



DEUTSCHES AKTIENINSTITUT

Analysis of the EU Consultation on the Green Paper „Audit Policy: Lessons from the Crisis“

Das Grünbuch der EU-Kommission „Weiteres Vorgehen im Bereich der Abschlussprüfung: Lehren aus der Krise“: Eine Auswertung der Stellungnahmen des Konsultationsprozesses

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**Einschließlich deutscher Kurzfassung: Das Grünbuch der EU-Kommission
„Weiteres Vorgehen im Bereich der Abschlussprüfung: Lehren aus der Krise“**

Vorwort

Als Reaktion auf die Finanzmarktkrise wurde am 13. Oktober 2010 unter Federführung von EU-Binnenmarktkommissar Michel Barnier das Grünbuch „Weiteres Vorgehen im Bereich der Abschlussprüfung: Lehren aus der Krise“ vorgelegt. Im Rahmen dieses Grünbuchs wurde interessierten Stakeholdern bis zum 8. Dezember 2010 die Gelegenheit eröffnet, Stellung zu Fragen einer zukünftigen Regulierung der Abschlussprüfung auf EU-Ebene zu nehmen. Nicht zuletzt die überaus rege Beteiligung der angesprochenen Stakeholdergruppen mit knapp 700 eingegangenen Antworten zeugt von einer lebhaften und zuweilen kontroversen Diskussion zahlreicher im Grünbuch angeregter Maßnahmen; diese zielen insbesondere ab auf Fragen der Unabhängigkeit von Prüfungsgesellschaften sowie der Veränderung der aktuellen Situation des Prüfermarkts. Als konkrete Maßnahmen, um die Unabhängigkeit der Prüfungsgesellschaften zu stärken sowie eine Änderung der derzeitigen Marktstruktur herbeizuführen, werden etwa die Bestellung des Abschlussprüfers durch einen externen Dritten, eine zeitliche Begrenzung von Prüfungsaufträgen, ein Verbot der Erbringung von Nichtprüfungsleistungen, eine verpflichtende Einführung von Audit-Konsortien sowie eine externe Rotation der Prüfungsgesellschaft diskutiert.

Die vorliegende Auswertung der eingegangenen Stellungnahmen geht deutlich über den Informationsgehalt der von der EU-Kommission am 4. Februar 2011 herausgegebenen Zusammenfassung des Konsultationsprozesses hinaus. Zur erleichterten Nutzung im EU-Raum wurde sie in englischer Sprache verfasst; eine begleitende deutsche Kurzfassung findet sich am Ende der Studie. Neben einer quantitativen Analyse des generellen Meinungsbilds der Einsender werden u.a. auch Pro- und Kontra-Argumente für ausgewählte Fragestellungen erfasst und eine differenzierte Analyse der Stellungnahmen im Hinblick auf Einsendergruppe, Interessenvertretung und Rechtskreis durchgeführt. Die Studie kommt im Wesentlichen zu dem Ergebnis, dass die von der EU-Kommission angestrebten Regulierungsmaßnahmen – mit Ausnahme der mehrheitlich befürworteten Einführung internationaler Prüfungsstandards (ISAs) – keine Unterstützung bei den angesprochenen Stakeholdergruppen finden. Ein Regulierungsbedarf kann somit durch die Ergebnisse des Konsultationsprozesses nicht begründet werden.

Prof. Dr. Rüdiger von Rosen

Prof. Dr. Hans-Joachim Böcking

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I. Introduction*

As a consequence of the financial crisis between 2007 and 2009, on October 13th 2010 the European Commission (EC) published the Green Paper “Audit policy: Lessons from the Crisis”. The audit profession was identified as the last group of players whose part in the financial crisis has not been analyzed yet. The Commission raised 38 questions on how the audit function could possibly be enhanced in order to contribute to increased financial stability. In the Green Paper, the European Commission pointed out that robust audits can contribute to the re-establishment of trust and market confidence. Robust audits were expected to have a positive impact on investor protection and the cost of capital for companies. The Commission further stated that the auditor has to offer an opinion on the truth and fairness of financial statements and therefore raised the question, if audits currently are “fit for purpose”. In particular, the Commission intended to open a debate on the following topics: role of the auditor, governance and independence of audit firms, supervision of auditors, configuration of the audit market, creation of a European market for the provision of audit services, simplification of rules for small and medium sized enterprises (SMEs) and practitioners (SMPs) and the international co-operation of supervision of global audit networks (see EC [2010], p. 3–5).

The Green Paper on Audit Policy invited a broad group of stakeholders such as investors, lenders, management, employees, government authorities, auditors, tax authorities, credit rating agencies, equity analysts, regulators, academics, business counterparties and SMEs to submit their comments and views on the questions raised in the Green Paper. The consultation phase began on October 13th 2010 and closed on December 8th 2010. According to the EC’s summary on the consultation¹, with a total of 688 replies the Green Paper received the highest level of response of any consultation in the Internal Market and Services area since the completion of the public consultation on Solvency II.² Beyond that, it has been the widest consultation response arising from the financial crisis. 599 of in total 688 replies (87%) were submitted from stakeholders of the

* We would like to thank Sebastian Koch, Fabian Rauschenberg and Kerstin Schmiedberger for their support in analyzing the responses to the consultation process of the Green Paper on audit policy.

1 Following the consultation phase, on February 4th 2011 the EC published a summary of all received responses to the Green Paper. The summary aims to provide a qualitative synthesis of the comment letters received by a broad spectrum of respondents (see EC [2011], p. 1–2).

2 The comment letters are available for download on the consultation website of the European Commission: http://ec.europa.eu/internal_market/consultations/2010/green_paper_audit_en.htm

European Union's member states. Besides, the consultation also attracted groups representing either worldwide interests (3%) or EU-wide interests (3%). 48 (7%) replies came from stakeholders of non-EU countries. Remarkably, 291 (42%) of all replies came from Germany (see EC [2011], p. 2-4). Thereof 213 similar replies, which used almost identical wording, came from German small auditors and audit firms.³ Although the EC suggested that these replies were identical in their content (see EC [2011], p. 4), we found some evidence that in fact a few of the statements differed in certain details with respect to specific questions.⁴ The largest group of respondents was the audit profession with 407 (59%) replies, of which 286 were sent in by small and medium sized practitioners (including the 213 German small practitioners); see figures 1 and 2.

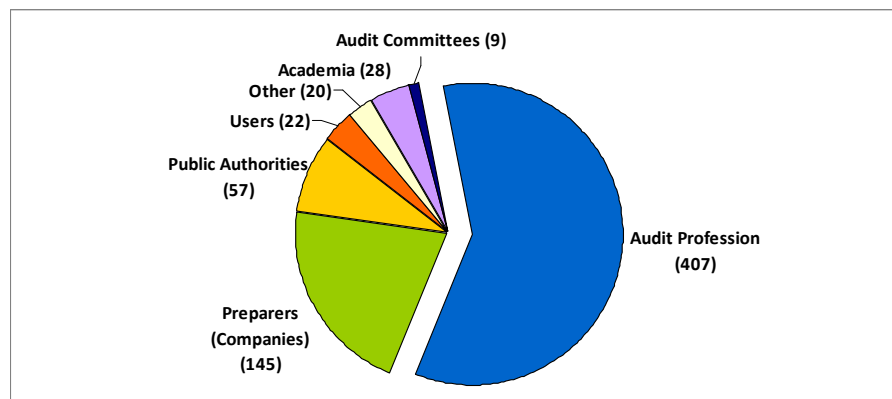


Figure 1: Absolute amount of responses by interest groups (EC [2011], p. 4)

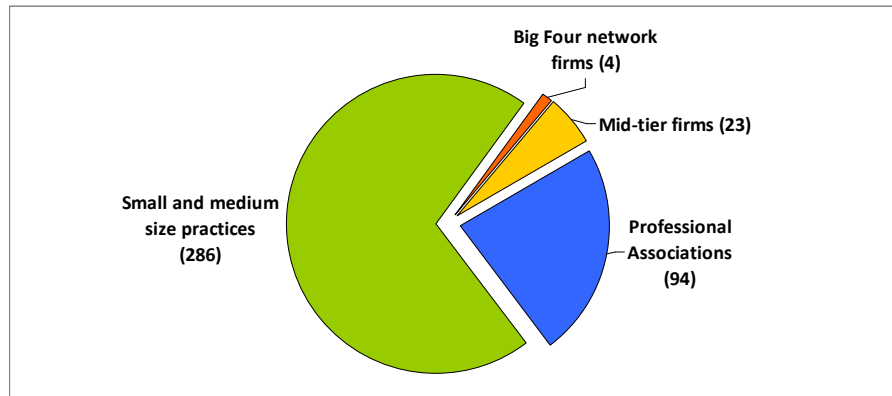


Figure 2: Subdivision of the interest group "Audit Profession" (EC [2011], p. 5)

3 We arrived at this number by comparing content and format of the comment letters sent in by German small practitioners.

4 E.g. the following comment letters: Prof. Dr. K. Schwantag, Dr. P. Kraushaar GmbH [2010], p. 2-3 (Q4, Q6), p. 5 (Q12), p. 8 (Q17), p. 9(Q 19); Concept Renkes & Partner [2010], p. 4-5 (Q12).

Objective of this paper is to assess attitudes of stakeholders towards the proposed changes associated with the Green Paper on audit policy. By grouping the respondents by category (e.g. audit profession, public authorities, etc.) and representation of interest according to geographical regions, we accounted for the different characteristics of respondents and were able to conduct some analysis on a disaggregated level. Moreover, we collected the pro and contra arguments presented in the comment letters in order to analyze the motivations for the respondents' support or rejection of proposed changes. One further goal of the paper is to carefully draw conclusions on the acceptance of future policy actions. However, some caveats remain: First, a "consultation bias" could have occurred, i.e. the stakeholders agreeing with the proposed changes may have had less incentives to actively engage in the consultation process than stakeholders rejecting the changes possibly due to resulting negative effects; for obvious reasons respondents involved in the consultation process, especially auditors, mainly may have focused on pursuing their own interests. Second, the Green Paper's intention is to collect feedback by a broad group of stakeholders; however, it is not meant to necessarily have an impact on the decisions made by the legislative EU institutions. Third, evaluating comment letters and assigning gradual ratings is always prone to some amount of subjectivity.

II. Background on existing regulations and EU initiatives

1. Current regulations on auditors within the EU

Based on the Fourth Council Directive 78/660/EEC, the Seventh Council Directive 83/349/EEC, Council Directive 86/635/EEC and Council Directive 91/674/EEC member states of the EU are required to ensure that the annual and consolidated accounts of certain companies are audited by one or more persons entitled to carry out such audits. Rules concerning the statutory audit of annual and consolidated accounts are established in Directive 2006/43/EC which repealed the 8th Council Directive 84/253/EEC in 2006.⁵ In accordance with article 53 of Directive 2006/43/EC, all member states of the European Union were requested to comply with the Directive before June 29th 2008. Furthermore, these states had to assure that all necessary provisions to comply with the Directive had been published up to this date. Since July 31st 2008 the Internal Market and Services Directorate General (DG MARKT) – a department of the European Commission – published several scoreboards on the transposition of the Statutory Audit Directive (2006/43/EC). Therein the department documented the adoption process of the Directive in the in-

5 In 2008, Directive 2006/43/EC was amended by Directive 2008/30/EC.

dividual EU member states. Only twelve of them were able to build up an audit oversight systems in compliance with the requirements of the directive within the predetermined time frame until July 31st 2008. The adoption of the directive in the remaining 15 member states followed step by step until September 1st 2010 when at last Spain and Ireland finalized the transposition (see DG MARKT [2011]). Regarding the implementation of public oversight systems for auditors, as of September 1st 2010, the development in three countries was still in progress: Cyprus remained the only member state without an operational public oversight system and Lithuania was still in progress of safeguarding the financial resources for public oversight and ensuring that an adequate number of staff is employed to support the activities of the public oversight system. Poland did not yet have the necessary human resources for its public oversight system at their disposal (see DG MARKT [2010], p. 1-3, Appendix 1). Even if all member states would have fully adopted the Directive 2006/43/EC on statutory audits of annual and consolidated accounts, the directive offers some areas of discretion to a certain degree; e.g. article 42 (2) requires a mandatory internal rotation, whereas external rotation is optional (see EC [2006], p. 8). As a consequence, regulation on auditors is not (yet) fully harmonized and the application of Directive 2006/43/EC partially differs among member states.

2. The EC's Green Paper on Audit Policy: Basic structure and content

As mentioned above, the EC's Green Paper on audit policy intended to analyze and question the role of the auditors in the recent financial crisis. Several topics were addressed and proposals were made in hope of increasing financial stability and (re-)building market trust. Independence and governance of auditors as well as the current structure of the audit market turned out to be key issues of the Green Paper.

The Green Paper consists of eight similarly structured sections⁶. At the beginning of each section a problem is stated. Thereafter, several proposals to solve the existing problem are presented. Each section closes with questions asking the stakeholders for their view regarding the discussed topics. In total, the Green Paper contains 38 questions (see EC [2010], p. 3-21). A list of these questions is attached in Appendix 2.

After the introduction, the second section of the Green Paper deals with the general role of the auditor, namely the communication between auditors and stakeholders as well as the mandatory introduction of International Standards on Auditing (ISAs). The third section comprises ques-

6 In addition to the seven sections open for debate, the Green Paper on Audit Policy contains an introduction with three questions regarding the general view of the Green Paper.

tions regarding governance and independence of audit firms. To strengthen independence, several changes of the status quo are proposed, e.g. the appointment and remuneration of audit firms by a third party, possibly a regulator; a mandatory rotation of audit firms (external rotation); and a strict prohibition of non-audit services by audit firms. The fourth section deals with the supervision of auditors at EU-level and poses the questions, how co-operation between auditor supervisors of the member states and communication between auditors and regulators may be improved. The fifth section covers concentration and market structure of audit firms. In order to decrease the existing high level of concentration among audit firms, the Green Paper proposes, inter alia, mandatory joint audits (audit consortia), possibly consisting of one large and one small or medium sized audit firm. Moreover, mandatory rotation of auditors is discussed. The sixth section of the Green Paper contains proposals towards the creation of a European market, especially the enhancement of cross border mobility of auditors and the creation of a “European passport” for auditors and audit firms. The seventh section deals with simplifications for small and medium sized enterprises (SMEs) and practitioners (SMPs), e.g. so-called “limited audits” or “statutory reviews”. The eighth section, covering international co-operation, asks for proposals regarding the quality enhancement of oversight of global audit firms.

The consultation process aims to capture the attitudes of stakeholders with respect to the proposed actions and to receive feedback with regard to the issues mentioned above. The stakeholders therefore were given the chance to present their point of view and name arguments in favor of or opposing to some of the proposals in the Green Paper. However, despite of being somehow connected to the policy making process, the consultation should not be mistaken for some “voting event” with binding effects on future policy actions. This point prevails also due to the sometimes different or not clearly observable representation of interests by respondents, e.g. some associations or organized contributions representing in fact several individual stakeholders.

III. Research design and methodology

1. Basic approach of the analysis

Our goal was to identify attitudes of different interest groups concerning certain questions in the Green Paper and to capture pro and contra arguments associated with each response. We constrained our analysis to the comment letters regarding the following eight questions or topics of the Green Paper:

- ISA-Adoption (Question 13)
- Appointment of auditors by a third Party (Questions 16 and 17)

- Limited Audit Tenure (Question 18)
- Prohibition of Non-Audit Services (Question 19)
- Existence of Systemic Risk (Question 27)
- Joint Audits (Question 28)
- Rotation of Audit Firms (Question 29)
- Assessing the current market situation: The Big Four oligopoly (Questions 30 and 32)

We selected these questions due to the fact that they seem to cover the most controversially discussed topics within the Green Paper. In case of an enactment on the EU-level most of these proposals would have a large impact on the status quo and hold the potential to change structure and scope of the existing audit market on a large scale. Therefore, it seems to be of utmost interest to analyze how the different stakeholders evaluated the proposed actions.

Our examination is able to show descriptive evidence of the received reactions to the Green Paper on an aggregate as well as on a disaggregated level. However, since the respondents to the Green Paper are not an integral part of the EU's legislative process, we have to be very careful when drawing conclusions or providing recommendations for future legislative actions.

2. Sample

Before evaluating the comment letters written in response to the different questions, we determined our final sample by using an iterative approach. In a first step we coded all 828 documents available on the EC's consultation website according to interest group, country of origin, represented interest and language. We used the grouping as done by the Commission within the consultation process, which grouped the respondents into academia, audit committees, the audit profession, preparers, public authorities, users and others.⁷ When analyzing the composition of the audit profession group, we found, as mentioned above, that a large portion of respondents were German small practitioners with 213 submitted comment letters. In contrast, the Big Four audit networks each submitted only one comment letter representing the views of the respective Big Four network. Regarding the group of preparers, there were numerous responses submitted by companies; however, also many associations representing banks and industry submitted comment letters to the European Commission and were classified in that group. The group of

⁷ However, several inaccuracies regarding the classification remain, e.g. classification of IAASB and IESBA as “audit profession”.

public authorities mainly consisted of regulators and institutions on the national as well as on the EU- and international level. Special consideration also had to be assigned to the group of users. Although being comparatively small by number of respondents, some of the respondents were shareholder associations or investment funds and therefore representing numerous interests. Respondents grouped as “others” were mainly individual persons.

To ensure a transparent elimination process we determined eight exclusion criteria (see figure 3). First, we eliminated all cover letters connected to a separately published response.⁸ In a second step, duplicates of identical statements or translated versions were eliminated. After that, we eliminated documents not referring to the Green Paper on audit policy,⁹ which resulted in a preliminary number of 686 comment letters.¹⁰ As we focused on the evaluation of responses to certain questions posed in the Green Paper, we decided in a next step to eliminate responses not directly responding to any particular question (comment letters on an aggregated level).¹¹ Furthermore, for the same reason, we eliminated research papers and other publications. The last three elimination criteria “not readable due to formatting error”, “missing or unfitting attachment” and “password protection of the document” only were of minor relevance.

8 This elimination criterion was especially important in the case of responses from the audit profession, as within this stakeholder group a huge amount of stakeholders submitted a cover letter separately from the comment letter.

9 We do not know if those comment letters were submitted on purpose or by mistake or if an error occurred during the EC’s uploading process.

10 The difference to the number of comment letters mentioned in the EC’s summary to the Green Paper (688 responses; difference: two responses) can be explained with slight deviations in the methodological nature of the elimination process.

11 If the respondent/s addressed at least one single question directly, the comment letter was not eliminated due to this criterion. Therefore, the number of analyzed responses differs with respect to each question.

Stakeholder	Amount of uploaded comment letters on EU website	Elimination Criteria			Amount of comment letters responding to the Green Paper	Elimination Criteria					Amount of evaluable comment letters	Amount of evaluable comment letters in % of total amount of comment letters responding to the Green Paper
		Uploaded documents without additional value				Content Issues		Technical Issues				
		Cover letter to a separately published response	Duplicate of identical statements/ Duplicate in a foreign language	Documents not referring to Green Paper on Audit Policy		Comment Letter on an aggregated level	Research paper/other publication	Not readable due to formatting error	Missing/Unfitting Attachment	Not publicly available on EC's website (password protection)		
Academia	35	0	0	1	34	4	7	0	0	0	23	68%
Audit Committees	9	0	0	0	9	1	0	0	0	0	8	89%
Audit Profession	534	118	13	4	399	21	7	2	3	1	365	91%
<i>Thereof: German SMPs</i>	319	103	0	0	216	0	0	2	1	0	213	99%
Preparers (company)	142	0	0	0	142	24	0	0	0	0	118	83%
Public Authorities	63	1	0	1	61	10	0	0	0	0	51	84%
Users	25	2	0	1	22	0	0	0	0	0	22	100%
Other	20	0	1	0	19	3	0	0	0	0	16	84%
Total	828	121	14	7	686	63	14	2	3	1	603	88%

Figure 3: Elimination Process

After checking the 828 uploaded documents for the eight elimination criteria and eliminating those not fulfilling our pre-defined requirements, 603 relevant responses were left for our analysis.

Regarding the language of the comment letters, the vast majority was either written in English or German and could be evaluated without further handling. However, 71 statements of our final sample were written in languages other than English or German; the four most frequent languages were French (26 responses), Spanish (17 responses), Polish (10 responses) and Dutch (5 responses). We used translations of all statements in either English or German in order to evaluate them; i.e., language was not an elimination criterion.

Another noteworthy fact was the above-mentioned existence of some single responses representing several stakeholders on the one hand, and the existence of some identical responses submitted by several stakeholders on the other hand. For example, the comment letter submitted by the European Association of Co-operative Banks in fact represents inter-

ests of “its 28 members and co-operative banks in general”, the comment letter sent in by BUSINESSEUROPE represents interests of 41 business organizations in 35 European countries, or the comment letter submitted by the Committee of European Securities Regulators (CESR)¹² in parts includes represented interests by national regulatory institutions, e.g. the German Federal Financial Supervisory Authority (BaFin). Also, as already mentioned, the Big Four audit networks each submitted only one statement representing the interests of the members of the respective international network. For our analysis, however, we did not weight single responses according to the number of represented stakeholders, because this would be subject to fundamental subjectivity.

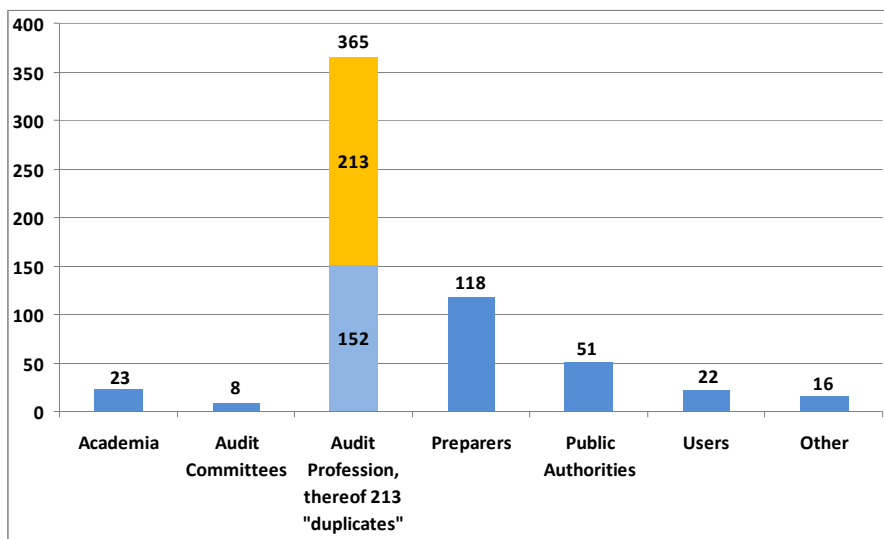


Figure 4: Composition of responses with regard to German small practitioners “duplicates”

However, most notably in this regard were the seemingly identical responses sent in by 213 German small practitioners. Because an organizational nature behind this response pattern could be assumed, we conducted a separate analysis counting the identical statements of German small practitioners as one single statement while eliminating only the completely identical statements (as noted before, we found that several questions were in fact answered in a different fashion by some respondents)¹³. Further, since the audit profession in general would be affected the most by the regulatory changes, we assumed that respondents classi-

12 Since the beginning of 2011, CESR is known as European Securities and Markets Authority (ESMA).

13 In the Summary Report on the responses received within the consultation process to the review of the accounting directives in 2009, the European Commission also treated “duplicates” as one comment letter for their analysis.

fied as audit profession would mainly pursue and defend own business interests. We therefore also analyzed the general attitude towards the proposals when responses by the audit profession are fully excluded from the sample.

The final sample constituted the basis for a further in-depth analysis of the eight specific topics mentioned in chapter III.1. As mentioned before, we restricted our analysis to the issues which we consider to be of particular interest and importance.

3. Evaluation

After determining our final sample, we analyzed an initial sample of 50 randomly selected comment letters. We focused on the eight topics relevant for our in-depth analysis in order to determine the main arguments presented by the respondents with regard to every relevant issue. Subsequently, we developed a checklist containing the most common arguments regarding each of the pre-determined questions. After the checklist had been developed, we started the evaluation process. We coded each of the pre-determined topics of every evaluable comment letter according to overall agreement to the Commission's proposals. First, we determined, if a comment letter expressed "total support", "qualified support", "neutral position", "qualified rejection" or "total rejection" concerning the selected questions. Responses where the authors' opinion was not clearly expressed and those where pro as well as contra arguments were mentioned in a balancing way were coded as "neutral position". For each topic, we only considered statements which directly commented on that particular question. Second, the contents of the responses with regard to each specific question were compared to the pro and contra arguments on our previously developed checklist. Thus we were able to calculate the relative proportions of acceptance and rejection as well as the presented arguments for each of the Commission's proposals.

The coding was performed by one of the authors. For reasons of accuracy and consistency the initial coding was independently verified by another member of the research team of Goethe University, Chair of Corporate Governance and Auditing.

We analyzed every topic with respect to respondent group, represented interest and legal origin.¹⁴ The results of our analysis are presented in the

14 For legal origins, we used the concept introduced by La Porta et al. (1998) and distinguished between English-origin, French-origin, German-origin, Scandinavian-origin and other. The classification criteria are: 1. Historical background and development of the legal system, 2. Theories and hierarchies of sources of law, 3. The working methodology of jurists within the legal system, 4. The characteristics of legal concepts employed by the system, 5. The legal institution of the system and 6. Divisions of law employed

following chapter. At the beginning of each of the following chapters, the existing regulations at EU-level and the actions proposed within the EU Green Paper are introduced. Thereafter, the results of the consultation process are presented.

IV. Analysis of the responses to the consultation on "Audit Policy – Lessons from the Crisis"

1. Introduction of ISAs in the EU

a. Existing regulations at EU-level

Article 26 of the Directive 2006/43/EC on statutory audits deals with auditing standards applied by the auditors. Auditors of the Member States of the European Union are required to carry out audits in compliance with international auditing standards as adopted by the European Commission. As of yet, the International Standards on Auditing (ISAs) as issued by the International Auditing and Assurance Standards Board (IAASB) have not been adopted by the Commission. Therefore, national auditing standards are still in place at the moment, although some Member States started harmonizing their national standards with the ISAs.

In case of the ISAs being adopted by the Commission and becoming binding standards on auditing, the Member States will still own the right to impose additional audit procedures due to national requirements (Article 26 (3), (4) of Directive 2006/43/EC).

b. Proposed actions of the EC's Green Paper

Between 2006 and 2009, the International Auditing and Assurance Standards Board (IAASB) engaged in the so-called "Clarity Project", a venture for revising and improving existing ISAs.¹⁵ The Commission stated that the previously conducted consultation on the adoption of ISAs at EU-level¹⁶ had shown broad support for the adoption of ISAs. Back then, respondents stated that an application of ISAs would increase harmonization and quality of audits which would lead to higher quality and credibility of financial statements. However, some respondents stressed the necessity of further adopting ISAs to the needs of SMEs and SMPs. The Commission argued that many Member States as well as many third

by a system. See La Porta et al. (1998). The category 'other' consists of European bodies, international operating networks, and countries without a grouped legal origin according to La Porta.

15 See for further details <http://www.ifac.org/auditing-assurance/clarity-center>.

16 See http://ec.europa.eu/internal_market/consultations/2009/isa_en.htm.

countries already had adopted ISAs and is therefore considering when and how to introduce ISAs at EU-level. Subject of our analysis were the responses to question 13 of the Green Paper, namely “What are your views on the introduction of ISAs in the EU?”.

c. Results of the consultation process

As depicted in figure 5, the overall position of all interest groups shows 174 respondents (36%¹⁷) in total support for the adoption of ISAs and 66 respondents (14%) in qualified support. While 20 respondents (4%) remain a neutral position on this topic, 221 respondents (46%) show a qualified rejection and 4 respondents (1%) totally reject the adoption of ISAs. While this may at first seem like a well-balanced response pattern, segregating the identical statements of the German small practitioners due to the potential distortion leads to a rather different picture: Total and qualified support now amount to 88% of all responses, while qualified and total rejection amount to only 5%.¹⁸ Treating identical responses by the German small practitioners as a single response, it can be stated that the vast majority of respondents is in favor of adopting ISAs. A similar pattern with a support rate of 88% and a rejection rate of 3% is observable when excluding all responses by the audit profession from our sample.

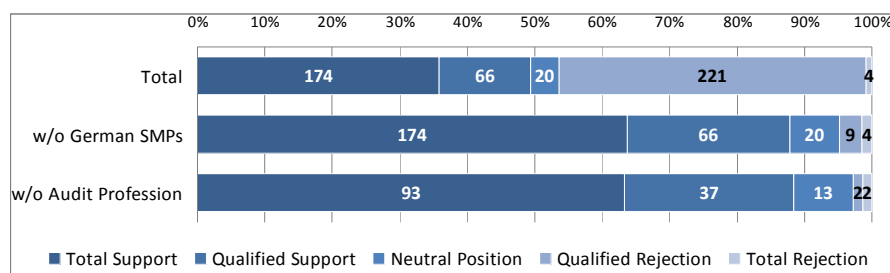


Figure 5: ISA-Adoption: General attitude of respondents

Within the total sample, the most commonly named arguments supporting the adoption of ISAs in the EU are increasing harmonization of audits with 80 mentions (16% of all respondents – excluding auditors 25%), increasing or at least constant quality of audits with 73 mentions (15% – excluding auditors 25%) and more consistent audits with 58

17 Minor rounding differences may occur due to the five-stage evaluation method.

18 We assigned the response by the German small practitioners with regard to the question of ISA-Adoption a “qualified rejection”. The response mainly focuses on the unsuitability of ISAs for SMEs and the need for special standards suited for the audits of SMEs.

mentions (12% – excluding auditors 24%).¹⁹ Further arguments are increasing comparability, increasing credibility, increasing transparency, cost reduction, reduced regulatory barriers, improved understanding of auditors’ responsibilities and work, improved cross-border mobility, improved cross-border investment, the suitability of ISAs for small and medium sized entities, the robustness of ISAs as well as increasing efficiencies. Most commonly presented arguments against the binding EU-wide introduction of ISAs are the demand for the adoption of ISAs to the needs of small and medium sized entities and practitioners with 239 mentions (49% – excluding auditors 9%) and a potential “regulatory overkill” with 216 mentions (45% – excluding auditors 1%).²⁰ Another argument given by 9 respondents (2%) is a lack of legitimacy of the standard setter.

Analyzing the different groups of respondents with respect to their position to the adoption of ISAs in the EU, we find evidence for a consistent attitude among the different groups of respondents. The sum of total and qualified support for the mandatory introduction of ISAs amount to 93% of the academia group, 100% of audit committees, 33% of the audit profession (however, 87% when counting the German small practitioners as one respondent), 90% of preparers, 96% of public authorities and 74% of users. In all, with the exception of the German small practitioners, there seems to be a broad consensus in favor of adopting ISAs as binding standards on auditing in the EU.

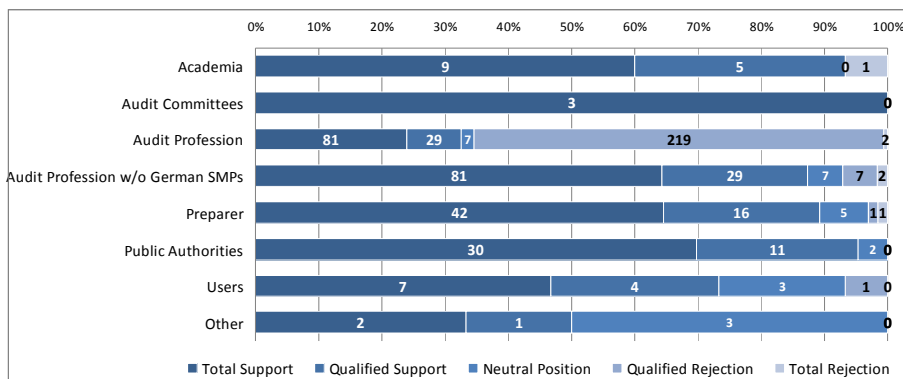


Figure 6: ISA-Adoption: General attitude subdivided by respondent group

Results grouped by country are depicted in figure 7. It is observable that Non-EU countries (90% support and 0% rejection) tend to be more in favor of ISA adoption than countries within the EU (42% support and

19 When counting the German small practitioners as only one received statement, the percentages change to 29%, 27% and 21%, respectively.

20 Without counting the German small practitioners, the percentages amount to 10% and 2%, respectively.

54% rejection); counting identical responses by German small practitioners as a single statement, the support for ISA adoption with 88% (rejection accounts for 6%) is still less, however marginally.²¹ EU interests and international interests show a similar response pattern: While 80% of the special interest groups of the EU show support (0% rejection), without exception all international special interest groups show either total or qualified support for adoption of ISAs. Analyzing the countries with the most responses to question 13 of the Green Paper yields the following results: Respondents from Germany show 17% support and 83% rejection; however, counting identical German small practitioners again as one statement aligns the overall attitude to the other countries: German respondents would then account for 86% support and 12% rejection while UK respondents show 81% support and 3% rejection, French respondents show 86% support and 9% rejection, Spanish respondents show 100% support and Dutch respondents show 79% support and 0% rejection. However, due to the low numbers of some respondents on a disaggregated country level, the explanatory power of the country analysis should be considered with caution.²²

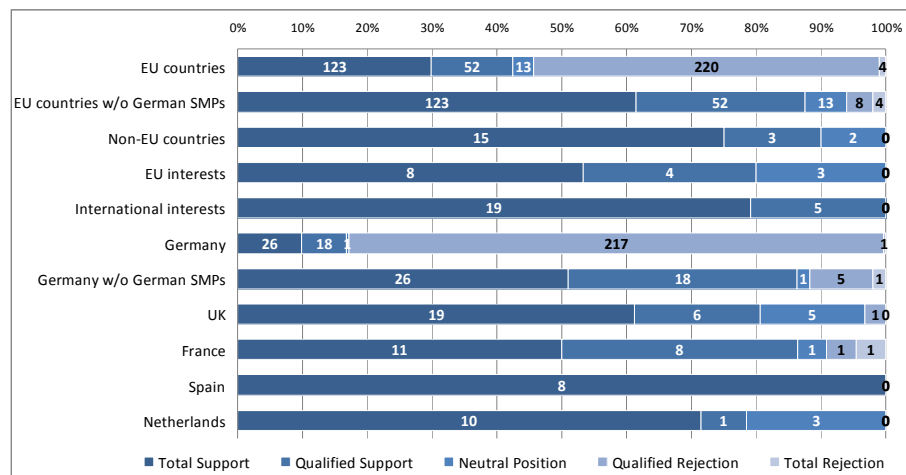


Figure 7: ISA-Adoption: General attitude subdivided by represented interests

In a last step, we analyzed legal origins according to La Porta et al. (1998) with respect to their attitude towards mandatory adoption of ISAs within the EU. Our results, which are depicted in figure 8, show that the highest amount of support stems from English-origin countries (86% support and 2% rejection). French-origin countries show 85% support and 4% rejection while Scandinavian-origin countries show 94% support

21 One has to keep in mind that the basic population of the two groups differs substantially. Comparative analysis therefore has to be interpreted very cautiously. This counts as well for the analysis of the topic to follow.

22 The same counts for the following topics.

(however, thereof 71% qualified agreement) and 6% rejection. German-origin countries exhibit 23% support and 76% rejection; counting the identical statements of German small practitioners as one response again levels the response pattern and shows 88% of respondents to be in favor and 8% of respondents to be against adoption of ISAs.

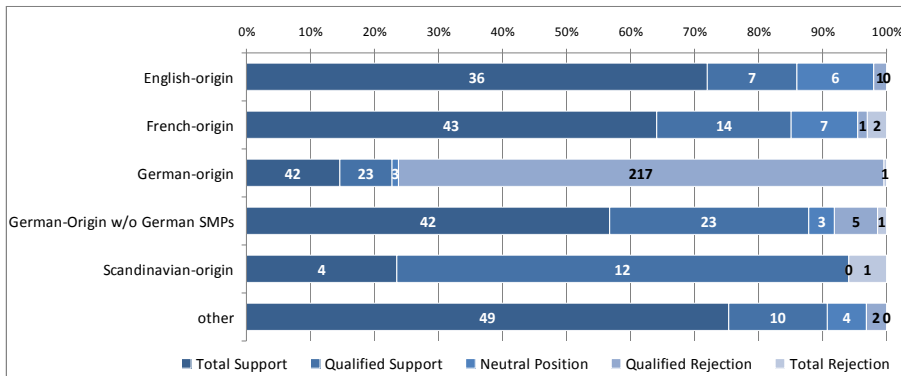


Figure 8: ISA-Adoption: General attitude subdivided by legal origin

2. Appointment of the auditor by a third party

a. Existing regulations at EU-level

According to Article 37 of Directive 2006/43/EC the auditor has to be appointed by the general meeting of shareholders or members of the audited entity (see also Recital 22 of Directive 2006/43/EC). However, Member States are permitted to allow alternative systems of appointing the statutory auditor under the condition of assuring independence of the auditor from the executive members of the administrative body or from the managerial body of the audited entity.

In addition to these requirements, the audit committee of public-interest entities should recommend an auditor choice to the administrative or supervisory body which then makes a proposal to the shareholders or members of the entity (see Article 41 (3) of Directive 2006/43/EC).

b. Proposed actions of the EC's Green Paper

The question, if auditors should be appointed by a third party, possibly a regulator, is related to issues of governance and independence of audit firms. The Commission argues that the current mechanism of appointment and remuneration of the auditors by the audited firm may undermine independence of auditors and poses an independency threat. The concept of appointing and remunerating the auditor by a third, independent party is proposed as a concept possibly mitigating this independency threat; the need is especially emphasized for the audit of large companies and/or systemic financial institutions. Further the Commission states that while this measure could increase societal benefits

through more independent appointment of auditors, it also would possibly lead to increasing bureaucracy costs. Our analysis covers questions 16, “Is there a conflict in the auditor being appointed and remunerated by the audited entity? What alternative arrangements would you recommend in this context?” and 17, “Would the appointment by a third party be justified in certain cases?” of the Green Paper.

c. Results of the consultation process

As shown in figure 9, 26 of all respondents (5%) are in total support and 224 of all respondents (40%) are in qualified support of an appointment by a third party. While 17 respondents (3%) keep a neutral position, 52 of the respondents (9%) show a qualified rejection and 236 of the respondents (43%) totally reject the proposals. Again, when counting the comment letters of German small practitioners as a single statement, the picture changes: Total and qualified support for the proposals only amount to 17%, while 78% of all respondents either show qualified or total rejection for an appointment of the auditor by a third party.²³ Excluding all responses by the audit profession from our sample leads to a rejection rate of 87% and a support rate of 8%.

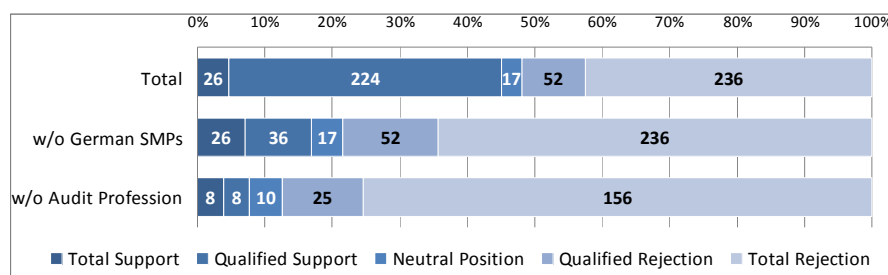


Figure 9: Appointment by a third party: General attitude of respondents

Within the total sample, one main argument rejecting the appointment by a third party is, amongst others, the high administrative efforts of the proposed actions (45% – excluding auditors 8%). Another argument often stated is the currently limited independence threat: due to the Statutory Audit Directive, the IFAC Code of Ethics or national jurisdictions, many respondents do not acknowledge an existing conflict between appointment and remuneration in the current system (33% – excluding auditors 54%). Another popular argument is the opinion that the appropriate audit firms are selected in the current selection process already,

²³ We assigned the response by the German small practitioners with regard to the question of the appointment by a third party a “qualified support”. While the German small practitioners generally are in favor of the proposed changes, they do not consider appointment by a third party with regard to SMEs to be justifiable.

all show high rejection rates; in contrast, 51% of respondents from EU countries are in favor of appointment by a third party, while 47% are against it. Treating identical German small practitioners as one statement again levels this picture; however, the rejection rate of then 78%, while representing the majority of responses within the EU-respondents, still is lower compared to the groups mentioned beforehand. Analyzing the countries with the most responses to that particular question yields the following results: The clearest attitude towards the proposals are shown by the UK with a rejection rate of 95%, followed by the Netherlands with 93%, Spain with 85% and France with 76%. German respondents do not necessarily seem to share this view, as 80% show support and only 18% show rejection towards the proposals; even when counting the German small practitioners as one single response, the pattern does not completely change: While 58% of respondents are now opposed to the proposals, 35% are still supporting the appointment of auditors by a third party.

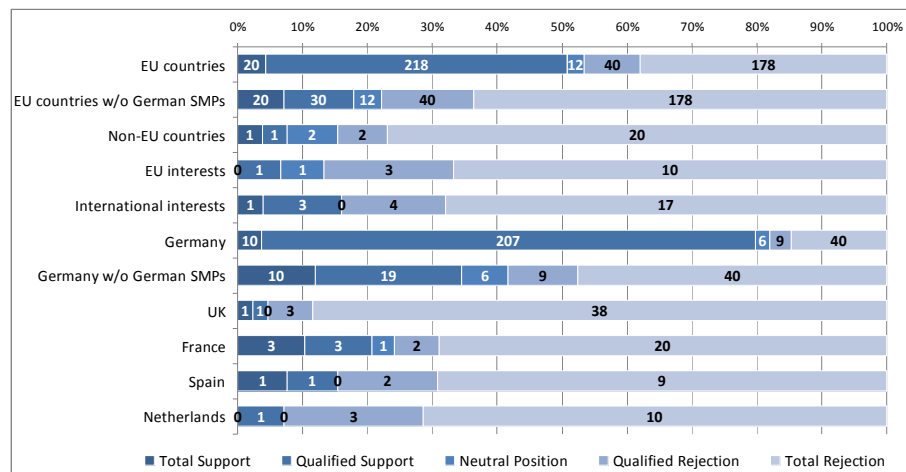


Figure 11: Appointment by a third party: General attitude subdivided by represented interests

Subdividing the respondents in legal origins according to La Porta et al. (1998), we especially find respondents from English-origin countries to be strongly opposed to the proposals in the Green Paper (94% rejection rate). While the majority of respondents of Scandinavian-origin countries (86% rejection rate) as well as French-origin countries (79% rejection rate) also seem to reject the proposals, 73% of respondents of German-origin countries show agreement and 25% show rejection. Even when treating the German small practitioners as one single statement, the general attitude seems comparatively balanced with 29% support and 64% rejection.

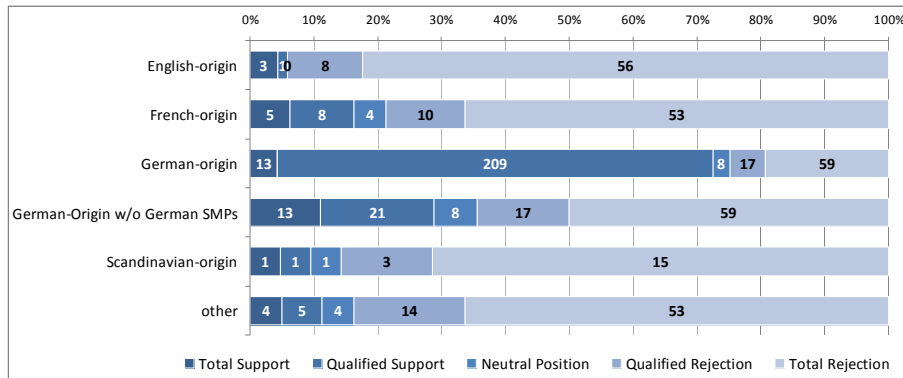


Figure 12: Appointment by a third party: General attitude subdivided by legal origin

3. Limited audit tenure

a. Existing regulations at EU-level

According to Article 42 of Directive 2006/43/EC, member states are obligated to ensure an audit partner rotation (internal rotation), whereas external rotation is permitted to be used by individual EU member states according to recital 26 of the Directive. Concerning internal rotation, the key audit partner of an audit engagement has to rotate every seven years with a subsequent cooling-off period of two years. The key audit partner is also not allowed to switch to a key management position in the firm he was previously engaged in as an audit partner for a period of two years. However, these rules are only strictly binding for public-interest companies; member states retain the possibility to exempt non-listed public-interest companies from internal rotation of auditors (see Article 39 of Directive 2006/43/EC).

While internal rotation is binding for listed public-interest entities, external rotation of audit firms is only mentioned as an alternative measure on which every member state has to decide on its own (see Recital 26 of Directive 2006/43/EC).

b. Proposed actions of the EC's Green Paper

The Commission considers the fact that companies are allowed to maintain their audit firm for decades as a potential threat to independence of auditors, even with an internal key audit partner rotation in place. While the Commission is aware of a potential loss of knowledge that comes with the proposals, external rotation of audit firms is seen as a potential measure to increase auditor independence, objectivity and dynamism in the audit market.

The question if audit tenure should be limited is strongly connected to the question if there should be a mandatory rotation of audit firms in place. In fact, both questions were raised in the Green Paper; however,

with a different perspective. While the question if limited audit tenure should be enacted (question 18) is related to governance and independence of auditors, mandatory rotation of audit firms (question 29, see chapter IV.7.) is related to the existing concentration and market structure of audit firms. We first analyzed question 18, “Should the continuous engagement of audit firms be limited in time? If so, what should be the maximum length of an audit firm engagement?”.

c. Results of the consultation process

Figure 13 shows the overall positions of respondents. 34 of all respondents (6%) are in total support and 222 of all respondents (40%) are in qualified support of limiting audit tenure. 36 respondents (7%) remain a neutral position. 35 of the respondents (6%) show qualified rejection and 222 respondents (40%) show total rejection towards the proposals. When counting the German small practitioners’ identical statements as one response, the general opinion changes again: Total and qualified support add up to 17% while total and qualified rejection of the proposals amount to 73% of all respondents.²⁶ A similar pattern with a rejection rate of 73% and a support rate of 14% is observable when excluding all responses by the audit profession from our sample.

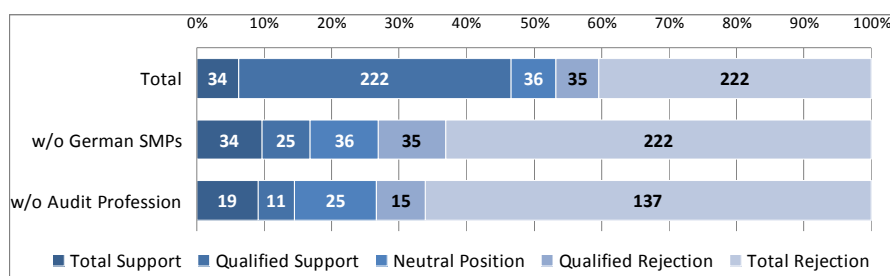


Figure 13: Limited audit tenure: General attitude of respondents

Within the total sample, main arguments mentioned against a mandatory limitation of audit tenure are a decreasing audit quality (33% of all respondents – excluding auditors 50%) and increasing costs (20% – excluding auditors 34%). Furthermore, negative effects on competition, i.e. a possible further increase in market concentration, are mentioned by 11% of all respondents. The threat of possible inefficiencies is named by 7% of all respondents. 5% of the respondents also consider a possible limitation of competent auditors to be problematic and posing as a bur-

²⁶ We assigned the response by the German small practitioners with regard to the question of limited audit tenure a “qualified support”. While the German small practitioners consider the limitation of audit tenure to be beneficial for capital market oriented companies, they are (at least at the moment) not in favor of applying the proposed changes to SMEs as well.

den for complex and/or multinational companies.²⁷ Arguments in favor of limiting audit tenure are an increase in auditors' independence (45% of all respondents – excluding auditors 13%), positive effects on competition through a decrease of concentration in the audit market (40% – excluding auditors 4%), increasing audit quality (40% – excluding auditors 5%) and the fact that the proposed actions present a fresh approach to conduct audits (38% – excluding auditors 1%).²⁸

Analyzing the different groups of respondents reveals a rather opposing attitude towards the proposals: While academics (23% support, 22% neutral position, 55% rejection) and public authorities (21% support, 28% neutral position, 51% rejection) show rather moderate rejection of mandatory limiting audit tenure, the refusal of audit committees (100% rejection), preparers (7% support, 7% neutral position, 86% rejection) and users (25% support, 5% neutral position, 70% rejection) is to a stronger degree. The audit profession consists of 66% of supporters and 31% of respondents which are disapproving the proposed actions; however, counting the German small practitioners as a single statement leads to a support rate of 20% and rejection rate of 72%. The group of other respondents shows a balanced attitude towards the proposals (45% support, 10% neutral position, 45% rejection).

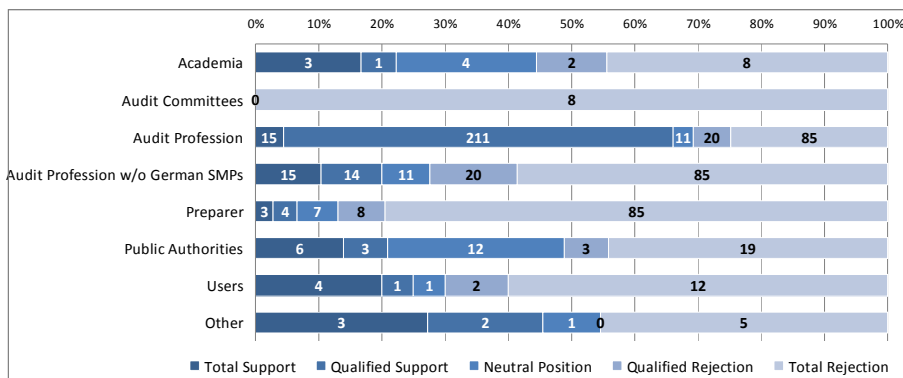


Figure 14: Limited audit tenure: General attitude subdivided by respondent group

Subdividing the respondents by represented interests, we find respondents from Non-EU countries to be strongly opposed to the proposal of mandatory limiting audit tenure (4% support and 89% rejection) while respondents from EU countries with 53% support and 42% rejection

27 When counting the German small practitioners as a single statement, the percentages change to 51%, 32%, 16%, 11% and 9%, respectively.

28 These four arguments in favor of mandatory limitation of audit tenure were all included in the identical statement of German small practitioners. Counting these statements as a single one, the percentages within the total sample change to 14%, 7%, 7% and 3%, respectively.

seem to present a rather balanced view. However, treating the German small practitioners as one single statement changes the support rate to 17% and the rejection rate to 73%. Also, international special interest groups' attitudes towards the proposed actions are negative to a higher extent (4% support and 81% rejection) than the attitudes of EU special interest groups (13% support and 63% rejection). On a national level, respondents from the UK show the highest rejection rate (7% support and 88% rejection), followed by Spain (13% support and 87% rejection), the Netherlands (0% support and 80% rejection) and France (21% support and 63% rejection). German respondents accounted for 82% support and 18% rejection towards the proposals; treating the German small practitioners as one single response changes the picture again and leads to 31% support and 68% rejection.

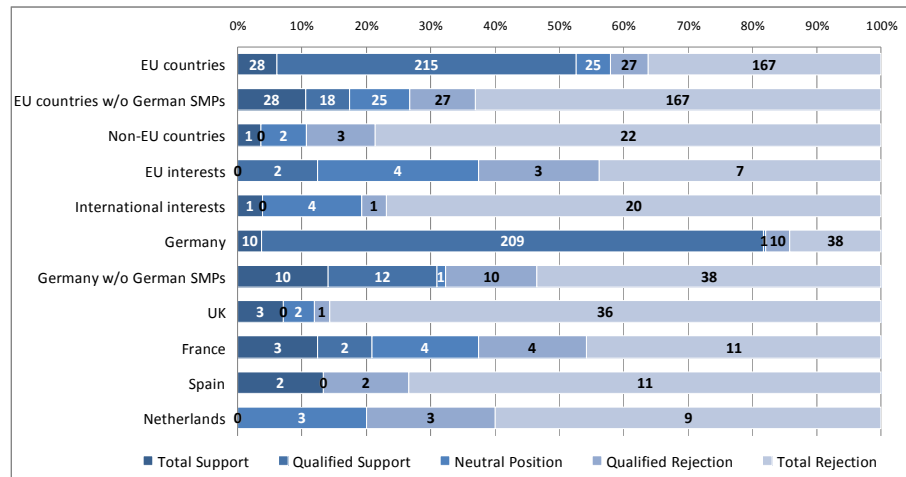


Figure 15: Limited audit tenure: General attitude subdivided by represented interests

Analyzing the responses with respect to legal origins, an already familiar picture is observable. While respondents from Scandinavian-origin (13% support and 88% rejection) and English-origin countries (9% support and 84% rejection) have the strongest attitude against the proposed actions, the French-origin countries exhibit a slightly less univocal view with 11% support and 70% rejection. Respondents from German-origin countries again differ in their response pattern and show 74% support and 25% rejection of mandatory limiting audit tenure. Counting the German small practitioners again as one single respondent results in a support rate of 25% and a rejection rate of 72%.

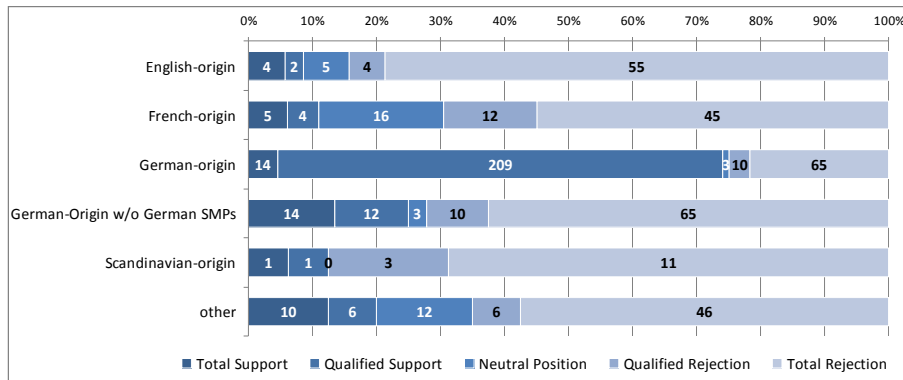


Figure 16: Limited audit tenure: General attitude subdivided by legal origin

4. Prohibition of Non-audit-services

a. Existing regulations at EU-level

Article 22 of Directive 2006/43/EC deals with independence and objectivity issues of the auditors. Member states have to ensure that “a statutory auditor or an audit firm shall not carry out a statutory audit if there is any direct or indirect financial, business, employment or other relationship – including the provision of additional non-audit services – between the statutory auditor, audit firm or network and the audited entity from which an objective, reasonable and informed third party would conclude that the statutory auditor’s or audit firm’s independence is compromised.” Simultaneous provision of audit and non-audit services therefore is not categorically prohibited as long as the independence of the auditor or the audit firm is preserved. Recital 11 of Directive 2006/43/EC also deals with a possible independency threat arising from additional provision of non-audit services; prohibitions, restrictions, other policies or procedures and disclosure are mentioned as possible safeguards to mitigate the independency threat on a member state level.

Mandatory disclosure of audit and non-audit fees may also work as an instrument to foster transparency regarding the relationship between auditor and audited entity (see Recital 33 of Directive 2006/43/EC). Also, existing regulation with regard to audit fees requires member states to ensure that audit fees are not influenced or determined by the provision of additional services to the audited entity and are not based on any form of contingency (Article 25 of Directive 2006/43/EC).

With respect to (listed) public-interest companies, it is the audit committee’s task, inter alia, to review and monitor independence of the auditor, in particular regarding the provision of non-audit services (Article 41 (2) d of Directive 2006/43/EC).

b. Proposed actions of the EC's Green Paper

The Commission argues that the existing regulations on EU-level are implemented in very divergent manners across member states, ranging from total bans of non-audit services to far less restrictive rules. The Commission further argues, that due to the necessity of the auditor being independent, any business interest in the audited firm – i.e. provision of non-audit services, inter alia – seems to be counterproductive to audit quality. Therefore, the Commission proposes to reinforce prohibition of non-audit services, even to the extent of possibly creating “pure audit firms”. Subject of our analysis were the responses to question 19 of the Green Paper, “Should the provision of non-audit services by audit firms be prohibited? Should any such prohibition be applied to all firms and their clients or should this be the case for certain types of institutions, such as systemic financial institutions?”.

c. Results of the consultation process

The overall positions of the respondents are depicted in figure 17. While 27 of all respondents (5%) fully support the prohibition of non-audit services, 234 of all respondents (42%) show qualified support on this view. 47 respondents (8%) remain a neutral position, 48 respondents (9%) qualifiedly reject and 203 respondents (36%) totally reject the proposals. However, treating the German small practitioners as a single response again changes the picture: Total and qualified support adds up to 18% while total and qualified rejection amount to 69%.²⁹ Excluding all responses by the audit profession from our sample leads to a rejection rate of 70% and a support rate of 15%.

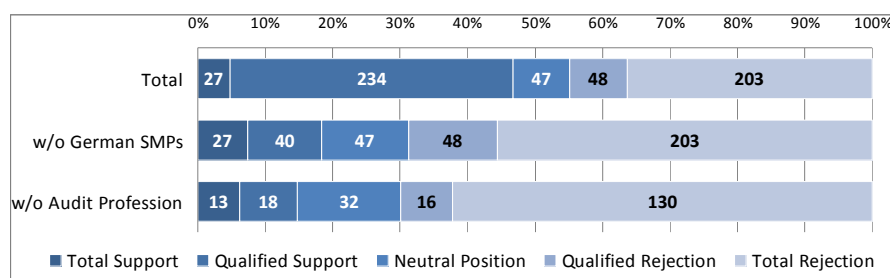


Figure 17: Prohibition of non-audit services: General attitude of respondents

29 We assigned the response by the German small practitioners with regard to the question of the prohibition of non-audit services a “qualified support”. While the German small practitioners considered the prohibition of simultaneously providing audit and non-audit services to be beneficial for capital market oriented companies and systemic financial institutions, they are not supporting the idea of applying the proposed changes to companies which are not capital market oriented.

Within the total sample, main arguments against the prohibition of non-audit services mostly are associated with assumed positive effects of non-audit services. 23% of all respondents (excluding auditors 33%) consider knowledge spillovers stemming from simultaneously providing audit and non-audit services. The view that the existing guidance and other instructions regarding audit and non-audit services are sufficient is shared by also 23% of all respondents (excluding auditors 32%). Further arguments are an increasing quality (17% of all respondents – excluding auditors 25%) and an increasing efficiency (12% of all respondents – excluding auditors 20%) of the audit. Also mentioned is the fact that the variety of work to be done in audit and non-audit services simplifies recruitment and keeping high quality professionals in the audit firm (8% of all respondents). 3% of the respondents further state that there is no empirical evidence of negative effects on independency.³⁰ Most common arguments in favor of the prohibition of non-audit services are the assumed negative effects of non-audit services, e.g. a decrease of the auditors' independence in fact (40% of all respondents – excluding auditors 8%), a decrease of the auditors' independence in appearance (36% – excluding auditors 0%) and a decrease in audit quality (36% – excluding auditors 0%). Potentially arising conflicts of interest are mentioned by 3% of the respondents while 2% of respondents are concerned about the risk of self-auditing.³¹ Another interesting issue mentioned by respondents is, if the proposed actions by the Commission should be restricted to any particular areas. 40% of all respondents (excluding auditors 3%) suggest limiting the prohibition of non-audit services to capital market oriented companies, 38% of all respondents (excluding auditors 0%) would prefer limiting it to financial institutions of systemic importance and 3% of all respondents (excluding auditors 4%) to public-interest companies. An analysis of the responses counting the German small practitioners as one statement shows a different picture: Due to the fact that the German small practitioners are in favor of limiting the restrictions to financial institutions of systemic importance and capital market oriented companies, the percentages now amount to only 8%, 5% and 5%, respectively.

Analyzing the different groups yields the following results: While the views of the academic group is rather balanced (42% support, 21% neutral position, 37% rejection) the group of other respondents seems to be

30 Counting the German small practitioners as a single statement, the percentages change to 35%, 35%, 26%, 19%, 13% and 5% respectively.

31 The picture changes clearly when counting the German small practitioners as a single response. The percentages then change to 8%, 2%, 2%, 4% and 3%, respectively.

slightly in favor of prohibiting non-audit services (58% support, 17% neutral position, 25% rejection). However, audit committees (25% neutral position and 75% rejection), preparers (3% support, 9% neutral position, 88% rejection), public authorities (15% support, 31% neutral position, 54% rejection) and users (33% support, 5% neutral position, 62% rejection) are opposed to the proposals. Regarding the audit profession, 66% show support, 4% remain a neutral position and 30% show rejection. However, counting the German small practitioners again as a single statement yields a support rate of 23%, a neutral position of 10% and a rejection rate of 67%.

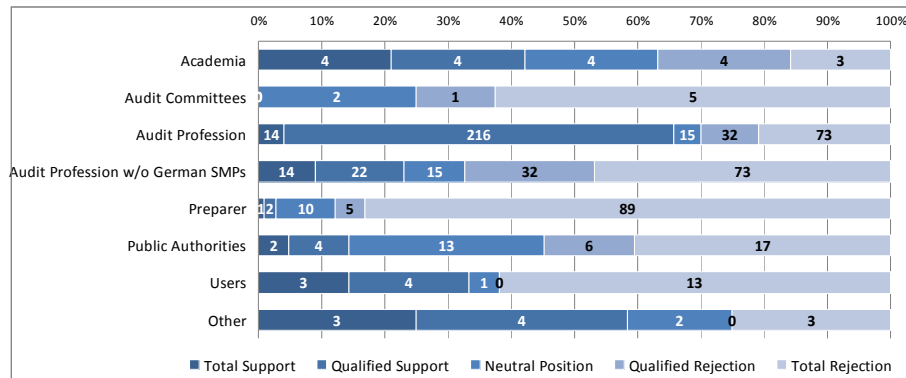


Figure 18: Prohibition of non-audit services: General attitude subdivided by respondents groups

Subdividing respondents by represented interests, we find respondents from EU countries to be overall slightly in favor of prohibition of non-audit services (53% support and 40% rejection). Treating the German small practitioners as a single statement, the attitude changes towards only 20% support and 68% rejection. However, respondents from Non-EU countries still seem to be more strongly opposed to the proposals, with 4% support and 79% rejection. Respondents representing EU interests (6% support and 75% rejection) and international interests (11% support and 78% rejection) both seem to be opposed to the proposed actions as well. Analyzing respondents representing country specific interests, we find respondents from the UK to be most strongly opposed to the prohibition of non-audit services (5% support and 84% rejection), followed by Spain (27% support and 73% rejection). France (30% support and 44% rejection) and the Netherlands (24% support and 47% rejection) overall seem to represent a rather divided view. When analyzing Germany, respondents at first sight seem to be in strong support of the proposed changes with 82% agreement and 17% rejection, but when counting the identical statements by German small practitioners as one single response, the percentages change to 35% of support and 61% of rejection.

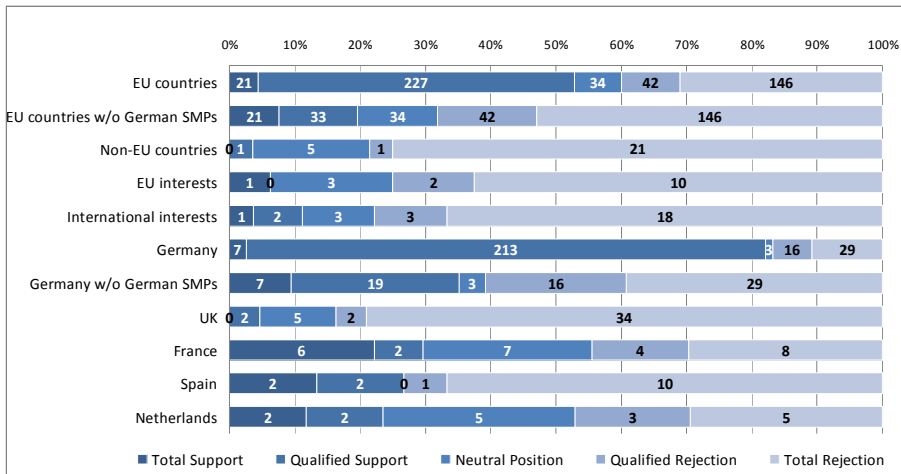


Figure 19: Prohibition of non-audit services: General attitude subdivided by represented interests

Subdividing responses according to legal origins again shows an already familiar response pattern. Respondents from English-origin countries (4% support and 80% rejection) and Scandinavian-origin countries (5% support and 76% rejection) seem to be clearly opposed to the proposals in the Green Paper. Respondents from French-origin countries (24% support and 55% rejection) seem to be more divided, while tending to also reject the proposals. Whereby respondents from German-origin countries seem to be in favor of the prohibition of non-audit services (74% support and 24% rejection), the picture again changes when counting the German small practitioners as one single respondent: The support rate diminishes to 28% while the rejection rate increases to 66%.

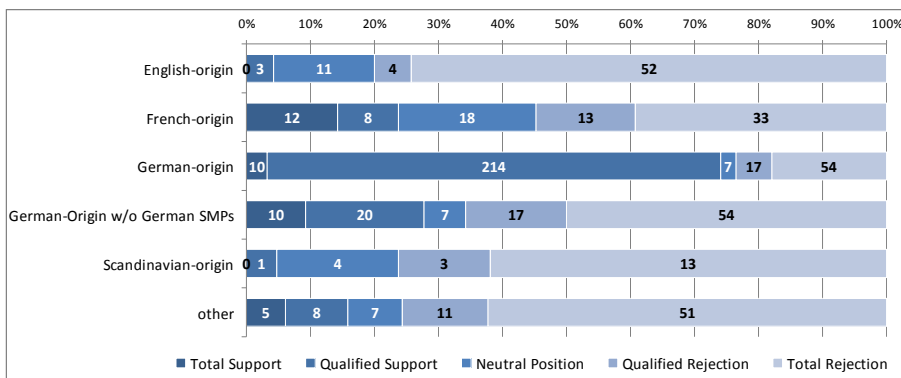


Figure 20: Prohibition of non-audit services: General attitude subdivided by legal origin

5. Systemic risk of the current configuration of the audit market

a. Existing regulations at EU-level

Concerning a possibly existing systemic risk of the current configuration of the audit market, there are no specific EU regulations with regard to the auditors.

b. Proposed actions of the EC's Green Paper

The Commission considers the current market configuration of audit firms to pose a systemic risk. The Big Four audit networks Deloitte & Touche, Ernst & Young, PricewaterhouseCoopers and KPMG dominate the audit market within the member states of the EU, especially with regard to listed companies.³² While the Commission considers this situation to be difficult for mid tier audit firms to break into the existing oligopoly, the Commission is also concerned about ramifications of potentially existing systemic risk in the audit market; i.e. the collapse of one of the Big Four networks is expected to unfold severe negative market reactions like damaging investor trust and confidence and may even impact the stability of the whole financial system. Further, the Commission criticizes the lack of choice when appointing an audit firm, the reputational advantage of Big Four networks that seems to increase the lack of dynamism in the market and the “Only Big Four” contractual clauses existing e.g. in financial covenants. Subject to our analysis was question 27 in the Green Paper, “Could the current configuration of the audit market present a systemic risk?”.

c. Results of the consultation process

The aggregated evaluations about a possibly existing systemic risk in the audit market are depicted in figure 21. While 281 of all respondents (60%) completely support the thesis of systemic risk existing in the audit market, 36 of all respondents (8%) show a qualified support. 26 of the respondents (6%) remain a neutral position on this topic. 109 respondents (23%) are fully negating the existence of systemic risk in the audit market while 19 respondents (4%) are negating the existence with some restrictions. Treating the German small practitioners as a single response shows a more balanced picture: Full and qualified support for the existence of systemic risk then add up to 41% while full and qualified rejection of the thesis amount to 49%.³³ Excluding all responses by the audit

32 According to a study by London Economics (2006) with data up to the year 2004, market shares of the Big Four audit firms for listed companies exceed 90% in the majority of member states.

33 We assigned the response by the German small practitioners with regard to the question of systemic risk a “total support”.

profession from our sample leads to an overall support rate of 33% and an overall rejection rate of 54%.

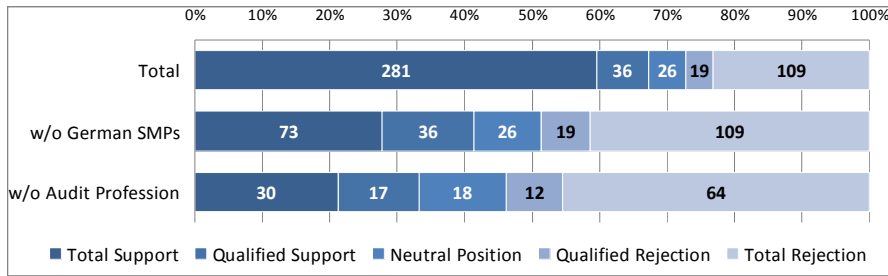


Figure 21: Systemic risk: General attitude of respondents

Within the total sample, one main argument against the existence of systemic risk in the audit market is the claim that audit firms are not interconnected, so that there cannot be any systemic risk comparable to the risks associated with financial institutions (11% of all respondents – excluding auditors 15%). Another common statement included that market disruptions may occur e.g. in case of a downfall of one of the Big Four audit networks, but there would be no systemic risk involved which could lead to a serious crisis of some kind (11% – excluding auditors 16%). Another argument is the objection that the demise of Arthur Andersen in 2002 did not lead to systemic consequences, even though Arthur Andersen was part of the Big Five oligopoly at the time (9% – excluding auditors 17%). Further arguments are the possibility of transferring human capital across firms should a firm cease to exist (8% – excluding auditors 11%) and the fact that the existing concentration was driven by the market (5% – excluding auditors 8%).³⁴ Most common argument in favor of the view that systemic risk does exist in the audit market is a high level of market concentration and, accordingly, lack of competition in the market (64% of all respondents – excluding auditors 31%). Further arguments are the lack of sufficient audit capacities in case of a collapse of one of the Big Four networks (50% – excluding auditors 11%) and the lack of independency (44% – excluding auditors 0%).³⁵

When analyzing the different groups of respondents, a rather divided picture ensues. The following groups seem to be in support of the thesis that systemic risk in the audit market does exist: Users (67% agreement,

34 Counting the German small practitioners as a single statement, the percentages change to 20%, 19%, 16%, 14% and 9%, respectively.

35 The picture changes again when counting the German small practitioners as one response. The percentages then amount to 36%, 11% and 2%, respectively.

20% neutral position, 13% rejection), the group of other respondents (50% agreement, 25% neutral position, 25% rejection) and the audit profession (82% agreement, 2% neutral position, 16% rejection); when treating the German small practitioners as one single statement, the audit profession shows 51% agreement, 7% neutral position and 43% rejection. Rather opposing to the view that systemic risk in the audit market exists were audit committees (100% rejection), preparers (28% agreement, 11% neutral position, 61% rejection), public authorities (27% agreement, 15% neutral position, 58% rejection) and academia (40% agreement, 7% neutral position, 53% rejection).

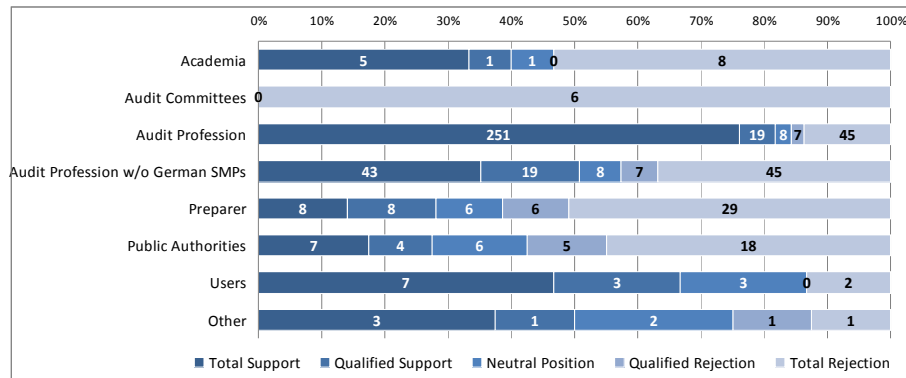


Figure 22: Systemic risk: General attitude subdivided by respondents group

When analyzing respondents with respect to their represented interests, 71% of respondents from EU countries show support for the statement that the current configuration of the audit market could pose a systemic risk, while 24% of respondents are opposed to that statement. Treating the identical statements by German small practitioners as one response leads to a quite divided picture with a support rate of 41% and a rejection rate of 49%. Respondents from countries outside of the EU show support in 36% of the responses and rejection in 43%; however, with only 14 responses regarding this question respondents from Non-EU countries seem to be rather reluctant on this issue. Respondents representing EU interests show 46% of support and also 46% of rejection while respondents representing international interests show 41% of support and 55% of rejection. Analyzing responses by respondents representing interests of countries, we find that respondents from Germany show the highest support for the systemic-risk-thesis (91% support and 9% rejection). However, counting identical statements by German small practitioners as one response yields a quite divided picture with 48% support and 50% rejection. Other relevant countries are the UK (46% support and 43% rejection), France (54% support and 33% rejection), Spain (30% support and 70% rejection) and the Netherlands (38% support and 62% rejection).

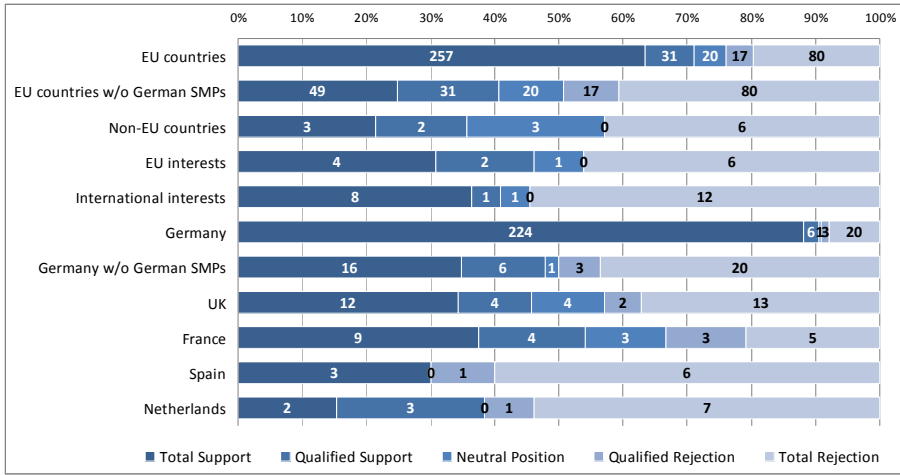


Figure 23: Systemic risk: General attitude subdivided by represented interests

In a next step, we again analyzed responses according to the legal origins of respondents. Respondents from German-origin countries seem to be clearly supporting the systemic-risk-thesis with 86% support and 14% rejection. However, treating the German small practitioners as a single respondent changes the picture to a quite divided general attitude (41% support and 56% rejection; a divided point of view also is observable for respondents from English-origin countries (47% support and 41% rejection) and respondents from French-origin countries (40% support and 48% rejection). Respondents from Scandinavian-origin countries show 13% support and 50% rejection, having a comparatively large number of respondents remaining a neutral position (38%).

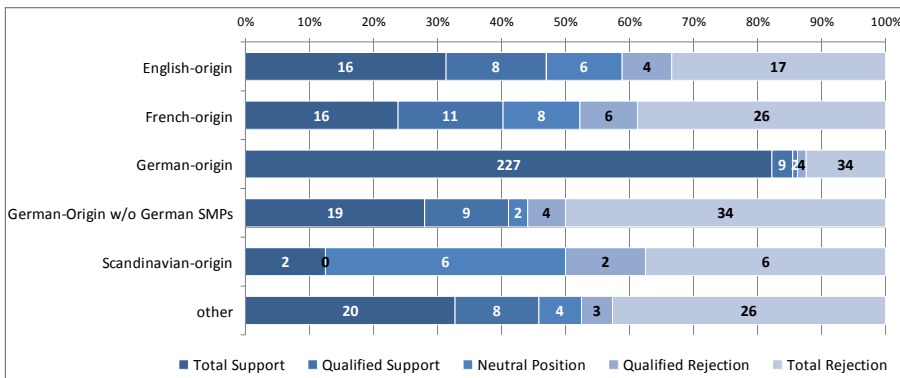


Figure 24: Systemic risk: General attitude subdivided by legal origin

6. Joint audits

a. Existing regulations at EU-level

Regarding joint audits or audit consortia, currently no existing regulations at EU-level are in place.

b. Proposed actions of the EC's Green Paper

“Joint audits” describe audits simultaneously carried out by two or more different audit firms. Current legal situation in France requires listed companies to appoint (at least) two audit firms.³⁶ The Commission’s proposal would add the requirement that one of the two audit firms should be non-systemic, i.e. none of the Big Four audit networks. Rationale of this proposal is to support the growth of SMPs, the change of the current market concentration and possible mitigation of systemic risk in the audit market. The Commission further states that the implementation of this proposal would require clear pre-defined rules with respect to responsibility of auditors and disclosure mechanisms for differences in opinion. Subject of our analysis was question 28, “Do you believe that the mandatory formation of an audit firm consortium with the inclusion of at least one smaller, non systemic audit firm could act as a catalyst for dynamizing the audit market and allowing small and medium-sized firms to participate more substantially in the segment of larger audits?”.

c. Results of the consultation process

Figure 25 shows the aggregated positions of all respondents. 52 of all respondents (10%) are in total support and 246 respondents (46%) are in qualified support of mandatory joint audits. 35 respondents (7%) remain a neutral position on this issue. While 23 respondents (4%) show a qualified rejection, 176 respondents (33%) totally reject the proposal. The mood changes when treating the German small practitioners as one single statement: Total and qualified support then amount to 28% while total and qualified rejection add up to 61%.³⁷ Excluding all responses by the audit profession from our sample leads to a support rate of 12% and a rejection rate of 76%.

36 There are no regulations regarding the size of the auditors within the audit consortium, so it is possible to appoint also two Big Four audit firms.

37 We assigned the response by the German small practitioners with regard to the question of joint audits a “qualified support” since the German small practitioners are only in favor of implementing mandatory joint audits for public interest companies.

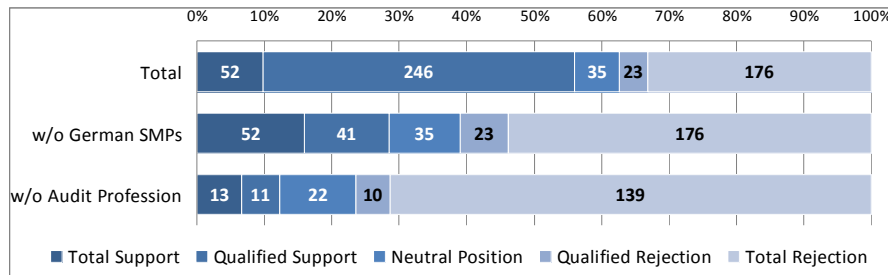


Figure 25: Joint Audits: General attitude of respondents

Within the total sample, the main argument opposing a mandatory implementation of joint audits are inefficiencies as a result of the audit approach (31% of all respondents – excluding auditors 65%). Further arguments are a possibly decreasing audit quality (17% – excluding auditors 35%), unclear accountability and responsibility issues (10% – excluding auditors 17%) and no demand for joint audits (8% – excluding auditors 15%). Another common statement is that the decision on which (and how many) auditors to appoint should be left to the audit committee, the company or the shareholders, respectively (7% – excluding auditors 15%). Other arguments are an expected decrease in competition and accordingly a further increase in market concentration (4% of all respondents), no expectation of a dynamizing effect (4% of all respondents) and the necessity of further (empirical) research to be done on this matter (3% of all respondents).³⁸ Most common argument in favor of mandatory joint audits is an increase in competition and accordingly a reduction of market entry barriers (55% of all respondents – excluding auditors 14%). Further arguments are an expected increase in audit quality (5% of all respondents) and more independent and reliable audits (4% of all respondents). Also mentioned is the possibility of lowering systemic risk through joint audits (2% of all respondents).³⁹ Some respondents recommend the restriction of mandatory joint audits to certain companies: 40% of all respondents (but only 3% when counting the German small practitioners as a single response and 1% when excluding all auditors) are of the opinion that joint audits are not considered appropriate for non-capital-market oriented companies and should therefore only be mandatory for capital market oriented companies.

Analyzing the different groups of respondents reveals a predominantly rejecting attitude towards mandatory joint audits; audit committees

38 Counting the German small practitioners as one single statement, the percentages change to 51%, 28%, 16%, 14%, 12%, 6%, 6% and 6%, respectively.

39 Treating the German small practitioners as one single statement, the percentages change to 27%, 7%, 6% and 3%, respectively.

(100% rejection), preparers (9% support, 5% neutral position, 86% rejection), public authorities (12% support, 15% neutral position, 73% rejection), users (17% support, 18% neutral position, 65% rejection) and academics (13% support, 31% neutral position, 56% rejection) do not seem to be in favor of the proposal. While the group of 'other' respondents tends to be slightly in favor of joint audits (45% support, 33% neutral position, 22% rejection), the attitude of the audit profession is much more obvious: 81% show support, 4% remain a neutral position and 15% show rejection. However, treating the German small practitioners as one single statement, the agreement rate decreases to 52% while 10% remain neutral and 38% reject the proposal.

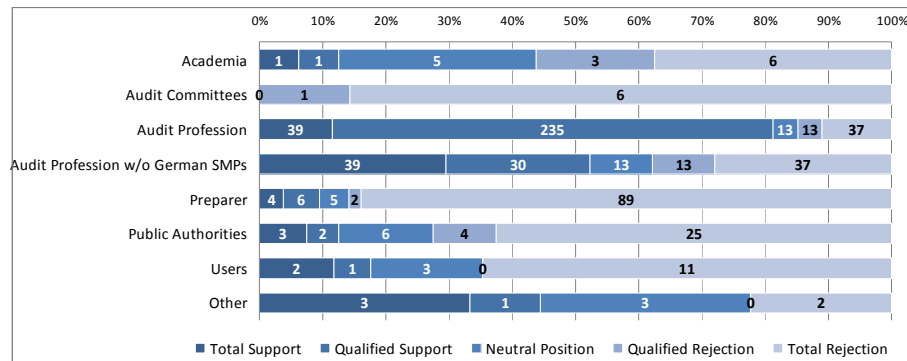


Figure 26: Joint Audits: General attitude subdivided by respondents group

In a next step, we again analyzed responses grouped by represented interests. We find that respondents from EU countries (62% support and 32% rejection) in general seem to be more in favor of mandatory joint audits than those from Non-EU countries (8% support and 84% rejection), even when counting identical statements by German small practitioners as one single response (which leads to 30% support and 58% rejection). Interestingly and contrary to most other issues discussed in the Green Paper, with regard to joint audits respondents representing international interests more often show support (33% support and 63% rejection) than respondents representing EU interests (13% support and 81% rejection); however, a majority of both are opposed to the proposed changes. Analyzing respondents referring to interests of single countries, we found respondents from Germany at first sight to be clearly in favor of joint audits (90% support and 9% rejection); counting German small practitioners as one single respondent, the effect diminishes while still staying mainly in favor of the proposal with 54% support and 39% rejection. Analyzing respondents representing French interests yields a very interesting result. 67% of respondents are in favor of joint audits while 19% are opposed to it and 15% remain a neutral position. The rate of respondents who show total agreement even amounts to 52%, i.e. more than half of all respondents. As mentioned above, joint audits are

currently implemented as a mandatory procedure in France; obviously, most of the respondents representing French interests can draw from positive experience regarding this issue. A different picture can be observed, when analyzing the remaining countries: Respondents from the UK (10% support and 78% rejection), Spain (23% support and 62% rejection) as well as the Netherlands (7% support and 71% rejection) are mainly opposed to mandatory joint audits.

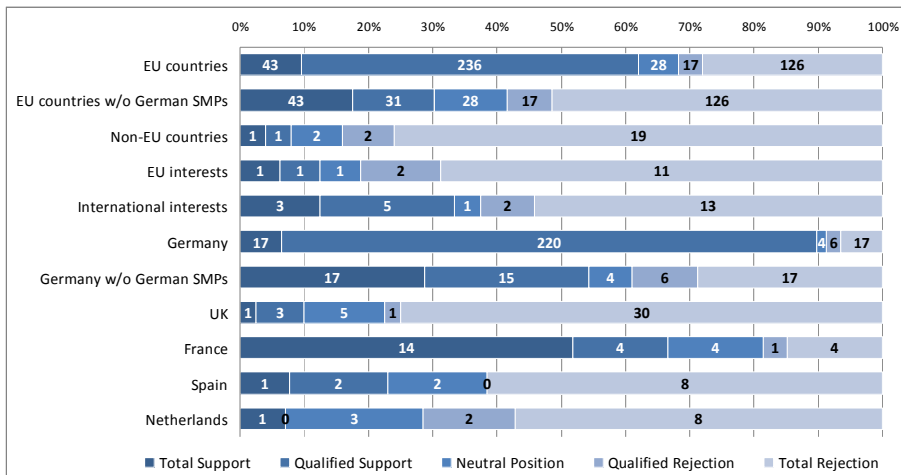


Figure 27: Joint Audits: General attitude subdivided by represented interests

When analyzing responses with respect to the legal origins of respondents, we find that German-origin countries seem to be clearly in favor of joint audits (81% support and 17% rejection). When counting identical statements of German small practitioners as a single response, the picture changes and a slight overall rejection of the proposal is observable (37% support and 56% rejection). English-origin countries (8% support and 81% rejection) as well as Scandinavian-origin countries (17% support and 72% rejection) are clearly opposed to mandatory joint audits. French-origin countries show 39% of support and 42% of rejection; the support rate can mainly be attributed to respondents representing French interests (see country analysis above).

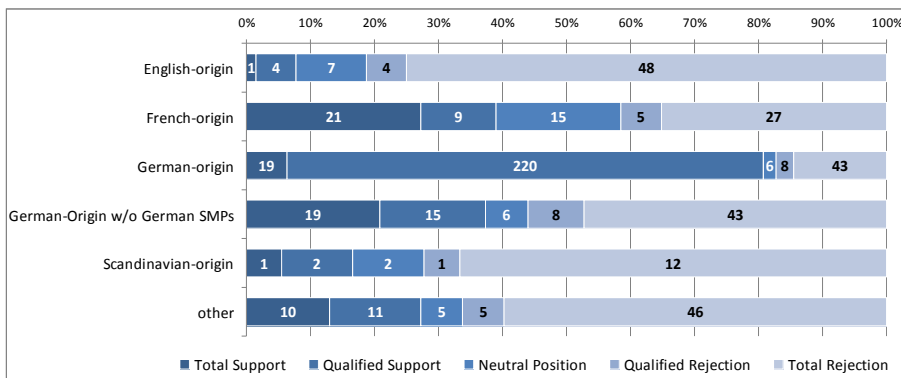


Figure 28: Joint Audits: General attitude subdivided by legal origin

7. Mandatory rotation and tendering after a fixed period

a. Existing regulations at EU-level

The regulations regarding mandatory rotation and limited audit tenure are congruent. Detailed descriptions are provided in chapter IV.3.a.

b. Proposed actions of the EC's Green Paper

The commission considers mandatory external rotation of audit firms after a certain period and the subsequent mandatory re-tendering as a measure to increase dynamism and capacity of the existing audit market. Key selection criteria of the tendering process should be quality and independence. While question 18 of the Green Paper was raised with respect to the governance and independence of auditors (see chapter IV.3.), question 29, “From the viewpoint of enhancing the structure of audit markets, do you agree to mandatory rotation and tendering after a fixed period? What should be the length of such a period?“, is raised with respect to market concentration and market structure.

c. Results of the consultation process

Overall positions of respondents with regard to mandatory rotation are depicted in figure 29.

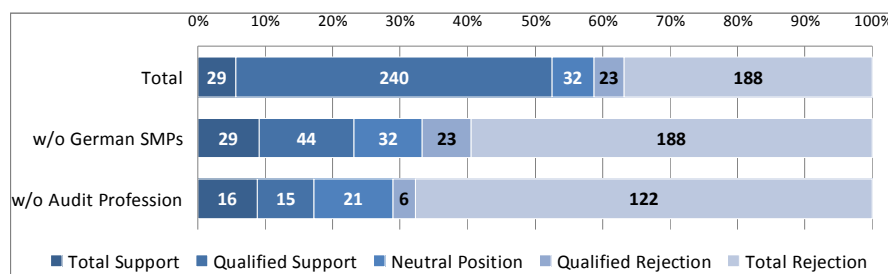


Figure 29: Mandatory rotation: General attitude of respondents

Total support is expressed by 29 of all respondents (6%) and qualified support by 240 of all respondents (47%). 32 respondents keep a neutral position (6%). Qualified rejection is expressed by 23 of the respondents (4%), while 188 respondents (37%) totally reject the proposals. As before, the situation changes when counting the identical German small practitioners as a single statement: Total and qualified support for mandatory rotation then add up to 23%, while total and qualified rejection amount to 67%.⁴⁰ Excluding all responses by the audit profession from our sample leads to a support rate of 17% and a rejection rate of 71%.

⁴⁰ We assigned the response by the German small practitioners with regard to the question of mandatory rotation of audit firms a “qualified support”

Within the total sample, main arguments against mandatory rotation and re-tendering after a fixed period are a decreasing audit quality (25% of all respondents – excluding auditors 38%), increasing costs (18% – excluding auditors 32%) and negative effects on competition among audit firms and accordingly an expected further increase in market concentration (15% – excluding auditors 18%). Further arguments are the administrative burden for multinational companies (4% of all respondents), inefficiencies (3% of all respondents), an intervention in shareholders' and audit committees' rights (3% of all respondents) and a downward pressure on audit fees (2% of all respondents).⁴¹ Most common arguments in favor of the proposals are an increasing independence of auditors and audit firms (45% of all respondents – excluding auditors 9%) and an increasing reporting performance (41% – excluding auditors 1%). Other arguments are positive effects on competition, i.e. an expected decrease in audit market concentration (2% of all respondents) and the fact that the proposed changes would present a fresh approach of conducting an audit (2%).⁴² Several additional recommendations are made by some of the respondents; 43% of respondents (excluding auditors 2%) argue for a limitation of mandatory rotation to capital market oriented companies only, 41 % of respondents (excluding auditors 0%) propose combining external rotation with fixed audit fees and 40% of respondents (excluding auditors 0%) state that the prior auditor should brief its successor. Furthermore, 17% of respondents (excluding auditors 32%) explicitly mention audit partner rotation as sufficient, 9% (excluding auditors 15%) state that the shareholders or respectively the board or the audit committee should decide about which auditor to choose and 4% (excluding auditors also 4%) are in favor of strengthening a continuous review of the auditor choice.⁴³

Most of the different groups of respondents are opposed to mandatory rotation of audit firms, namely academia (23% support, 23% neutral position, 54% rejection), audit committees (100% rejection), preparers (9% support, 7% neutral position, 84% rejection), public authorities (26% support, 24% neutral position, 50% rejection) and users (35% support, 6% neutral position, 59% rejection). In contrast, the group of 'other' re-

since the German small practitioners focus on applying mandatory rotation of audit firms for capital market oriented companies and mention other companies only as an option.

- 41 Counting the German small practitioners as one statement, the percentages change to 41%, 29%, 24%, 7%, 5%, 4% and 3%, respectively.
- 42 Treating the German small practitioners again as a single response, the percentages change to 10%, 4%, 4% and 3%, respectively.
- 43 When counting the German small practitioners as one statement, the percentages change to 7%, 4%, 3%, 28%, 15% and 6%, respectively.

spondents (45% support, 22% neutral position, 33% rejection) and most notably the audit profession (72% support, 3% neutral position, 25% rejection) are in favor of the proposals. However, counting the German small practitioners as one single statement leads to 31% in favor of mandatory rotation, 8% keeping a neutral position and 61% rejecting the proposals.

Even though question 29 is associated with issues of market structure and market concentration, the results are to a large extent similar to the responses to question 18, which raised the question of mandatory limiting audit tenure due to governance and independence issues.

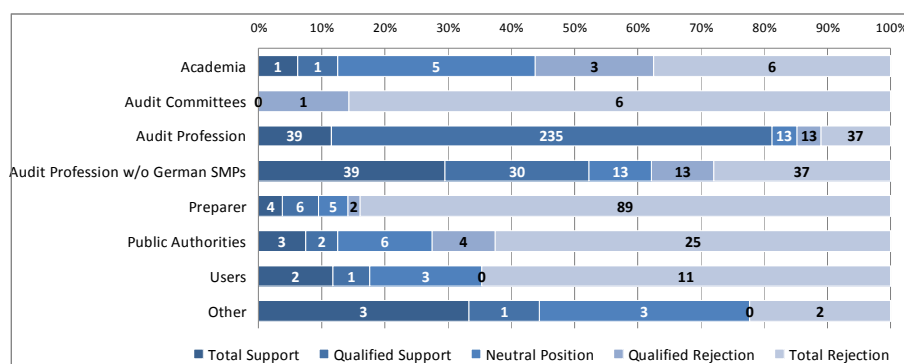


Figure 30: Mandatory rotation: General attitude subdivided by respondents group

Subdividing respondents by represented interests yields the following results: Respondents from EU countries seem to be quite in favor of mandatory rotation of audit firms (58% support and 36% rejection); however, when counting the identical responses by the German small practitioners as a single one, the picture rather changes and only 24% of respondents support the proposed changes while 66% are opposed to them. In comparison, the attitude of respondents from Non-EU countries is even more opposed: While only 5% of them support mandatory rotation of audit firms, 85% are against it. Respondents representing EU interests (14% support and 79% rejection) as well as international interests (9% support and 78% rejection) both tend to reject the proposals. Analyzing respondents representing single country interests, the UK (14% support and 81% rejection), Spain (23% support and 77% rejection) as well as the Netherlands (22% support and 67% rejection) generally seem to be opposed to mandatory rotation of audit firms. Respondents representing French interests seem rather divided, but tending towards a rejecting attitude (33% support, 19% neutral position, 48% rejection). Respondents representing German interests at first sight show some clear support for the proposals (85% support and 14% rejection). However, treating German small practitioners as one single respondent decreases the support rate to 37% and increases the rejection rate to 56%.

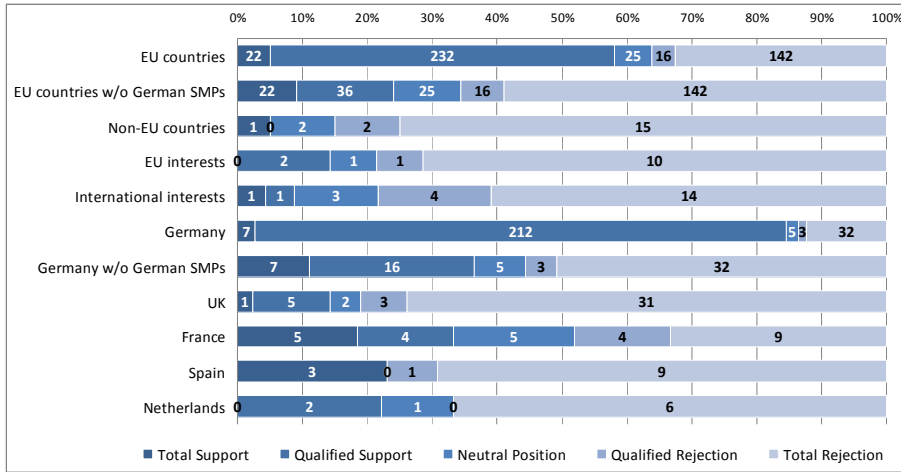


Figure 31: Mandatory rotation: General attitude subdivided by represented interests

When analyzing the responses according to legal origins of respondents, we find German-origin countries to be in support of mandatory rotation of audit firms (78% support and 20% rejection), at least at first sight; when treating the identical responses of German small practitioners as one single statement, the overall attitude switches to rejection (31% support and 64% rejection). Also opposing views to the proposed changes are held by respondents from English-origin countries (14% support and 78% rejection), French-origin countries (26% support and 57% rejection) and Scandinavian-origin countries (17% support and 61% rejection).

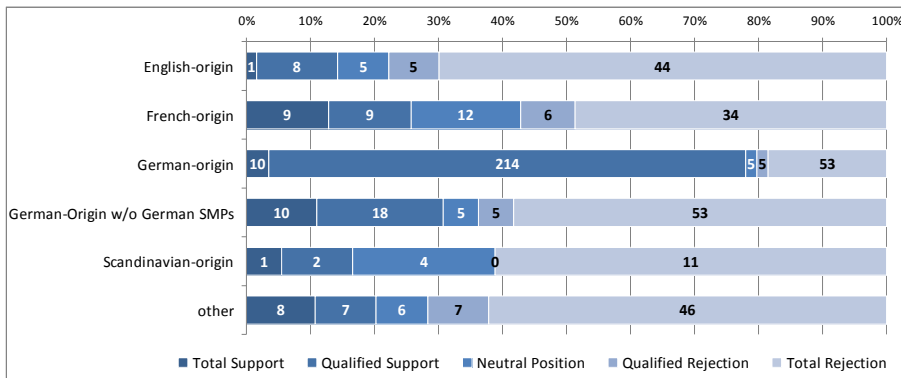


Figure 32: Mandatory rotation: General attitude subdivided by legal origin

8. Assessing the current market situation: The Big Four oligopoly

a. Existing regulations at EU-level

Regarding the regulations at EU-level, there are currently no specific rules with respect to the existing oligopoly of the Big Four audit networks in place.

b. Proposed actions of the EC's Green Paper

One of the key issues in the Green Paper is the existing oligopoly of Big Four audit networks, especially the question which potential dangers, e.g. for the financial system, may arise and which measures could be taken to prevent these possible negative ramifications. The Commission raises the question, if a change in the current market structure, i.e. to some extent a reversal of the consolidation of audit firms during the last two decades, is considered worthwhile. The goal of possibly breaking up the Big Four supremacy could be reached either through boosting small- and mid-tier audit firms or through mandatory downsizing or restructuring large systemic auditors, most likely the Big Four networks. In order to assess the general opinion towards the status quo and possible future legislative actions, we focused on question 30, “How should the “Big Four bias” be addressed?” and question 32, “Is the broader rationale for consolidation of large audit firms over the past two decades (i.e. global offer, synergies) still valid? In which circumstances, could a reversal be envisaged?”.

c. Results of the consultation process

Regarding the assessment of the current audit market situation, we found that 77% of all respondents (excluding auditors – 50%) considered that the current high market concentration was a result of market forces (e.g. global offers, synergies) (71% when treating identical responses by German small practitioners as a single response). 28% of respondents (excluding auditors – 66%) supported the statement that market structure should be left to market forces (62% when treating German small practitioners as a single respondent). Additionally, we found that only 2% of respondents (excluding auditors – 5%) considered that it was necessary to compel the reversal of the process of consolidation that had led to the current market situation (5% when treating German small practitioners as a single respondent).

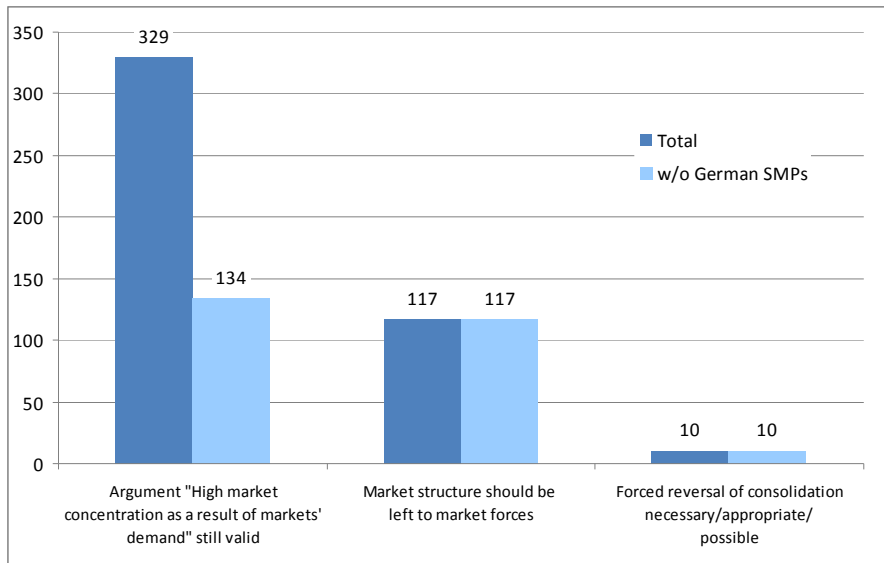


Figure 33: Assessing the current market situation: The Big Four oligopoly

Interestingly, while only 28% of respondents bring up the argument that the market structure should be left to market forces, only a negligibly small number (2%) of respondents indeed is in favor of a forced reversal of the consolidation process. Even the German small practitioners consider the rationale for consolidation of large audit firms still to be valid.

V. Conclusion

The Green Paper “Audit policy: Lessons from the Crisis”, issued by the European Commission on October 13th 2010, aims to assess the role of the auditors in the recent financial crisis and tries to draw possible conclusions in order to enhance and possibly redefine the audit function within the member states of the European Union. In particular, governance and independence of audit firms as well as the current market concentration consisting of the supremacy of the Big Four audit networks are discussed and several proposals towards a change of the status quo are made.

The summary of responses published by the European Commission offers a first overview of the reactions to the Green Paper on audit policy. To supplement this qualitative and relatively short summary, we conducted a qualitative and quantitative in-depth analysis with respect to specific questions. Furthermore, we collected pro and contra arguments of the different respondents regarding the pre-selected topics. We restricted our analysis to the questions regarding ISA-adoption (question 13), appointment of auditors by a third party (questions 16 and 17), limited audit tenure (question 18), prohibition of non-audit services (question 19), systemic risk of the audit market (question 27), mandatory joint audits (question 28), mandatory rotation of audit firms (question 29) and the

assessment of the current market situation with the Big Four oligopoly (questions 30 and 32).

Within our analysis, special consideration had to be designated to the existence of some single responses representing several stakeholders on the one hand, and the existence of some identical responses submitted by several stakeholders on the other hand. Nevertheless, we did not weight single responses according to the number of represented stakeholders, due to the fundamental amount of subjectivity that would be involved in such analysis. However, most notably in this regard were some German small practitioners which sent in identical statements, obviously hoping to have an impact through a mere quantitative mass of responses (although with regard to some questions a few of the responses deviated). In general, the identical statement of the German small practitioners showed, to a certain extent, support for all proposed actions subject to our analysis (except for adoption of ISAs) and therefore are in contrast to e.g. the responses submitted by the Big Four audit networks. Due to the obvious organizational nature behind this response pattern, we conducted a separate analysis counting the identical statements of German small practitioners as one single statement. The results of this analysis were quite unambiguously showing rejection of most of the proposals aiming at changing the status quo with respect to market structure and independence of audit firms. In another step, we also analyzed the general attitude towards the proposals when responses by the audit profession were fully excluded from the sample.

Regarding ISA-adoption in the EU (question 13), at first sight a quite divided response pattern was observable with 46% of respondents being opposed to the proposed actions and 49% being in favor of; however, when treating German small practitioners as one single respondent, there seemed to be broad support (88%) for mandatory ISA adoption.

Analyzing the proposed appointment of the auditor by a third party (questions 16 and 17), we found the responses again to be divided at first sight with 45% of responses agreeing to the proposed actions and 52% rejecting them. Our separate analysis of counting German small practitioners as one respondent, however, showed 78% of all respondents to be opposed to the proposed changes. Most given arguments were high administrative costs and no existing conflict regarding the current regulations of appointment and remuneration of auditors.

Regarding limited audit tenure (question 18), the at first sight divided attitude towards the proposals with an agreement rate of 47% and a rejection rate of also 47% changed when counting the German small practitioners as one respondent: In this case, 73% of respondents were opposed to the proposals. Most commonly mentioned arguments in favor of limiting audit tenure were a possible increase in auditors' independence

and a decrease of the existing high market concentration; most frequently named arguments against the proposals were a possible decrease in audit quality and an increase in costs.

Regarding the prohibition of non-audit services (question 19), we found the overall attitude to be quite divided again with 47% of respondents supporting the proposals and 45% of respondents rejecting them; however, treating identical statements of German small practitioners as one single response resulted in a rejection rate of 69%. Most common arguments in favor of the proposals were an increase in independence in appearance and fact; most common arguments opposed to the proposals were knowledge spillovers and the sufficiency of existing rules and regulations regarding that issue.

Regarding the question, if the current audit market configuration presents a systemic risk (question 27), we found a large majority of respondents at first sight agreeing with this statement: While the rate of agreement amounted to 67%, the rejection rate amounted to only 27%. When treating the German small practitioners as a single respondent, the picture changed and we found a divided general attitude towards this question.

When analyzing the responses to the question, if there should be mandatory joint audits in place (question 28), at first sight we observed a slight overall support with 56% of respondents being in favor of the proposals and 37% of respondents being against them; counting identical responses by German small practitioners as a single statement, however, changed the overall attitude to a rejection rate of 61%. Most commonly mentioned arguments against mandatory joint audits were possible inefficiencies, a decreasing audit quality and unclear accountability and responsibility issues, while the most often presented argument in favor of the proposed changes was an increase of competition and accordingly a reduction of market entry barriers.

Regarding mandatory rotation of audit firms (question 29), at first sight the overall position seemed to be quite divided with a support rate of 53% and a rejection rate of 41%, but treating the German small practitioners as one single respondent resulted in an increase of the rejection rate to 67% with respect to the proposed changes. Most common arguments in favor of mandatory firm rotation were an increase in auditor independence and an increase in reporting performance; main argument against the proposals were a decrease in audit quality and an increase in costs.

Regarding the assessment of the current audit market situation (questions 30 and 32), we found 77% of all respondents considering the statement still valid, that the high market concentration was a result of the demand

of the market (71% when treating German small practitioners as a single respondent) and 28% of respondents supporting the statement that market structure should be left to market forces (62% when treating German small practitioners as a single respondent). Additionally, we found only 2% of respondents agreeing to the necessity of a forced reversal of consolidation (5% when treating German small practitioners as a single respondent).

When classifying the respondents into different response groups, we found the following results: Respondents classified as *academia* in general agreed to mandatory ISA adoption; seemed to be quite divided on the issue of appointment by a third party, however, leaning towards rejection; tended to reject limiting audit tenure, while having a comparatively large number of respondents (22%) remaining neutral and/or undecided on this issue; proved to be very divided on the issue of prohibition of non-audit services; proved to be also quite divided with respect to the question, if there is systemic risk in the audit market, tending however towards rejecting this thesis; tended to reject mandatory joint audits, while having a comparatively large number of respondents (31%) again being neutral and/or undecided; and leaning towards rejection of mandatory firm rotation, while again having a large percentage of neutral and/or undecided responses (23%).

Respondents classified as *audit committees* in general supported mandatory ISA adoption; rejected the appointment of auditors by a third party; rejected limiting audit tenure; rejected prohibition of non-audit services; were not of the opinion, that the audit market poses any systemic risk; rejected mandatory joint audits; and rejected mandatory rotation of audit firms.

Our analysis showed a quite divided response pattern within the audit profession. Within the total sample, respondents classified as *audit profession* in general rejected mandatory ISA adoption (65% rejection), agreed to the appointment by a third party (67% support), agreed to limited audit tenure (66% support), agreed to the prohibition of non-audit services (66% support), agreed to the existence of systemic risk in the audit market (82%), agreed to mandatory joint audits (81% support) and agreed to mandatory firm rotation (72%). However, when counting the identical responses by German small practitioners as one single statement, we found general support for mandatory ISA adoption (87% support), rejection of the appointment by a third party (67% rejection), rejection of the limitation of audit tenure (72% rejection), rejection of the prohibition of non-audit services (67% rejection), a divided attitude towards the existence of systemic risk in the audit market, while leaning towards agreeing with the statement (51% support and 43% rejection), a divided attitude towards mandatory joint audits, while leaning also to-

wards support (52% support and 38% rejection), and rejection of mandatory firm rotation (61% rejection).

The majority of respondents classified as *preparers* supported mandatory ISA adoption; rejected appointment by a third party; rejected limited audit tenure; rejected prohibition of non-audit services; rejected the existence of systemic risk in the audit market; rejected joint audits; and rejected audit firm rotation.

Respondents classified as *public authorities* in general supported ISA adoption; rejected appointment by a third party; seemed to be opposed to limiting audit tenure, while being to a comparatively large number undecided and/or neutral on this issue (28%); seemed to be opposed to prohibition of non-audit services, while again having a large number of respondents remaining undecided and/or neutral on this issue (31%); tend to reject the existence of systemic risk of the audit market; rejected joint audits; and tend to reject firm rotation, while again having a large number of respondents remaining neutral and/or undecided (24%).

Respondents classified as *users* in general supported ISA adoption; rejected appointment by a third party; rejected limited audit tenure; rejected prohibition of non-audit services; agreed to the existence of systemic risk in the audit market; rejected joint audits; and rejected firm rotation.

When analyzing respondents with respect to their represented interests according to geographical regions, we found some recurring response patterns. Respondents from countries outside of the EU typically were more opposed to the proposed actions in the Green Paper than respondents from countries within the EU; even when treating the German small practitioners as one single respondent. Consistent with this finding, also respondents representing international interests mostly were more opposed to the proposed actions than respondents representing EU interests. Additionally, when analyzing responses according to legal origins of the respondents, we found respondents from UK-origin and Scandinavian-origin countries mostly to have higher rejection rates than respondents from German-origin and French-origin countries.

Our results at a country-based level may partly be due to the still existing lack of legal harmonization amongst member states of the EU. Different legal regulations in the member states may influence the response pattern; while the majority of respondents from France supported the proposed actions regarding joint audits, most other countries did not. This may be due to the fact that France already implemented joint audits by law and respondents are “used to them”. Taking path-dependency into account, this case is an example for the phenomenon that most of the respondents may try to keep their status quo.

VI. Outlook

Regarding future policy actions to be taken at European Union level, we have to be careful not to draw rash conclusions. Although the majority of the stakeholders (including public authorities) engaging in the consultation process were not in favor of the proposed actions⁴⁴, most of them are not an integral part of the legislative process and therefore their attitude is not in any form binding for future policy actions. Further, it can be assumed that the submitted comment letters are mostly motivated to defend or pursue own interests. Also, as outlined above, the results of the consultation process could be subject to a substantial “consultation bias”. However, goal of the Green Paper was a public discussion of the audit function being “fit for purpose” and possible measures to enhance it. The Commission therefore should at least critically consider the necessity of increasing regulation, if almost all stakeholders in fact do not support the proposed ideas.

44 See Appendix 3 and 4.

VII. References

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VIII. Appendix

Appendix 1: Transposition of the Directive on Statutory Audit

	Adoption process completed to date	Transposition table on the adopted law was provided to the commission
AT	Yes	NO
BE	Yes	Yes
BG	Yes	Yes
CY	Yes	Yes
CZ	Yes	Yes
DE	Yes	Yes
DK	Yes	Yes
EE	Yes	Yes
EL	Yes	Yes
ES	Yes	Yes
FI	Yes	Yes
FR	Yes	Yes
HU	Yes	Yes
IE	Yes	Yes
IT	Yes	NO
LT	Yes	Yes
LV	Yes	Yes
LU	Yes	NO
MT	Yes	Yes
NL	Yes	Yes
PL	Yes	Yes
PT	Yes	Yes
RO	Yes	Yes
SE	Yes	Yes
SI	Yes	Yes
SK	Yes	Yes
UK	Yes	Yes

Transposition of the Directive on Statutory Audit in individual Member States and the provision of the full transposition tables to the Commission (DG MARKT [2010], p. 2)

Appendix 2: Questions raised in the Green Paper

1. Introduction
<p>(1) Do you have general remarks on the approach and purposes of this Green Paper?</p> <p>(2) Do you believe that there is a need to better set out the societal role of the audit with regard to the veracity of financial statements?</p> <p>(3) Do you believe that the general level of "audit quality" could be further enhanced?</p>
2. Role of the Auditor
2.1. Communication by auditors to stakeholders
<p>(4) Do you believe that audits should provide comfort on the financial health of companies? Are audits fit for such a purpose?</p> <p>(5) To bridge the expectation gap and in order to clarify the role of audits, should the audit methodology employed be better explained to users?</p> <p>(6) Should "professional scepticism" be reinforced? How could this be achieved?</p> <p>(7) Should the negative perception attached to qualifications in audit reports be reconsidered? If so, how?</p> <p>(8) What additional information should be provided to external stakeholders and how?</p> <p>(9) Is there adequate and regular dialogue between the external auditors, internal auditors and the Audit Committee? If not, how can this communication be improved?</p> <p>(10) Do you think auditors should play a role in ensuring the reliability of the information companies are reporting in the field of CSR?</p> <p>(11) Should there be more regular communication by the auditor to stakeholders? Also, should the time gap between the year end and the date of the audit opinion be reduced?</p> <p>(12) What other measures could be envisaged to enhance the value of audits?</p>
2.2. International Standards on Auditing (ISAs)
<p>(13) What are your views on the introduction of ISAs in the EU?</p> <p>(14) Should ISAs be made legally binding throughout the EU? If so, should a similar endorsement approach be chosen to the one existing for the endorsement of International Financial reporting Standards (IFRS)? Alternatively, and given the current widespread use of ISAs in the EU, should the use of ISAs be further encouraged through non-binding legal instruments (Recommendation, Code of Conduct)?</p> <p>(15) Should ISAs be further adapted to meet the needs of SMEs and SMPs?</p>
3. Governance and Independence of Audit Firms
<p>(16) Is there a conflict in the auditor being appointed and remunerated by the audited entity? What alternative arrangements would you recommend in this context?</p> <p>(17) Would the appointment by a third party be justified in certain cases?</p> <p>(18) Should the continuous engagement of audit firms be limited in time? If so, what should be the maximum length of an audit firm engagement?</p> <p>(19) Should the provision of non-audit services by audit firms be prohibited? Should any such prohibition be applied to all firms and their clients or should this be the case for certain types of institutions, such as systemic financial institutions?</p> <p>(20) Should the maximum level of fees an audit firm can receive from a single client be regulated?</p> <p>(21) Should new rules be introduced regarding the transparency of the financial statements of audit firms?</p>

<p>(22) What further measures could be envisaged in the governance of audit firms to enhance the independence of auditors?</p> <p>(23) Should alternative structures be explored to allow audit firms to raise capital from external sources?</p> <p>(24) Do you support the suggestions regarding Group Auditors? Do you have any further ideas on the matter?</p>
<p>4. Supervision</p>
<p>(25) Which measures should be envisaged to improve further the integration and cooperation on audit firm supervision at EU level?</p> <p>(26) How could increased consultation and communication between the auditor of large listed companies and the regulator be achieved?</p>
<p>5. Concentration and Market Structure</p>
<p>(27) Could the current configuration of the audit market present a systemic risk?</p> <p>(28) Do you believe that the mandatory formation of an audit firm consortium with the inclusion of at least one smaller, non systemic audit firm could act as a catalyst for dynamising the audit market and allowing small and medium-sized firms to participate more substantially in the segment of larger audits?</p> <p>(29) From the viewpoint of enhancing the structure of audit markets, do you agree to mandatory rotation and tendering after a fixed period? What should be the length of such a period?</p> <p>(30) How should the "Big Four bias" be addressed?</p> <p>(31) Do you agree that contingency plans, including living wills, could be key in addressing systemic risks and the risks of firm failure?</p> <p>(32) Is the broader rationale for consolidation of large audit firms over the past two decades (i.e. global offer, synergies) still valid? In which circumstances, could a reversal be envisaged?</p>
<p>6. Creation of European Market</p>
<p>(33) What in your view is the best manner to enhance cross border mobility of audit professionals?</p> <p>(34) Do you agree with "maximum harmonisation" combined with a single European passport for auditors and audit firms? Do you believe this should also apply for smaller firms?</p>
<p>7. Simplification: Small and Medium Sized Enterprises and Practitioners</p>
<p>7.1 Small and Medium Sized Enterprises (SMEs)</p>
<p>7.2 Small and Medium Sized Practitioners (SMPs)</p>
<p>(35) Would you favour a lower level of service than an audit, a so called "limited audit" or "statutory review" for the financial statements of SMEs instead of a statutory audit? Should such a service be conditional depending on whether a suitably qualified (internal or external) accountant prepared the accounts?</p> <p>(36) Should there be a "safe harbour" regarding any potential future prohibition of nonaudit services when servicing SME clients?</p> <p>(37) Should a "limited audit" or "statutory review" be accompanied by less burdensome internal quality control rules and oversight by supervisors? Could you suggest examples of how this could be done in practice?</p>
<p>8. International Co-operation</p>
<p>(38) What measures could in your view enhance the quality of the oversight of global audit players through international co-operation?</p>

Source: European Commission (2010): Green Paper, "Audit Policy: Lessons from the Crisis".

**Appendix 3:
Support rates subdivided by response groups without the audit profession**

Support rates regarding the proposals within the Green Paper	Academia	Audit Committees	Preparer	Public Authorities	User	Total
Total number of analyzed responses	23	8	118	51	22	238
Question 13: ISA-Adoption	93%	100%	89%	95%	73%	88%
Questions 16/17: Appointment by a third party	43%	0%	2%	9%	19%	8%
Question 18: Limited audit tenure	22%	0%	7%	21%	25%	14%
Question 19: Prohibition of Non-Audit-Services	42%	0%	3%	14%	33%	15%
Question 27: Existence of systemic risk	40%	0%	28%	28%	67%	33%
Question 28: Joint Audits	13%	0%	9%	13%	18%	12%
Question 29: Rotation of audit firms	23%	0%	9%	26%	35%	17%

- Support rate < 40%
- 40% < Support rate < 60%
- Support rate > 60%

Note: The number of analyzed responses differs with respect to each question.

Appendix 4: Support rates within the audit profession

Support rates regarding the proposals within the Green Paper	German small practitioners	Big Four audit networks	Audit Profession without German small practitioners	Audit Profession (total)
Total number of analyzed responses	213	4	152	365
Question 13: ISA-Adoption	0%	100%	87%	33%
Questions 16/17: Appointment by a third party	100%	0%	29%	67%
Question 18: Limited audit tenure	100%	0%	21%	66%
Question 19: Prohibition of Non-Audit-Services	100%	0%	24%	66%
Question 27: Existence of systemic risk	100%	0%	51%	82%
Question 28: Joint Audits	100%	0%	53%	81%
Question 29: Rotation of audit firms	100%	0%	31%	72%

- Support rate < 40%
- 40% < Support rate < 60%
- Support rate > 60%

Note: The number of analyzed responses differs with respect to each question.

Appendix 5: Support rates subdivided by response groups

Support rates regarding the proposals within the Green Paper	Academia	Audit Committees	Preparer	Public Authorities	User	Audit Profession	Total
Total number of analyzed responses	23	8	118	51	22	365	603
Question 13: ISA-Adoption	93%	100%	89%	95%	73%	33%	49%
Questions 16/17: Appointment by a third party	43%	0%	2%	9%	19%	67%	45%
Question 18: Limited audit tenure	22%	0%	7%	21%	25%	66%	47%
Question 19: Prohibition of Non-Audit-Services	42%	0%	3%	14%	33%	66%	47%
Question 27: Existence of systemic risk	40%	0%	28%	28%	67%	82%	67%
Question 28: Joint Audits	13%	0%	9%	13%	18%	81%	56%
Question 29: Rotation of audit firms	23%	0%	9%	26%	35%	72%	53%

- Support rate < 40%
- 40% < Support rate < 60%
- Support rate > 60%

Note: The number of analyzed responses differs with respect to each question.

Appendix 6: Descriptive results of the analysis

Q 27: Systemic risk of current configuration of audit market?

Response Group	Statement	Arguments contra systemic risk					Arguments pro systemic risk											
		Transferability of human capital	Audit firms are not interconnected - > no systemic risk like for financial institutions	Market driven concentration	Market disruption but not systemic risk which could lead to a crisis	The demise of AA did not have systemic consequences	High level of market concentration/ Lack of competition	Lack of independency	Lack of sufficient audit capacities in case of collapses of one Big Four									
Academia	Total Agreement	5	33%	0	0	0	0	0	5	0	2							
	Qualified Agreement	1	7%	0	0	0	0	0	1	0	1							
	Unclear Position	1	7%	0	0	0	0	0	0	0	0							
	Qualified Rejection	0	0%	0	0	0	0	0	0	0	0							
	Total Rejection	8	53%	4	1	0	5	4	0	0	0							
	Total	15	4	1	0	5	4	6	0	3	27%	7%	0%	33%	27%	40%	0%	20%
Audit Committees	Total Agreement	0	0%	0	0	0	0	0	0	0	0							
	Qualified Agreement	0	0%	0	0	0	0	0	0	0	0							
	Unclear Position	0	0%	0	0	0	0	0	0	0	0							
	Qualified Rejection	0	0%	0	0	0	0	0	0	0	0							
	Total Rejection	6	100%	3	1	1	2	2	0	0	0							
	Total	6	3	1	1	2	2	0	0	0	50%	17%	17%	33%	33%	0%	0%	0%
Audit Profession w/ association of SMPs	Total Agreement	251	76%	0	1	2	0	0	235	207	216							
	Qualified Agreement	19	6%	1	5	1	5	2	14	1	3							
	Unclear Position	8	2%	0	1	1	1	0	4	0	0							
	Qualified Rejection	7	2%	0	2	0	1	1	0	0	0							
	Total Rejection	45	14%	19	23	8	21	14	4	0	0							
	Total	330	20	32	12	28	17	257	208	219	6%	10%	4%	8%	5%	78%	63%	66%
Audit Profession w/o association of SMPs	Total Agreement	43	35%	0	1	2	0	0	28	3	11							
	Qualified Agreement	19	16%	1	5	1	5	2	14	1	3							
	Unclear Position	8	7%	0	1	1	1	0	4	0	0							
	Qualified Rejection	7	6%	0	2	0	1	1	0	0	0							
	Total Rejection	45	37%	19	23	8	21	14	4	0	0							
	Total	122	20	32	12	28	17	50	4	14	16%	26%	10%	23%	14%	41%	3%	11%
Preparer	Total Agreement	8	14%	0	0	0	0	0	6	0	1							
	Qualified Agreement	8	14%	1	1	1	0	0	2	0	1							
	Unclear Position	6	11%	0	0	1	0	0	4	0	1							
	Qualified Rejection	6	11%	1	2	1	1	1	1	0	0							
	Total Rejection	29	51%	5	6	1	4	12	0	0	0							
	Total	57	7	9	4	5	13	13	0	3	12%	16%	7%	9%	23%	23%	0%	5%
Public Authorities	Total Agreement	7	18%	0	1	0	0	0	5	0	3							
	Qualified Agreement	4	10%	0	2	0	0	0	2	0	0							
	Unclear Position	6	15%	0	1	0	0	0	1	0	0							
	Qualified Rejection	5	13%	0	2	1	4	1	1	0	0							
	Total Rejection	18	45%	1	4	2	7	4	3	0	1							
	Total	40	1	10	3	11	5	12	0	4	3%	25%	8%	28%	13%	30%	0%	10%
Users	Total Agreement	7	47%	0	0	1	0	0	6	0	3							
	Qualified Agreement	3	20%	0	0	0	0	0	2	0	1							
	Unclear Position	3	20%	0	0	0	0	0	1	0	0							
	Qualified Rejection	0	0%	0	0	0	0	0	0	0	0							
	Total Rejection	2	13%	0	0	2	0	0	0	0	0							
	Total	15	0	0	3	0	0	9	0	4	0%	0%	20%	0%	0%	60%	0%	27%
Other	Total Agreement	3	38%	0	0	0	0	0	1	0	0							
	Qualified Agreement	1	13%	0	0	0	0	0	1	0	0							
	Unclear Position	2	25%	0	0	0	0	0	1	0	0							
	Qualified Rejection	1	13%	0	0	0	0	0	1	0	1							
	Total Rejection	1	13%	1	0	0	0	0	0	0	0							
	Total	8	1	0	0	0	0	4	0	1	13%	0%	0%	0%	0%	50%	0%	13%
w/ assoc. of SMPs	Total	471	36	53	23	51	41	301	208	234	8%	11%	5%	11%	9%	64%	44%	50%
w/o assoc. of SMPs	Total	263	36	53	23	51	41	94	4	29	14%	20%	9%	19%	16%	36%	2%	11%
w/o audit profession	Total	141	16	21	11	23	24	44	0	15	11%	15%	8%	16%	17%	31%	0%	11%
w/ assoc. of SMPs	Total Support	281	60%															
	Qualified Support	36	8%															
	Unclear Position	26	6%															
	Qualified Rejection	19	4%															
	Total Rejection	109	23%															
w/o assoc. of SMPs	Total Support	73	28%															
	Qualified Support	36	14%															
	Unclear Position	26	10%															
	Qualified Rejection	19	7%															
	Total Rejection	109	41%															
w/o audit profession	Total Support	30	21%															
	Qualified Support	17	12%															
	Unclear Position	18	13%															
	Qualified Rejection	12	9%															
	Total Rejection	64	45%															

Deutsche Kurzfassung:

Das Grünbuch der EU-Kommission „Weiteres Vorgehen im Bereich der Abschlussprüfung: Lehren aus der Krise“ – Eine Auswertung der Stellungnahmen des Konsultationsprozesses

1. Einleitung*

Das Grünbuch zur Abschlussprüfung

Am 13. Oktober 2010 veröffentlichte die EU-Kommission das Grünbuch „Weiteres Vorgehen im Bereich der Abschlussprüfung: Lehren aus der Krise“. Zielsetzung des Grünbuchs war u.a., die Rolle der Abschlussprüfer in der Finanz- und Wirtschaftskrise von 2007/2008 zu analysieren sowie die Rolle und den Umfang der Abschlussprüfung in den EU-Mitgliedstaaten einer kritischen Analyse zu unterziehen. Gegenstand des Grünbuchs waren vorwiegend Überlegungen zu Aspekten der Governance und Unabhängigkeit von Prüfungsgesellschaften, insbesondere vor dem Hintergrund der bestehenden konzentrierten Marktstruktur mit dem Oligopol der Big-Four-Prüfungsgesellschaften. Mit dem Ziel, eine Veränderung des Status Quo des Prüfermarkts herbeizuführen, wurden seitens der Kommission zahlreiche, teils tiefgreifende Vorschläge unterbreitet. In diesem Zusammenhang wurden im Grünbuch insgesamt 38 Fragen aufgeworfen, zu denen betroffene und interessierte Stakeholder in einem Konsultationsprozess Stellung nehmen konnten.

Der Konsultationsprozess

Nach Abschluss des Konsultationsprozesses am 8. Dezember 2010 veröffentlichte die EU-Kommission am 4. Februar 2011 eine Zusammenfassung der eingereichten Stellungnahmen und Antworten zu den im Grünbuch aufgeworfenen 38 Fragen. Hierin betont die EU-Kommission, dass im Rahmen des Konsultationsprozesses 688 Stellungnahmen bei der EU-Kommission eingingen und das Grünbuch damit große Aufmerksamkeit erfahren habe. Grundsätzlich bietet die von der Kommission veröffentlichte Zusammenfassung einen ersten Überblick über die eingegangenen Antworten. Aufgeschlüsselt nach Einsendergruppen (z.B. Ersteller, Nutzer, Abschlussprüfer, Behörden und öffentliche Einrichtungen oder Wissenschaft) werden die vertretenen Ansichten vergleichsweise kurz dargestellt. Im Gegensatz zu dieser qualitativ und eher kurz gehaltenen Zu-

* Wir danken Sebastian Koch, Fabian Rauschenberg und Kerstin Schmieberger für ihre Unterstützung bei der Auswertung der im Rahmen des Konsultationsprozesses zum Grünbuch „Abschlussprüfung“ eingegangenen Stellungnahmen.

sammenfassung bewegt sich die vorliegende Auswertung spezifischer Fragestellungen auf einem detaillierteren, sowohl qualitativ als auch quantitativ ausgerichteten Level.

Eigene Auswertung

Im Rahmen der am Lehrstuhl für Wirtschaftsprüfung und Corporate Governance der Goethe-Universität Frankfurt am Main durchgeführten Analyse wurden die öffentlich verfügbaren, bei der EU-Kommission eingereichten Stellungnahmen im Hinblick auf ausgewählte Fragestellungen analysiert. Dabei wurde neben einer Differenzierung nach Einsendergruppen⁴⁶ auch eine Differenzierung der Stellungnahmen nach ihrer nationalen bzw. regionalen Herkunft, nach dem zuzuordnenden Rechtskreis sowie der zurechenbaren Interessenvertretung vorgenommen. Darüber hinaus wurden die in den Stellungnahmen genannten Pro- und Kontra-Argumente für jede der ausgewählten Fragestellungen erfasst.

Im Rahmen unserer Analyse wurden eingegangene Antwortschreiben für die jeweiligen Fragen nur dann in die Analyse mit einbezogen, wenn unmittelbar auf die jeweilige Frage geantwortet wurde.⁴⁷ Für die vorliegende Analyse erfolgte eine Beschränkung auf die folgenden, in der Öffentlichkeit am kontroversesten diskutierten Fragestellungen:

- Einführung der International Standards on Auditing (ISAs) (Frage 13)
- Bestellung des Abschlussprüfers durch einen Dritten (Fragen 16 und 17)
- Zeitliche Begrenzung von Prüfungsaufträgen (Frage 18)
- Verbot der Erbringung von Nichtprüfungsaufträgen (Frage 19)
- Systemrelevantes Risiko im Audit-Markt (Frage 27)
- Audit-Konsortien (Frage 28)
- Rotation der Prüfungsgesellschaft (Frage 29)
- Analyse der gegenwärtigen Marktsituation, insbesondere im Hinblick auf das Oligopol der Big-Four-Prüfungsgesellschaften (Fragen 30 und 32)

Eine besondere Herausforderung für die Auswertung stellte einerseits die Tatsache dar, dass einzelne Stellungnahmen mitunter eine Mehrzahl von Stakeholdern repräsentieren sowie andererseits, dass einige wortgleiche Stellungnahmen von mehreren Stakeholdern eingereicht wurden. Bei-

46 Die Einteilung erfolgte entsprechend der Untergliederung der EU-Kommission im Rahmen des Konsultationsprozesses.

47 Einige Antwortschreiben beschränkten sich auf eine selektive Beantwortung ausgewählter Fragen. Aus diesem Grund variiert die Grundgesamtheit der Antworten für jede der analysierten Fragen.

spiele hierfür sind etwa die einzelne Stellungnahme der *European Association of Co-operative Banks*, die ihrerseits die Interessen ihrer 28 Mitglieder sowie Genossenschaftsbanken im Allgemeinen vertritt, die einzelne Stellungnahme von *BUSINESSEUROPE*, in der Interessen von 41 Mitgliedsverbänden aus 35 europäischen Ländern vertreten werden sowie die Stellungnahme des *Committee of European Securities Regulators* (CESR)⁴⁸, die mitunter Interessen von nationalen Regulierungsbehörden beinhaltet, z.B. die der deutschen Bundesanstalt für Finanzdienstleistungsaufsicht (BaFin). Ebenso sind die Stellungnahmen der Big-Four-Prüfungsgesellschaften zu nennen, die jeweils nur eine einzelne Stellungnahme in Interessenvertretung ihrer Mitglieder der jeweiligen internationalen Netzwerke eingereicht hatten. Eine Gewichtung der Einsendungen nach Anzahl der vertretenen Stakeholder wurde aus Gründen der mangelnden Objektivität jedoch nicht durchgeführt.

Umgekehrt ist allerdings in besonderem Maße erwähnenswert, dass eine Vielzahl von vornehmlich kleinen deutschen Wirtschaftsprüferpraxen eine in weiten Teilen identische Stellungnahme bei der EU-Kommission eingereicht hatte (eine tiefergehende Analyse ergab in Teilen geringfügige Abweichungen bei einigen der scheinbar wortgleichen Stellungnahmen). Diese deutschen Kleinpraxen stellten mit über 30% einen vergleichsweise hohen Anteil an der Gesamtzahl der Einsender dar. Da aufgrund der offensichtlich vorhandenen Organisation des Einsendeverhaltens eine Verzerrung des generellen Meinungsbildes befürchtet werden könnte, wurde eine separate Analyse durchgeführt, in der ausschließlich die wortgleichen Antworten der deutschen Kleinpraxen als eine einzelne Stellungnahme gewertet wurden.⁴⁹ Generell konnte innerhalb der Gruppe der Abschlussprüfer ein überaus heterogenes Antwortverhalten festgestellt werden, was u.a. auf die Verfolgung von unterschiedlichen Interessen zurückzuführen ist.⁵⁰ Aufgrund der Tatsache, dass die Abschlussprüfer als Adressatengruppe unmittelbar von den im Grünbuch vorgeschlagenen Änderungen betroffen wären, wurde zunächst eine Analyse des Antwortverhaltens ohne deren Einbeziehung durchgeführt.

Ferner blieben aus methodischen Gründen einige Einsendungen unberücksichtigt.⁵¹ Die finale Grundgesamtheit besteht aus 23 Stellungnahmen

48 CESR firmiert seit Anfang 2011 als europäische Behörde ESMA (European Securities and Markets Authority).

49 Dieses Vorgehen wurde beispielsweise auch im Summary Report des Konsultationsprozesses zur Änderung der 4. und 7. Richtlinie im Jahr 2009 von der Europäischen Kommission im Rahmen ihrer Auswertung gewählt.

50 Vgl. hierzu etwa das Antwortverhalten der Big-Four-Gesellschaften und der deutschen Kleinpraxen, siehe Tabellen auf S. 88 ff.

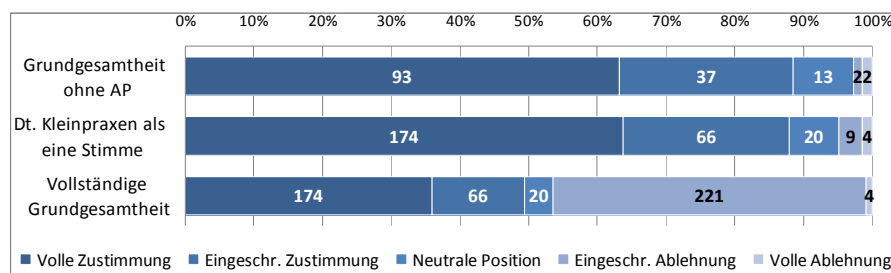
51 Eine detaillierte Erläuterung des genauen Eliminierungsprozesses findet sich in der englischsprachigen Komplettfassung auf Seite 16ff. der Studie.

der Wissenschaft, 8 Stellungnahmen von Prüfungsausschüssen, 365 Stellungnahmen von Vertretern der Abschlussprüfer (davon 213 Stellungnahmen von deutschen Kleinpraxen), 118 Stellungnahmen von Erstellern, 51 Stellungnahmen von Behörden und öffentlichen Einrichtungen, 22 Stellungnahmen von Nutzern und 16 Stellungnahmen von übrigen Stakeholdern.⁵²

2. Antwortverhalten hinsichtlich ausgewählter Fragestellungen

Einführung der ISAs (Frage 13)

Ohne Einbeziehung der Gruppe der Abschlussprüfer standen die Einsender einer verpflichtenden Einführung der ISA in den EU-Mitgliedstaaten mit einer Zustimmungsquote von 88%⁵³ grundsätzlich äußerst positiv gegenüber. Wurden zusätzlich die Einsendungen des Berufsstandes berücksichtigt und die wortgleichen Einsendungen der deutschen Kleinpraxen als eine Stellungnahme gewertet, änderte sich das Bild mit einer Zustimmungsquote von ebenfalls rund 88% kaum.⁵⁴ Erst bei Berücksichtigung und direkter Wertung sämtlicher Einsendungen ergab sich eine eher gespaltene Meinungslage mit 46% zustimmenden und 49% ablehnenden Antworten.⁵⁵



Ohne Einbezug der Gruppe der Abschlussprüfer waren häufig vorgebrachte Argumente für eine verpflichtende ISA-Einführung eine stärkere

52 Bei den Stellungnahmen der „übrigen“ Stakeholder handelte es sich zumeist um Antworten von Einzelpersonen.

53 Aufgrund des fünfstufigen Erfassungsschemas der Antworten können geringfügige Rundungsdifferenzen auftreten.

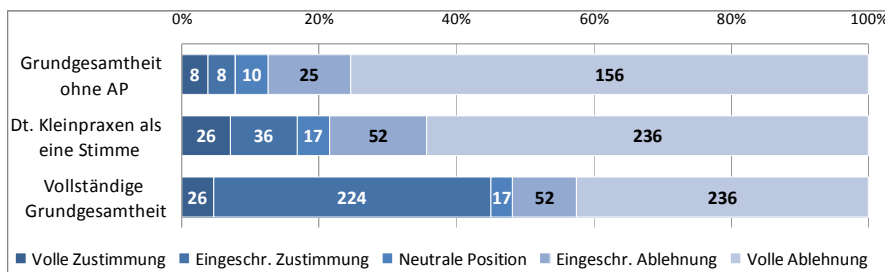
54 Die Stellungnahme der deutschen Kleinpraxen wurde hinsichtlich der Frage nach verpflichtender ISA-Einführung als „eingeschränkte Ablehnung“ klassifiziert. Aus Sicht der Kleinpraxen sind die ISAs in der derzeitigen Form für den Mittelstand nicht geeignet. Daher fordern diese, Prüfungsnormen auf die Bedürfnisse von kleinen und mittelständischen Unternehmen und deren Prüfer auszurichten.

55 Diese Kurzfassung der Auswertungsergebnisse beschränkt sich auf die Darstellung von Zustimmung und Ablehnung auf einer aggregierten Ebene; die Ergebnisse einer Differenzierung in volle und eingeschränkte Zustimmung bzw. Ablehnung können Kap. IV der englischsprachigen Komplettfassung (S. 21ff. dieser Studie) entnommen werden.

Harmonisierung von Abschlussprüfungen (25%), eine Verbesserung der Prüfungsqualität (25%) sowie eine erhöhte Konsistenz der Prüfungen (24%). Beeinflusst vor allem durch die wortgleichen Antworten der deutschen Kleinpraxen, wurde bei Analyse der vollständigen Grundgesamtheit und direkter Wertung insbesondere vorgebracht, dass die ISAs den Bedürfnissen kleiner und mittelständischer Unternehmen und deren Prüfern angepasst werden sollten (49%). Ferner wurde die Gefahr einer Überregulierung („*regulatory overkill*“) angeführt (45%).⁵⁶

Bestellung des Abschlussprüfers durch einen Dritten (Fragen 16 und 17)

Ohne Einbeziehung der Einsendungen der Abschlussprüfer ergab sich hinsichtlich des Vorschlags, den Abschlussprüfer durch einen externen Dritten zu bestellen, mit einer Ablehnungsquote von 87% ein tendenziell deutliches Meinungsbild. Wurden in einem nächsten Schritt die Einsendungen des Berufsstands hinzugerechnet und die wortgleichen Einsendungen der deutschen Kleinpraxen als eine Stellungnahme gewertet, so stießen die Vorschläge trotz einer auf 78% gesunkenen Ablehnungsquote weiterhin nicht auf Zustimmung.⁵⁷ Auch bei Einbeziehung und direkter Wertung sämtlicher Stellungnahmen war mit einer Zustimmungquote von 45% und einer Ablehnungsquote von 52% keine Mehrheitsmeinung für die Bestellung des Abschlussprüfers durch einen Dritten auszumachen.



Ohne Einbezug der Gruppe der Abschlussprüfer wurde in 54% der analysierten Stellungnahmen angemerkt, dass es keinen bestehenden Konflikt hinsichtlich der gegenwärtigen Regulierung von Bestellung und Vergütung des Abschlussprüfers zu geben scheint. Darüber hinaus waren 37% der Einsender der Ansicht, dass die Auswahl eines geeigneten Abschluss-

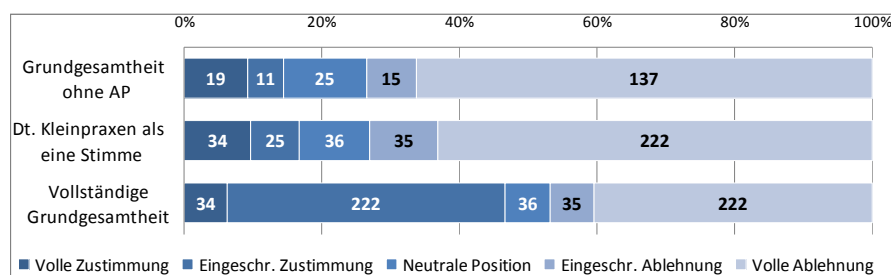
56 Eine detaillierte Darstellung der vorgebrachten Pro- und Kontra-Argumente für jede der ausgewerteten Fragen findet sich in Kap. IV der englischsprachigen Komplettfassung (S. 21ff. dieser Studie).

57 Hinsichtlich der Frage nach Bestellung des Abschlussprüfers durch einen Dritten wurde die Stellungnahme der deutschen Kleinpraxen als „eingeschränkte Zustimmung“ gewertet. Während die Kleinpraxen den Vorschlägen grundsätzlich zustimmend gegenüberstehen, erachten sie eine Anwendung auf kleine und mittelgroße Unternehmen aufgrund des damit verbundenen erhöhten Verwaltungsaufwands als nicht gerechtfertigt.

prüfers durch den gegenwärtigen Auswahlprozess gewährleistet ist. Ferner wurde vorgebracht, dass die Umsetzung der Vorschläge die Pflichten und Verantwortlichkeiten der Unternehmensorgane untergraben könnten (32%). Innerhalb der vollständigen Grundgesamtheit waren, auch beeinflusst durch die wortgleichen Antworten der deutschen Kleinpraxen, die hohen administrativen Kosten einer Bestellung des Abschlussprüfers durch einen Dritten das mit 45% am häufigsten genannte Kontra-Argument. Im Gegensatz dazu nannten 41% der Einsender eine Erhöhung der Unabhängigkeit als mögliche positive Folge der Bestellung des Abschlussprüfers durch einen Dritten.

Zeitliche Begrenzung von Prüfungsaufträgen (Frage 18)

Wurden die Einsendungen der Abschlussprüfer zunächst nicht in die Analyse mit einbezogen, so lehnten 73% der Einsender die zeitliche Begrenzung von Prüfungsaufträgen ab. Bei Einbeziehung der Abschlussprüfer sowie Wertung der wortgleichen Einsendungen der deutschen Kleinpraxen als eine Stellungnahme konnte keine grundsätzliche Änderung der Ablehnungsquote von 73% beobachtet werden.⁵⁸ Erst die Einbeziehung und direkte Wertung sämtlicher eingegangener Stellungnahmen ergab ein äußerst geteiltes Meinungsbild mit einer Zustimmungs- und Ablehnungsquote von jeweils 47%.



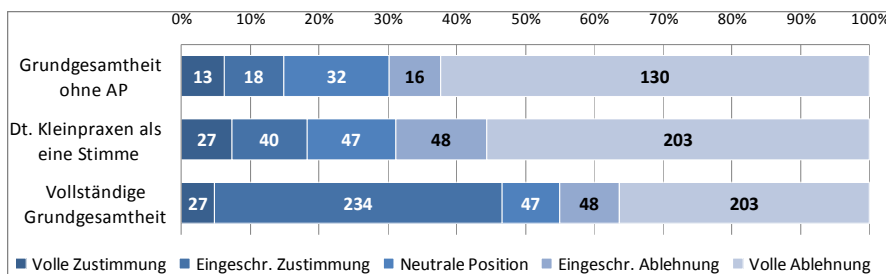
Die am häufigsten vorgebrachten Argumente ohne Einbezug der Gruppe der Abschlussprüfer waren eine Verschlechterung der Prüfungsqualität (50%) sowie ein Anstieg der Kosten (34%). Innerhalb der vollständigen Grundgesamtheit, d.h. auch bei direkter Wertung jeder der wortgleichen Stellungnahmen der deutschen Kleinpraxen, überwogen die Pro-Argumente für eine zeitliche Begrenzung von Prüfungsaufträgen. So wurden beispielsweise ein möglicher Anstieg der Unabhängigkeit (45%), eine Reduzierung der gegenwärtig hohen Konzentration auf dem Prüfer-

58 Die Stellungnahme der deutschen Kleinpraxen wurde hinsichtlich der Frage nach einer zeitlichen Begrenzung von Prüfungsaufträgen als „eingeschränkte Zustimmung“ klassifiziert. Während die Kleinpraxen die vorgeschlagene Maßnahme bei „Kapitalmarktunternehmen“ grundsätzlich befürworten, wird sie für den Mittelstand im Hinblick auf mit dem Prüferwechsel verbundene Belastungen abgelehnt.

markt (40%) sowie eine Verbesserung der Prüfungsqualität (40%) genannt.

Verbot der Erbringung von Nichtprüfungsleistungen (Frage 19)

Ohne Einbeziehung der Einsender, die der Kategorie der Abschlussprüfer zuzuordnen sind, wurden die Vorschläge, die Erbringung von Nichtprüfungsleistungen mit einem Verbot zu belegen, mit 70% mehrheitlich abgelehnt. Die zusätzliche Berücksichtigung der Einsendungen des Berufsstands sowie die Wertung der wortgleichen Einsendungen der deutschen Kleinpraxen als eine Stellungnahme ergab mit einer Ablehnungsquote in Höhe von 69% ein ähnliches Bild.⁵⁹ Hingegen stießen bei Einbeziehung und direkter Wertung sämtlicher Antworten die vorgebrachten Vorschläge mit einer Zustimmungsquote von 47% und einer Ablehnungsquote von 45% auf ein eher geteiltes Echo.

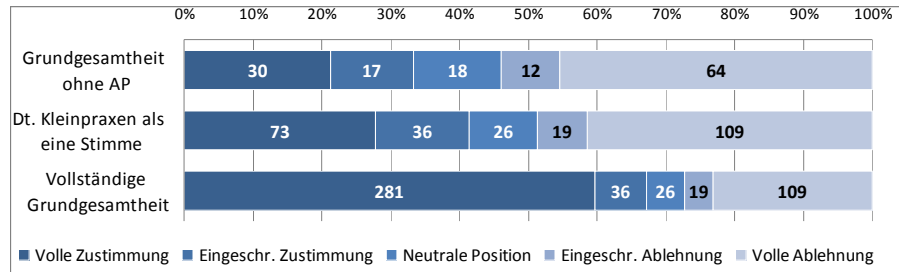


Wurden die Einsendungen der Abschlussprüfer zunächst nicht in die Analyse mit einbezogen, überwogen die Kontra-Argumente bezüglich eines Verbots der Erbringung von Nichtprüfungsleistungen. So wurde etwa ein möglicher Wissenstransfer („*knowledge spillovers*“) zwischen prüfenden und beratenden Tätigkeiten angeführt (33%). Zudem wurden in 32% der Stellungnahmen die bestehenden Regulierungen hinsichtlich der Trennung von Prüfung und Beratung als bereits ausreichend erachtet. Innerhalb der vollständigen Grundgesamtheit war ein möglicher Anstieg der tatsächlichen und vermuteten Unabhängigkeit des Abschlussprüfers („*independence in appearance*“ und „*independence in fact*“) mit 40% das am häufigsten genannte Argument für ein Verbot der Erbringung von Nichtprüfungsleistungen (auch beeinflusst durch die wortgleichen Antworten der deutschen Kleinpraxen).

59 Hinsichtlich der Frage nach einem Verbot der Erbringung von Nichtprüfungsleistungen wurde die Stellungnahme der deutschen Kleinpraxen als „eingeschränkte Zustimmung“ klassifiziert. Nach Ansicht der Kleinpraxen sollte ein Beratungsverbot auf kapitalmarktorientierte Unternehmen sowie systemrelevante Finanzinstitute beschränkt werden. Für den Mittelstand wird das Verbot als nicht notwendig erachtet.

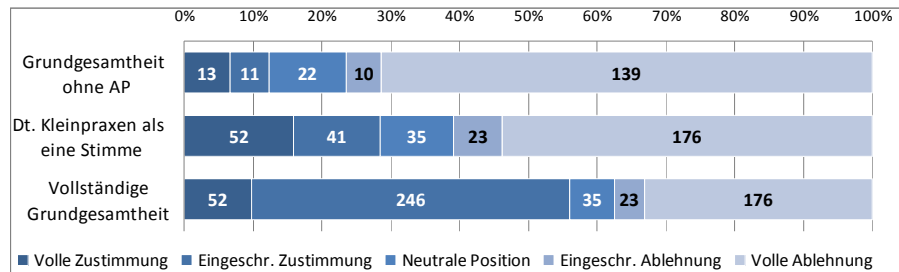
Systemrelevantes Risiko im Audit-Markt (Frage 27)

Wurden die Einsender der Kategorie Abschlussprüfer zunächst nicht in die Auswertung mit einbezogen, so verneinten die Einsender mit 54% mehrheitlich die Frage, ob die gegenwärtige Situation des Prüfermarkts – insbesondere vor dem Hintergrund des bestehenden Big-Four-Oligopols – ein systemrelevantes Risiko beinhaltet. Die Erweiterung der Analyse durch Hinzunehmen der Einsendungen des Berufsstands sowie einfacher Wertung der wortgleichen Stellungnahmen der deutschen Kleinpraxen zeigte mit einer Zustimmungsquote von 41% und einer Ablehnungsquote von 49% ein stärker geteiltes Meinungsbild. Im Gegensatz hierzu stimmten bei Einbeziehung und direkter Wertung sämtlicher Stellungnahmen 67% der Einsender bejahend zu, während 27% die Existenz eines systemrelevanten Risikos verneinten.



Audit-Konsortien (Frage 28)

Die Vorschläge zur verpflichtenden Einrichtung von Audit-Konsortien wurden bei Nichtberücksichtigung der Einsendungen der Abschlussprüfer von den Einsendern zunächst mehrheitlich abgelehnt (76% Ablehnungsquote). Die Berücksichtigung der Einsendungen des Berufsstands und Wertung der wortgleichen Stellungnahmen der deutschen Kleinpraxen als eine Antwort ergab trotz einer auf 61% gesunkenen Ablehnungsquote dennoch ein mehrheitliches Stimmungsbild gegen die vorgebrachten Vorschläge.⁶⁰



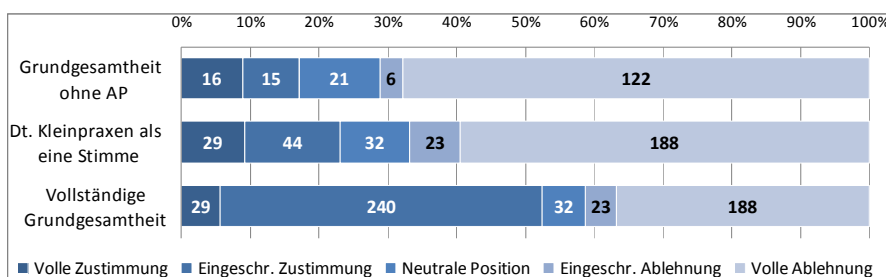
⁶⁰ Die Stellungnahme der deutschen Kleinpraxen wurde hinsichtlich der Frage nach Audit-Konsortien als „eingeschränkte Zustimmung“ klassifiziert, da die Anwendung der Vorschläge lediglich auf kapitalmarktorientierte Unternehmen befürwortet wird.

Bei direkter Wertung sämtlicher eingegangener Antworten hingegen konnte mit einer Änderung der Zustimmungquote auf 56% und der Ablehnungsquote auf 37% tendenziell ein zustimmendes Meinungsbild beobachtet werden.

Ohne Einbezug der Gruppe der Abschlussprüfer wurden als häufigste Argumente gegen eine verpflichtende Einrichtung von Audit-Konsortien drohende Ineffizienzen (65%) sowie eine mögliche Verschlechterung der Prüfungsqualität (35%) angeführt. Innerhalb der vollständigen Grundgesamtheit hingegen wurden in 55% der Stellungnahmen eine durch die Umsetzung der Vorschläge erhoffte Verbesserung der Wettbewerbssituation im Prüfermarkt und ein daraus resultierender Abbau von Markteintrittsbarrieren genannt (auch beeinflusst durch die wortgleichen Antworten der deutschen Kleinpraxen).

Rotation der Prüfungsgesellschaft (Frage 29)

Ohne Einbeziehung der Einsendungen, die der Kategorie der Abschlussprüfer zugeordnet wurden, ergab die Analyse eine mehrheitliche Ablehnung der Vorschläge zur externen Rotation von Prüfungsgesellschaften (71% Ablehnungsquote). Die zusätzliche Berücksichtigung der Einsendungen des Berufsstands sowie die Wertung von wortgleichen Stellungnahmen der deutschen Kleinpraxen als eine Antwort offenbarte mit einer Ablehnungsquote von 67% und einer Zustimmungquote von 23% ein ähnliches Meinungsbild.⁶¹ Erst die Berücksichtigung und direkte Wertung sämtlicher Stellungnahmen veränderte das Bild und zeigte eine Ablehnungsquote von 41% sowie eine Zustimmungquote von 53%.



Wurde die Gruppe der Abschlussprüfer in der Analyse zunächst ausgespart, so befürchteten die Einsender zumeist eine mit den Vorschlägen einhergehende Verschlechterung der Prüfungsqualität (38%) sowie einen Anstieg der Kosten (32%). Innerhalb der vollständigen Grundgesamtheit

61 Hinsichtlich der Frage nach einer externen Rotation von Prüfungsgesellschaften wurde die Stellungnahme der deutschen Kleinpraxen als „eingeschränkte Zustimmung“ gewertet, da der Fokus der Ausführungen auf der Anwendung bei kapitalmarktorientierten Unternehmen lag und eine Anwendung bei Nichtkapitalmarktunternehmen lediglich als mögliche Option dargestellt wurde.

wurden, auch beeinflusst durch die wortgleichen Antworten der deutschen Kleinpraxen, am häufigsten ein erhoffter Anstieg der Unabhängigkeit des Prüfers (45%) sowie eine Verbesserung der Rechnungslegungsqualität (41%) als Argumente für eine verpflichtende Rotation genannt.

Analyse der gegenwärtigen Marktsituation, insbesondere im Hinblick auf das Oligopol der Big-Four-Gesellschaften (Fragen 30 und 32)

Im Hinblick auf eine Bewertung der gegenwärtigen Struktur des Prüfermarkts ergab die Analyse, dass 77% aller Einsender die bestehende hohe Marktkonzentration nach wie vor als Ergebnis eines Marktmechanismus erachten. 28% der Einsender gaben an, dass die Struktur des Prüfermarkts dem Marktmechanismus überlassen werden sollte. Hervorzuheben ist, dass lediglich 2% der Einsender angaben, eine erzwungene Umkehr des Konsolidierungsprozesses sei von unbedingter Notwendigkeit.⁶² Die separate Analyse aufgrund der wortgleichen Antworten der deutschen Kleinpraxen führte in diesem Fall zu einer Änderung der Anteile auf 71%, 72% bzw. 5%; ohne Einbeziehung der Einsendungen von Abschlussprüfern änderten sich die Anteile auf 50%, 66% bzw. 5%.

3. Antwortverhalten spezifischer Gruppen

Nachdem in einem ersten Schritt die aggregierten Meinungsbilder in Bezug auf einzelne Themenbereiche analysiert wurden, erfolgte im Rahmen der vorliegenden Analyse in einem nächsten Schritt die Untergliederung der Einsender in spezifische Gruppen:

Wissenschaft

Gegenstand dieser Analyse waren 23 Einsendungen aus dem Bereich der Wissenschaft. Die überwiegende Anzahl der Einsendungen wurde von Wissenschaftlern getätigt, die Universitäten oder anderen Forschungseinrichtungen angehören.

Einsender, die von der EU-Kommission der Gruppe „Wissenschaft“ zugeordnet wurden, stimmten mehrheitlich einer verpflichtenden ISA-Einführung zu (93% Zustimmung). Hinsichtlich der Bestellung des Abschlussprüfers durch einen Dritten ergab sich ein geteiltes Meinungsbild mit Tendenz in Richtung Ablehnung (43% Zustimmung und 57% Ablehnung). Die zeitliche Begrenzung von Prüfungsaufträgen stieß mit 56% tendenziell ebenfalls eher auf Ablehnung; bezüglich dieser Frage verblieb jedoch ein vergleichsweise hoher Anteil (22%) unentschlossen bzw. neutral. Das Verbot der Erbringung von Nichtprüfungsleistungen zeigte mit

62 Aufgrund des offenen Charakters der Fragestellung, insbesondere hinsichtlich Frage 30 des Grünbuchs, wurde die Analyse auf die Auswertung von drei als besonders relevant klassifizierten Argumenten beschränkt.

42% Zustimmung und 37% Ablehnung ein vergleichbares Bild; ähnlich war dies bei der Frage nach einem systemrelevanten Risiko im Prüfermarkt (40% Zustimmung und 53% Ablehnung). Die verpflichtende Einrichtung von Audit-Konsortien wurde von 56% der Wissenschaftler abgelehnt; aber auch bei dieser Frage verblieb mit 31% ein hoher Anteil der Einsender unentschlossen bzw. neutral. Eine verpflichtende Rotation der Prüfungsgesellschaften wurde tendenziell ebenso abgelehnt (54% Ablehnungsquote), obschon der Anteil unentschlossener bzw. neutraler Einsender mit 23% erneut vergleichsweise hoch ausfiel.

Prüfungsausschüsse

Der Kategorie „Prüfungsausschüsse“ konnten acht verwertbare Einsendungen zugeordnet werden. Die Mehrheit dieser Stellungnahmen (fünf von acht) entfiel auf Stakeholder aus Großbritannien und lässt somit auf eine angloamerikanische Interessenvertretung schließen.

Einsender, die der Kategorie „Prüfungsausschüsse“ zugeordnet wurden, stimmten einer verpflichtenden ISA-Einführung einhellig zu (100% Zustimmung). Einstimmig abgelehnt wurden die Vorschläge bzw. Ausführungen zu einer Bestellung des Abschlussprüfers durch einen Dritten (100% Ablehnung), zu einer zeitlichen Begrenzung von Prüfungsaufträgen (100% Ablehnung). Auch das Verbot der Erbringung von Nichtprüfungsleistungen (75% Ablehnung), das Vorliegen von systemrelevantem Risiko im Prüfermarkt (100% Ablehnung), verpflichtende Audit-Konsortien (100% Ablehnung) sowie eine verpflichtende externe Rotation von Prüfungsgesellschaften (100% Ablehnung) wurde deutlich abgelehnt.⁶³

Ersteller

Im Rahmen unserer Analyse konnten wir 118 Einsendungen von Erstellern auswerten. Neben zahlreichen Unternehmen bestand diese Gruppe auch aus Bank- und Industrieverbänden sowie Instituten.

Einsender, die der Kategorie „Ersteller“ zugeordnet wurden, sprachen sich mehrheitlich für eine verpflichtende ISA-Einführung aus (89% Zustimmung). Mehrheitlich abgelehnt wurden hingegen die Vorschläge bzw. Ausführungen zu einer Bestellung des Abschlussprüfers durch einen Dritten (95% Ablehnung), zu einer zeitlichen Begrenzung von Prüfungsaufträgen (87% Ablehnung). Auch das Verbot der Erbringung von Nichtprüfungsleistungen (88% Ablehnung), ein Vorliegen von systemrelevantem Risiko im Prüfermarkt (61% Ablehnung), verpflichtende Audit-Konsorti-

63 Aufgrund der vergleichsweise geringen Anzahl an Einsendern der Kategorie „Prüfungsausschüsse“ (acht verwertbare Comment Letters) sollte der Aussagegehalt der diesbezüglichen Ergebnisse kritisch hinterfragt werden.

en (86% Ablehnung) sowie eine verpflichtende externe Rotation von Prüfungsgesellschaften (84% Ablehnung) stießen überwiegend auf Ablehnung.

Behörden und öffentliche Einrichtungen (*public authorities*)

Hinsichtlich der Gruppe der Behörden und öffentlichen Einrichtungen bestand die Grundgesamtheit aus 51 Einsendungen. Dieser Gruppe wurden hauptsächlich nationale und internationale Regulierungsbehörden und Institutionen zugeordnet.

Einsender, die der Kategorie „Behörden und öffentliche Einrichtungen“ zugeordnet wurden, stimmten mehrheitlich einer verpflichtenden Einführung der ISAs zu (95% Zustimmung). Die Bestellung des Abschlussprüfers durch einen Dritten wurde von 84% der Einsender hingegen abgelehnt. Hinsichtlich einer zeitlichen Begrenzung von Prüfungsaufträgen schien das Stimmungsbild tendenziell ebenfalls eher von Ablehnung geprägt zu sein (51% Ablehnung); ein vergleichsweise hoher Anteil an Einsendern zeigte sich bei dieser Frage jedoch unentschlossen bzw. neutral (28%). Ein ähnliches Antwortverhalten zeigte sich bei der Frage nach einem Verbot der Erbringung von Nichtprüfungsleistungen mit 55% Ablehnungsquote und 31% unentschlossenen bzw. neutralen Einsendern. Die Frage, ob die gegenwärtige Struktur des Prüfermarkts ein systemrelevantes Risiko beinhaltet, wurde von den Einsendern tendenziell verneint (28% Zustimmung und 58% Ablehnung). Die verpflichtende Einrichtung von Audit-Konsortien wurde von der Mehrheit ebenfalls abgelehnt (73% Ablehnung). Hinsichtlich der Frage nach einer verpflichtenden Rotation von Prüfungsgesellschaften war eine ablehnende Tendenz mit 50% Ablehnung ebenfalls zu beobachten und 24% der Einsender blieben bezüglich dieser Fragestellung wiederum unentschlossen bzw. neutral.

Nutzer

Gegenstand unserer Analyse waren 22 Einsendungen der Gruppe der Nutzer. Im Wesentlichen bestand diese Gruppe aus *shareholder associations* und Investmentfonds.

Einsender, die der Kategorie „Nutzer“ zugeordnet wurden, sprachen sich mehrheitlich für eine verpflichtende ISA-Einführung aus (73% Zustimmung). Mehrheitlich abgelehnt wurden hingegen die Vorschläge bzw. Ausführungen zu einer Bestellung des Abschlussprüfers durch einen Dritten (81% Ablehnung), zu einer zeitlichen Begrenzung von Prüfungsaufträgen (70% Ablehnung) sowie zu einem Verbot der Erbringung von Nichtprüfungsleistungen (62% Ablehnung). Die Frage, ob die gegenwärtige Struktur des Prüfermarkts ein systemrelevantes Risiko beinhaltet, wurde von den Einsendern mit 67% mehrheitlich bejaht. Die Einrichtung verpflichtender Audit-Konsortien (65% Ablehnung) sowie einer ver-

pflichtenden Rotation von Prüfungsgesellschaften (59% Ablehnung) stieß hingegen nicht auf Zustimmung.

Abschlussprüfer

Gegenstand unserer Auswertung waren 365 Einsendungen von Vertretern des Bereichs der Abschlussprüfung. Wie bereits erwähnt, entfielen hiervon 213 Stellungnahmen auf deutsche Kleinpraxen. Zudem waren in dieser Gruppe die vier Stellungnahmen der Big-Four-Netzwerke sowie die Stellungnahmen einiger Verbände des Berufsstands enthalten.

Bei Berücksichtigung aller Einsender der Kategorie “Abschlussprüfer” sprachen sich diese mehrheitlich gegen eine verpflichtende ISA-Einführung aus (65% Ablehnung). Mehrheitlich zugestimmt wurde den Vorschlägen bzw. Ausführungen zu einer Bestellung des Abschlussprüfers durch einen Dritten (67% Zustimmung), zu einer zeitlichen Begrenzung von Prüfungsaufträgen (66% Zustimmung), zu einem Verbot der Erbringung von Nichtprüfungsleistungen (66% Zustimmung), zu dem Vorliegen von systemrelevantem Risiko im Prüfermarkt (82% Zustimmung), zu verpflichtenden Audit-Konsortien (81% Zustimmung) sowie zu einer verpflichtenden externen Rotation von Prüfungsgesellschaften (72% Zustimmung).

Die Vertreter deutscher Kleinpraxen, die im Rahmen des Konsultationsprozesses eine wortgleiche Stellungnahme abgegeben hatten, sprachen sich grundsätzlich gegen eine verpflichtende ISA-Einführung sowie für die übrigen Vorschläge der EU-Kommission aus. Die separate Analyse mit Wertung der wortgleichen Antworten der deutschen Kleinpraxen als eine Stellungnahme zeigte daher ein abweichendes Meinungsbild.⁶⁴ In diesem Falle wurde einer verpflichtenden ISA-Einführung grundsätzlich zugestimmt (87% Zustimmung). Die Bestellung des Abschlussprüfers durch einen Dritten (67% Ablehnung), eine zeitliche Begrenzung von Prüfungsaufträgen (72% Ablehnung) sowie ein Verbot der Erbringung von Nichtprüfungsleistungen (67% Ablehnung) wurden hingegen mehrheitlich abgelehnt. Hinsichtlich des Vorliegens von systemrelevanten Risiken im Prüfermarkt bestand ein geteiltes Meinungsbild, tendenziell überwogen jedoch die zustimmenden Äußerungen (51% Zustimmung und 43% Ablehnung). Ein geteiltes Echo mit zustimmender Tendenz war ebenso bei der Frage nach verpflichtenden Audit-Konsortien (52% Zustimmung und 38% Ablehnung) zu beobachten. Eine verpflichtende Rotation von Prüfungsgesellschaften wurde mit 61% hingegen mehrheitlich abgelehnt.

64 Vgl. auch die Gegenüberstellung des Antwortverhaltens innerhalb der Gruppe der Abschlussprüfer auf S. 89 dieser Studie.

4. Klassifizierung der Kommentierenden nach Interessenvertretung und Rechtskreis

In einem nächsten Schritt wurden die Einsender nach Interessenvertretung gemäß einer geografischen Zuordnung unterteilt. Die Ergebnisse dieser Analyse lassen einige wiederkehrende Muster hinsichtlich des Antwortverhaltens erkennen. So standen Einsender, die Interessen von Ländern außerhalb der EU vertreten, den im Grünbuch eingebrachten Vorschlägen tendenziell eher ablehnender gegenüber als Einsender, die Interessen von Ländern innerhalb der EU vertraten.⁶⁵ Im Einklang hiermit stellte sich heraus, dass Einsender, die internationale Interessen vertreten, den Vorschlägen eher ablehnender gegenüber standen als Einsender mit EU-Interessenvertretung.⁶⁶ In einer weiteren Analyse wurden die Einsender anhand ihres zuzuordnenden Rechtskreises („*legal families*“) untergliedert. Hierbei fiel auf, dass Einsender aus Ländern mit angloamerikanischem und skandinavischem Rechtsursprung tendenziell höhere Ablehnungsquoten bezüglich der Vorschläge im Grünbuch aufweisen als Einsender aus Ländern mit deutschem und französischem Rechtsursprung.

Unsere Ergebnisse auf Länderebene sind möglicherweise u.a. dem nach wie vor bestehenden Mangel an Harmonisierung hinsichtlich der Regulierung von Abschlussprüfungen in den Mitgliedstaaten der EU geschuldet. Bisher bestehende unterschiedliche nationale Regelungen können unter Umständen Auswirkungen auf das Antwortverhalten der jeweiligen Einsender entfalten. So befürworteten beispielsweise Einsender aus Frankreich im Gegensatz zu Einsendern aus den meisten anderen Ländern Bestrebungen hinsichtlich einer verpflichtenden Einrichtung von Audit-Konsortien. Dies kann möglicherweise durch den Umstand erklärt werden, dass gemäß aktuell geltender Rechtslage französische Unternehmen unter gewissen Umständen bereits zur Einrichtung von Audit-Konsortien verpflichtet sind und bei den entsprechenden Stakeholdern hier bereits ein Gewöhnungseffekt eingetreten sein könnte. Auch vor dem Hintergrund einer bestehenden Pfadabhängigkeit von Regelungs- und Governancesystemen kann dieser Fall als Beispiel dafür dienen, dass die meisten Einsender davon getrieben sind, ihren (eigenen) Status Quo zu sichern.

65 Dieser Zusammenhang ist nach wie vor zu beobachten, wenn in der separaten Analyse die wortgleichen Stellungnahmen der deutschen Kleinpraxen als einzelne Antwort gewertet wurden.

66 Hierbei handelte es sich um Einsender, deren Interessen keinen Einzelstaaten, sondern einem EU-weiten oder internationalem Kontext zugeordnet werden konnten.

5. Fazit

Gerade im Hinblick auf bevorstehende legislative Entscheidungen auf EU-Ebene ist es nach Auffassung der Verfasser angebracht, keine voreiligen Schlüsse zu ziehen. Obgleich die Mehrzahl der Stakeholder (einschließlich der Behörden und öffentlichen Stellen), die sich am Konsultationsprozess zum Grünbuch „Abschlussprüfung“ beteiligt haben, sich tendenziell gegen die vorgeschlagenen regulatorischen Änderungen ausgesprochen haben, ist die überwiegende Mehrzahl kein integraler Bestandteil des Rechtssetzungsverfahrens auf EU-Ebene. Das aus dem Konsultationsprozess ersichtliche Meinungsbild sowie die angeführten Argumente entfalten freilich keinerlei Bindungswirkung für zukünftige Entscheidungen der involvierten Institutionen. Deutlich wird, dass die eingegangenen Stellungnahmen zumeist dadurch motiviert sind, eigene Interessen zu verfolgen oder zu verteidigen. Zudem ist es möglich, dass die Ergebnisse einem substantiellen „Konsultations-Bias“ unterliegen, d.h. im Querschnitt nicht die tatsächlichen Interessen sämtlicher Stakeholder widerspiegeln. Dennoch war es eines der Fundamentalziele des Grünbuchs, eine öffentliche Diskussion hinsichtlich der Funktionsfähigkeit der Abschlussprüfung („*fit for purpose*“) anzustoßen und mögliche verbessernd wirkende Maßnahmen zu erörtern. Die EU-Kommission sollte daher zumindest kritisch hinterfragen, ob es angesichts des mehrheitlich ablehnenden Meinungsbildes der Stakeholder hinsichtlich der vorgeschlagenen Änderungen tatsächlich einer tiefgreifenden Ausweitung der Regulierung bedarf, oder ob weiterhin dem Marktmechanismus auch in Bezug auf den Prüfermarkt vertraut werden kann.

Zustimmungsquoten aufgeschlüsselt nach Einsenderkategorie,
ohne Abschlussprüfer

Zustimmungsquoten bzgl. der Vorschläge des Grünbuchs	Wissenschaft	Prüfungsausschüsse	Ersteller	Behörden und öfftl. Einrichtungen	Nutzer	Gesamt
Gesamtzahl der ausgewerteten Stellungnahmen	23	8	118	51	22	238
Frage 13: ISA-Einführung	93%	100%	89%	95%	73%	88%
Fragen 16/17: Bestellung durch einen Dritten	43%	0%	2%	9%	19%	8%
Frage 18: Zeitliche Begrenzung von Prüfungsaufträgen	22%	0%	7%	21%	25%	14%
Frage 19: Verbot der Erbringung von Nichtprüfungsleistungen	42%	0%	3%	14%	33%	15%
Frage 27: Existenz eines systemrelevanten Risikos	40%	0%	28%	28%	67%	33%
Frage 28: Audit-Konsortien	13%	0%	9%	13%	18%	12%
Frage 29: Externe Rotation	23%	0%	9%	26%	35%	17%

- Zustimmungquote < 40%
- 40% < Zustimmungquote < 60%
- Zustimmungquote > 60%

Anmerkung: Die Gesamtzahl der ausgewerteten Stellungnahmen variiert pro Frage.

Zustimmungsquoten innerhalb der Gruppe der Abschlussprüfer

Zustimmungsquoten bzgl. der Vorschläge des Grünbuchs	Deutsche Kleinpraxen	Big-Four-Gesellschaften	Abschlussprüfer ohne deut- sche Kleinpraxen	Abschlussprüfer (gesamt)
Gesamtzahl der ausgewerteten Stellungnahmen	213	4	152	365
Frage 13: ISA-Einführung	0%	100%	87%	33%
Fragen 16/17: Bestellung durch einen Dritten	100%	0%	29%	67%
Frage 18: Zeitliche Begrenzung von Prüfungsaufträgen	100%	0%	21%	66%
Frage 19: Verbot der Erbringung von Nichtprüfungsleistungen	100%	0%	24%	66%
Frage 27: Existenz eines systemrelevanten Risikos	100%	0%	51%	82%
Frage 28: Audit-Konsortien	100%	0%	53%	81%
Frage 29: Externe Rotation	100%	0%	31%	72%

- Zustimmungquote < 40%
- 40% < Zustimmungquote < 60%
- Zustimmungquote > 60%

Anmerkung: Die Gesamtzahl der ausgewerteten Stellungnahmen variiert pro Frage.

Zustimmungsquoten aufgeschlüsselt nach Einsenderkategorie

Zustimmungsquoten bzgl. der Vorschläge des Grünbuchs	Wissenschaft	Prüfungsausschüsse	Ersteller	Behörden und öfftl. Einrichtungen	Nutzer	Abschlussprüfer	Gesamt
Total number of analyzed responses	23	8	118	51	22	365	603
Frage 13: ISA-Einführung	93%	100%	89%	95%	73%	33%	49%
Fragen 16/17: Bestellung durch einen Dritten	43%	0%	2%	9%	19%	67%	45%
Frage 18: Zeitliche Begrenzung von Prüfungsaufträgen	22%	0%	7%	21%	25%	66%	47%
Frage 19: Verbot der Erbringung v. Nichtprüfungsleistungen	42%	0%	3%	14%	33%	66%	47%
Frage 27: Existenz eines system-relevanten Risikos	40%	0%	28%	28%	67%	82%	67%
Frage 28: Audit-Konsortien	13%	0%	9%	13%	18%	81%	56%
Frage 29: Externe Rotation	23%	0%	9%	26%	35%	72%	53%

- Zustimmungquote < 40%
- 40% < Zustimmungquote < 60%
- Zustimmungquote > 60%

Anmerkung: Die Gesamtzahl der ausgewerteten Stellungnahmen variiert pro Frage.

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