of the realization principle or not (section 39 (2) no. 1 sentence 1 AO).

In addition, the percentage of completion method is not employed in HGB. The German Accounting Law Modernization Act in 2009 offered an opportunity for a radical change and its adoption. However, this method would lead to unrealized earnings and contradict the realization principle. After weighing the pros and cons of the alternatives, the legislator confirms the prudent revenue recognition for construction contracts and requires the recognition only in case of approval of the complete construction asset or an independent part of the construction asset (RegE BilMoG 2008).

### ***3.2 Recognition and Measurement of Assets***

The realization principle and the recognition-of-loss principle determine the point in time when assets and liabilities should be recognized (Ballwieser 2008). However, focusing solely on the realization principle would result in recognition of accruals in which financial burdens and benefits are possible or probable but cannot be approved in a justifiable way (Schmalenbach 1962). To be in line with the principle of objectification they should be more concrete. The task is fulfilled by the asset and a liability criteria (Moxter 2007).

In contrast, in its most recent pronouncements the IASB increasingly favors the asset-liability approach (Wüstemann and Wüstemann 2010). It follows an inventory guideline where the balance sheet is prepared by counting, measuring, weighing, and calculating the items existing at the balance sheet date without worrying about the revenue process of the entity. Gains or losses are the result of value changes in assets and liabilities and not of the exchange of goods or services (Pferdehirt 2007). Thus, the realization principle plays only a minor role, if any at all.

The German Commercial Code contains no definition and recognition criteria of an asset. The interpretation is primarily done by the Federal Fiscal Court. The definition of assets in HGB is similar to the definition in IFRS. However, internally generated intangibles are special cases. It is often difficult to answer the question with sufficient clarity whether and when they meet the asset criteria. Hence, according to the objective to determine distributable profits, the old version of section 248 (2) HGB strictly typed the recognition of intangibles. It stated that non-current intangible assets, which have not been acquired for valuable consideration, were not allowed to be recognized as assets in the balance sheet.

In addition, it is very difficult to judge whether a goodwill acquired in a business combination exists or whether the calculated residual payment is just the result of an unfavorable deal. Further, the subsequent measurement of this kind of asset grants an enormous scope for discretion. Thus, the old version of section 255 (4) HGB contained solely an option to capitalize the acquired goodwill.



Regarding the measurement of assets in HGB, the cost principle is employed. It derives from anticipation or translation of payments ruled by the realization principle. In subsequent periods, measurement of assets has to reflect the pattern in which the future economic benefits are consumed by the entity without being concerned about their fair value (Moxter 2003). For acquired goodwill the old version of section 255 (4) sentence 2 HGB required to recognize in each subsequent financial year at least one quarter of the capitalized goodwill as amortization expense. Alternatively, the legislator allowed an amortization over the useful life of goodwill (old version of section 255 (4) sentence 3 HGB), but in this case asked for additional rationale in notes (section 285 no. 13 HGB). As a result, by setting stringent disclosure requirements, the legislator tries to ensure the objective of prudent profit calculation.

For the purpose of improving the information content of German financial statements, BilMoG requires the recognition of acquired goodwill (section 246 (1) sentence 4 HGB; the recognition option in the old version of section 255 (4) HGB was deleted) and introduces a recognition option for internally generated intangible assets (section 248 (2) sentence 1 HGB). However, the legislator seems to have general doubts about the value of the recognized internally generated items because he implements a payout block in section 268 (8) HGB to ensure that the corresponding increase in income is not free for distribution.

Further, in section 248 (2) sentence 2 HGB the German legislator prohibits, by using nearly the same words as IAS 38.63, the capitalization of internally generated brands, mastheads, publishing titles, customer lists, and assets similar in substance. Additionally, section 255 (2a) HGB allows solely the capitalization of development costs of internally generated intangible assets and requires the capitalization from the time they first meet the asset criteria (Bundestag-Rechtsausschuss 2009).

Regarding the measurement of assets, the government considered to weaken the realization principle during the ordinary legislature proceedings of BilMoG. The government argued that fair value measurement is common practice and identified practical needs as well as requirements for that reform. Hence, the first government draft obliged fair value measurement of financial assets held for trading for all entities (RegE BilMoG 2008). The plan was dropped due to the impact of the financial crises. At the end, the legislator restricts this requirement to financial institutions only—and thus ironically to the companies which were blamed to be responsible for the extent of the crises by misusing the fair value method.

According to the new rule, the financial entity is neither obliged to objectify the fair value nor to demonstrate the existence of an active market for the asset. Thus, both the realization principle and the principle of objectification are violated. However, to stay partly in line with the prudence principle the financial institution is required to measure financial assets at fair value less an appropriate deduction for risk (section 340e (3) sentence 1 HGB). Furthermore, realizable but not yet realized gains from fair value measurement are restricted for distribution (section 268 (8) HGB).

Therefore, the purpose of the German Accounting Law Modernization Act to align HGB with IFRS is only partly fulfilled. Regarding the definition and

recognition criteria it should be noted that the entities are only allowed but not required to capitalize internally generated intangible assets. In addition, the legislator avoided defining the criteria of internally generated intangible assets. He discussed the adoption of the requirements of IAS 38.57 in detail but rejected it after all (RefE BilMoG 2007). Considering the valuation of assets, it is remarkable that the legislator retained the measurement at cost as the dominant measurement method. Fair value accounting is restricted to assets which are held for trading of financial institutions. Concerning the acquired goodwill, the legislator maintains its scheduled amortization over economic life time. However, in cases where the amortization period exceeds five years the entity has to give additional rationale in notes (section 285 no. 13 HGB). Therefore, the legislator sustained the stringent disclosure requirements.

Although the changes made by BilMoG were marginal, they tangle the GoB-system. Capitalization of internally generated intangibles can be seen formally as in line with the matching principle. However, up to date no recognition criteria exist to limit managerial judgment. Thus, the new approach weakens the prudence principle and the principles of objectification and jeopardizes the primary goal of the German accounting system. Concerning changes in measurement regulation, the new rule for financial institution measuring financial assets held for trading at fair value leads to an unsystematic sectoral rule without conceptual reasoning. Moreover, it contradicts the realization principle and weakens the conceptual clarity and consistency of HGB. However, emplacing the new rule in a special part of the German commercial law, which concerns only financial institutions, the legislator clarifies that this advice is not an element of GoB because they are independent of the entity's legal form.

Consequently, although the German government began the German Accounting Law Modernization Act with the ambitious objective to reduce the differences between HGB and IFRS, at the end of the reform there are only minor modifications to highlight. The initial target of the project obviously failed. HGB and IFRS continue to be incomparable. Even more, the half-hearted reforms interfere with the compelling nature of HGB.

### ***3.3 Recognition and Measurement of Liabilities***

By and large the definition and recognition criteria of liabilities in HGB are similar to those in IFRS. However, according to the prudence principle the probability criterion in HGB is interpreted in a qualitative way. The entity shall demonstrate that there are good and sound reasons for which it has to fulfill the liability in future (Eibelshäuser 1987). But there is no need that the probability is greater than 50 % because this restriction would contradict the prudence principle which is satisfied when the degree of probability is lower, but in line with reasonable business judgment.

Moreover, the old version of section 249 (1) sentence 2 HGB requires the recognition of provisions for deferred maintenance which will be fulfilled within three months after the balance sheet date and provisions for removal of waste residues which will be fulfilled within the next fiscal year. Additionally, firms had a recognition option for provisions for deferred maintenance if the obligation will be fulfilled not before three months after the balance sheet date but at least within the next fiscal year (old version of section 249 (1) sentence 3 HGB) and for provisions for expenses in the sense of Article 20 (2) Fourth Council Directive, which can be viewed as purely internal liabilities because there is no obligation toward third parties (old version of section 249 (2) HGB).

Most of these exceptions are long-term impacts of the accounting practice. Hence, the legislator anchored these provisions in the law to ensure that they can be recognized. However, there is no obligation toward third parties. Thus, their consideration is a clear breach of GoB.

In opposition to IFRS where provisions are measured at best estimate (IAS 37.36), in HGB provisions were generally measured at their most likely outcome considering the prudence principle. Further, due to the realization principle the old version of HGB did not allow to discount non-interest-bearing provisions and therefore to recognize unrealized interest income. The consideration of future events that may affect the fulfillment amount of the liability at the balance sheet date is contentious because there is a trade-off between the realization principle and the prudence principle on the one hand and the reporting-date principle on the other hand. The first two principles demand an anticipation of total future outflow of resources and the anticipation of expected price and wage increases. However, the old version of the commercial law favored the reporting-date principle to support an objectified reporting.

To come in line with IFRS, the German legislator deleted the recognition options for provisions for internal obligations and for provisions for deferred maintenance costs that will be fulfilled not before three months after the balance sheet date but at least within the next fiscal year. In addition, the legislative changed the measurement of provisions. According to the new ruling, future events shall be considered in the measurement of provisions if the entity has sufficient objective evidence that they will influence the amount to settle the obligation (RegE BilMoG 2008) and long term provisions with a remaining term of more than one year need to be discounted using market interest rates for liabilities with corresponding maturities, averaged out over a period of seven years which are released by the German Central Bank (section 253 (2) sentence 1 HGB).

The reform of the liabilities is stuck half-way. The recognition criteria of provisions in IFRS and HGB still differ in main points. Whereas the IFRS interpret the probably criteria in a quantitative way (i.e., more likely than not), HGB interprets it qualitatively (i.e., good and sound reasons). In addition, contrary to IFRS the German Commercial Code permits furthermore the recognition of provisions for amounts for internal costs such as provisions for deferred maintenance costs which are going to be settled within three months up to the balance sheet date and

provisions for removal of waste which will be fulfilled within the next fiscal year (section 249 (1) sentence 2 no. 1 HGB).

Only at first glance do the measurement criteria of provisions of IFRS and HGB seem to be identical. In fact, in HGB the determination of the discount rate of provisions is objectified and typecasted whereas in IFRS its assessment lies in the responsibility of the management. In addition, the anticipation of expected price changes is a novelty in German accounting and the degree of prudence implemented by its estimation is open for interpretation. Due to the prudence principle in HGB the premium for future wage and price increases should be higher than in IFRS. However, the principle of objectification which is more pronounced in HGB than in IFRS may counteract a more generous anticipation. More exceptionally, the legislator breaks through the authoritative principle and prohibits the anticipation of future price changes in tax accounts (section 6 (1) no. 3a EStG). Therefore, in order to enable a widely unified balance sheet, the management might neglect future price changes in the commercial balance sheet referring to the principle of simplification or to cost-benefit considerations. However, time will tell how German managers will interpret the new advice.

From a national point of view the revised rules for provisions in HGB partly disharmonize with the principles of proper bookkeeping. The deletion of the provisions for accruals for internal obligations (e.g., provisions for deferred maintenance) was long overdue and is to be welcomed because it strengthens the consensus of the German accounting system. However, it does not go far enough because some of these provisions remain without any conceptual basis. Furthermore, discounting non-interest-bearing provisions contradicts the realization principle since unrealized interest income is recognized in profit or loss. Moreover, the anticipation of future price performance may be in line with the realization principle. But it is questionable whether the rule is consistent with the principle of objectification and whether the anticipation of expected price decreases fits the prudence principle.

## 4 Conclusion

1. The German legislator recognized the increasing influence of IFRS and that their accounting rules are different from HGB. With the German Accounting [Law Modernization Act](#) enacted in 2009 it aimed to modernize the German Commercial Code into a set of rules that is on a par with the international accounting standards.
2. A glance at the new accounting rules in detail shows the attempt to modernize HGB by bringing it closer to IFRS. However, this mission failed. The fundamental objectives of both accounting systems as well as their underlying principles still differ significantly. Therefore, implementing merely few rules borrowed from IFRS is only cosmetics. It does not lead to a new accounting system which is compatible with IFRS.

3. Furthermore, many of the new rules developed by the legislator in the [German Accounting Law Modernization Act](#) in 2009 do not fit into the improved German accounting system. Moreover, they violate the fundamental principles and weaken the consistency of the principles of proper bookkeeping.
4. The main reason for the unsatisfactory results seems to be obvious and lies in reforming the German accounting law by the legislator without considering the historical and current normative background of HGB and IFRS in a proper way.
5. Hence, the result of the reform would have been definitely more adequate if the German legislator had studied the contributions of *Jacques Richard*. He retires, but the recent development in Germany, and maybe also in France, shows that the accounting community cannot work well without his contributions. Today they are needed more than ever. Therefore, we are already looking forward for his forthcoming papers.

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