

Regulation on the Audit of Investment Services Enterprises in
accordance with Section 89 of the Securities Trading Act
(Wertpapierdienstleistungs-Prüfungsverordnung – WpDPV)
Annex (to section 18 (1))

(Source: Federal Law Gazette I 2018, 148 – 153)

Notes on completing the questionnaire referred to in section 18 (1) of the
WpDPV

In the questionnaire below, the following abbreviations are to be used for the audit conclusions in the column "Conclusion":

- : The provision is not applicable
- 0: The statutory and Union law provisions were complied with throughout the entire reporting period
- 1: With regard to compliance with statutory and Union law provisions, a deficiency occurred which was remedied by the end of the audit period.
- 2: With regard to compliance with the statutory or Union law provisions, a deficiency occurred which cannot be remedied.
- 3: With regard to compliance with the statutory or Union law provisions, a deficiency occurred which can be addressed but was not remedied by the end of the audit period
- 4: In checking compliance with statutory or Union law provisions, other findings came to light concerning a lack of or an incomplete regard for the guidance developed and published by the European Securities and Market Authority (ESMA) without the simultaneous occurrence of a deficiency with regard to compliance with the statutory or Union law provisions.

If a deficiency that arose in the previous audit re-occurs, it is to be marked with the * symbol.

Questionnaire referred to in section 18 (1) of the WpDPV

Investment services enterprise:

Reporting period:

Audit period:

Cut-off date for the audit:

Audit conclusions:

No	Provisions	Audit area	Conclusion	Reference (audit report)
Rules of conduct, organisational requirements				
1	Considering clients' interests and needs			
1a	Section 63 (1) of the WpHG	Honest, fair and professional provision of services in the best interests of the client		
1b	Section 63 (3), (4) of the WpHG; section 11 (1), (3) – (5), (10), (11); Section 12 (1), (4) sentences 2, 3, (5) – (7), (9), (10) of the WpDVerOV	Incentives for employees; product monitoring; product approval process; design of financial instruments taking into account the target market; ensuring compatibility with the client's needs		
2	Section 63 (6) of the WpHG; Article 44 of Commission Del. Reg. (EU) 2017/565	Fair, clear and not misleading information and marketing communication to clients and retail clients		
3	Section 63 (7), (8), (9), (12), Section 64 (1), (2) of the WpHG; Section 4 of the WpDVerOV; Articles 46 – 50 of Commission Del. Reg. (EU) 2017/565	Appropriate information to clients; content design and provision of the information		
4	Inducements			
4a	Section 64 (7), section 70 (1) of the WpHG; section 6 of the WpDVerOV	Quality enhancement through inducements; disclosure of inducements		
4b	Section 70 (5), section 80 (8) of the WpHG	Procedure for payment of inducements		
4c	Section 70 (2) sentences 2 – 4, (3) of the WpHG; section 7 of the WpDVerOV	Implementation of the requirements regarding		

No	Provisions	Audit area	Conclusion	Reference (audit report)
		inducements in connection with financial analyses		
5	Collecting client data; assessment of suitability and appropriateness			
5a	Section 63 (5) of the WpHG	Offer or recommendation of financial instruments taking into account clients' needs and interests		
5b	Section 63 (10), section 64 (3), (4) of the WpHG; Articles 54 – 56 of Commission Del.Reg. (EU) 2017/565	Assessment of suitability and appropriateness and statement on suitability		
6	Section 67 of the WpHG; Article 45 of Commission Del. Reg. (EU) 2017/565; section 2 of the WpDVerOV	Client categorisation and agreement on the categorisation		
7	Section 64 (5), (6); section 80 (7) of the WpHG; section 8 of the WpDVerOV; Articles 52, 53 of Commission Del. Reg. (EU) 2017/565	Fee-based investment advice		
8	Section 80 (1) sentence 1 no. 1, 4, (2) of the WpHG; Articles 21, 22(1) of Commission Del. Reg. (EU) 2017/565	General organisational requirements; continuity and regularity of investment services and ancillary services; monitoring the appropriateness and effectiveness of the organisational measures taken; information security measures		
9	Article 22(2 – 4) of Commission Del. Reg. (EU) 2017/565	Establishing, resourcing and organising the compliance function		
10a	Section 80 (1) sentence 2 no. 2 of the WpHG; Articles 33 – 35 of Commission Del. Reg. (EU) 2017/565; section 63 (2) of the WpHG	Managing conflicts of interest (suitable arrangements for preventing conflicts of interest and describing unavoidable conflicts of interest);		

No	Provisions	Audit area	Conclusion	Reference (audit report)
		disclosing conflicts of interest		
10b	Article 27 of Commission Del. Reg. (EU) 2017/565	Designing remuneration such that clients' interests are not impaired		
11	Articles 38 – 43 of Commission Del. Reg. (EU) 2017/565	Additional requirements in relation to managing conflicts of interest in underwriting and placing business		
12	Section 80 (9) – (13); section 81 (4) of the WpHG; section 11 (1), (2), (6) – (9), (12) – (15), section 12 (1) – (4) sentence 1, (8), (11), (12) of the WpDPVerOV	Procedures and measures for ensuring proper handling of conflicts of interest when designing financial instruments; product monitoring procedure; product approval process		
13	Section 80 (1) sentence 2 no. 3 of the WpHG	Design, implementation and monitoring of sales targets		
14	Sections 77, 80 (2) – (5) of the WpHG in conjunction with Articles 1 – 23, 28 of Commission Del. Reg. (EU) 2017/589 and Articles 1 – 3 of Commission Del. Reg. (EU) 2017/578	Complying with the requirements in relation to algorithmic trading, including systems, risk controls and business continuity arrangements, record-keeping obligations and liquidity provision when pursuing a market making strategy; providing direct electronic access to a trading venue		
15	Sections 69, 82 of the WpHG; Articles 3 – 11 of Commission Del. Reg. (EU) 2017/575; Articles 3, 4 of Commission Del. Reg. (EU) 2017/576; Articles 64 – 70 of Commission Del. Reg. (EU) 2017/565	Execution of orders; suitable arrangements and establishment of a policy for the best execution of client orders; publishing obligations for systematic internalisers and execution venues		

No	Provisions	Audit area	Conclusion	Reference (audit report)
16	Section 78 of the WpHG; Articles 24 – 27 of Commission Del. Reg. (EU) 2017/589	Provision of clearing services as a general clearing member		
17	Article 26 of Commission Del. Reg. (EU) 2017/565	Handling of clients' complaints		
18	Articles 28, 29 of Commission Del. Reg. (EU) 2017/565	Provisions regarding personal transactions (employees' personal account dealings)		
19	Section 81 (1) – (4) of the WpHG	Obligations of senior managers		
20	Section 81 (5) of the WpHG	Officer responsible for compliance with the obligations in relation to safeguarding financial instruments and funds belonging to clients		
21	Section 84 of the WpHG; section 10 of the WpDVerOV; Articles 49, 63 of Commission Del. Reg. (EU) 2017/565	Safeguarding of financial instruments and funds belonging to clients, prohibition of certain types of financial collateral		
22	Use of employees in the provision of investment advice, as sales force staff, of employees entrusted with financial portfolio management, as sales supervisors or as compliance officers			
22a	Section 87 (1) sentence 1, (2) – (4) sentence 1, (5) sentence 1 of the WpHG; sections 1, 1a, 1b, 2, 3, 6 of the WpHGMAAnzV	Requisite expertise and reliability of employees in investment advice, sales force staff, employees in financial portfolio management, sales supervisors and compliance officers		
22b	Section 87 (1) sentences 2 – 4, (4) sentences 2, 3, (5) sentences 2, 3 of the WpHG; sections 7, 8, 10 of the WpHGMAAnzV	Notifications regarding the employees in investment advice, the sales supervisors and compliance officers; reporting of complaints		

No	Provisions	Audit area	Conclusion	Reference (audit report)
23	Section 80 (6) of the WpHG; Articles 30 – 32 of Commission Del. Reg. (EU) 2017/565	Requirements in relation to the outsourcing of activities, processes and financial services		
24	Article 31(2),(3) of Reg. (EU) No 600/2014 in conjunction with Article 17(2 – 6), Article 18 of Commission Del. Reg. (EU) 2017/567	Requirements in relation to the provision of portfolio compression		
Reporting and record-keeping obligations				
25	Section 64 (8) of the WpHG; Articles 59 – 62 of Commission Del. Reg. (EU) 2017/565	Reporting on the execution of orders and financial portfolio management		
26	Section 83 (1), (2) of the WpHG; Articles 72 – 75 of Commission Del. Reg. (EU) 2017/565	Compliance with record keeping and retention obligations not covered by nos. 1 to 25		
27	Section 83 (3) – (5) of the WpHG; Article 76 of Commission Del. Reg. (EU) 2017/565	Recording of telephone conversations and electronic communications (“Taping”)		
28	Section 83 (6) of the WpHG	Written records of face-to-face talks with regard to transactions and services under section 83 (3) sentence 1 of the WpHG		
Transparency requirements; trading obligation				
29	Section 79 of the WpHG	Notification requirement for systematic internalisers		
30	Article 27 of Reg. (EU) No 600/2014	Supplying of reference data by systematic internalisers		
31	Articles 14, 15, 17, 18 of Reg. (EU) No 600/2014; Articles 6 – 14 of Commission Del. Reg. (EU) 2017/567 and Article 9 of Commission Del. Reg. (EU) 2017/587	Transparency requirements for systematic internalisers		

No	Provisions	Audit area	Conclusion	Reference (audit report)
32	Articles 20, 21 of Reg. (EU) No 600/2014 in conjunction with Articles 12, 15 of Commission Del. Reg. (EU) 2017/587 and Articles 7, 8 of Commission Del. Reg. (EU) 2017/583	Disclosure of the volume and price and the times of execution of transactions by investment services enterprises trading outside a trading venue		
33	Article 23 of Reg. (EU) No 600/2014 in conjunction with Article of Commission Del. Reg. (EU) 2017/587	Obligation to trade shares on a trading venue		
Reporting transactions in financial instruments and positions in commodity derivatives				
34	Article 25(1) of Reg. (EU) No 600/2014	Records of orders and transactions		
35	Article 26 of Reg. (EU) No 600/2014 in conjunction with Articles 1, 4 – 12, Article 13(2) and (3), Articles 14, 15 of Commission Del. Reg. (EU) 2017/590	Reporting of transactions in financial instruments		
36	Section 57 (1), (4) of the WpHG	Reporting of positions in commodity derivatives		
Safe custody business under section 89 (1) sentence 2 of the Securities Trading Act				
37	Provisions on safe custody business; sections 128, 135 of the AktG	Findings relevant to the audit that may affect the assessment of the orderly conduct of the safe custody business		
Use of credit ratings				
38	Article 4(1) subparagraph 1 of Reg. (EC) No 1060/2009	Use of credit ratings for regulatory purposes		
39	Article 5a(1) of Reg. (EC) No 1060/2009	Over-reliance on credit ratings		
Investment research and marketing communications; recommendations				
40a	Section 80 (1) sentence 2 no. 2 of the WpHG in conjunction	Organisational requirements in relation to investment		

No	Provisions	Audit area	Conclusion	Reference (audit report)
	with Article 37 of Commission Del. Reg. (EU) 2017/565	research and marketing communications		
40b	Article 20(1) of Reg. (EU) No 596/2014 in conjunction with Articles 2 – 7 of Del. Reg. (EU) 2016/958	Objective presentation and disclosure of interests or conflicts of interest when producing recommendations		
40c	Article 20(1) Reg. (EU) No 596/2014 in conjunction with Articles 8 – 10 of Del. Reg. (EU) 2016/958	Objective presentation and disclosure of interests or conflicts of interest when disseminating recommendations produced by third parties		
Systems and procedures for detecting and reporting market manipulation				
41	Article 16(2), (3) Reg. (EU) No 596/2014; Article 2(1) and (5), Article 3(1), (4), (6 – 8), Article 4(1), Articles 5 – 6 of Commission Del. Reg. (EU) 2016/957	Arrangements, systems and procedures for detecting and reporting market manipulation		
Requirements applicable to investment services enterprises operating a multilateral or organised trading facility				
42	Sections 72, 74, 75 of the WpHG in conjunction with Articles 4 – 7 of Commission Del. Reg. (EU) 2017/578; Articles 2 – 23 of Commission Del. Reg. (EU) 2017/584	Requirements in relation to the operation of a multilateral or organised trading facility		
43	Articles 3 – 13 of Reg. (EU) No 600/2014 in conjunction with Articles 3, 12, 14 – 15 of Commission Del. Reg. (EU) 2017/587; Articles 2, 7 – 8 of Commission Del. Reg. (EU) 2017/583; Article 5 of Commission Del. Reg. (EU) 2017/577; Articles 6 – 11 of Commission Del. Reg. (EU) 2017/567	Pre-trade and post-trade transparency obligations in relation to the operation of a multilateral trading facility		

No	Provisions	Audit area	Conclusion	Reference (audit report)
44	Article 25(2) of Reg. (EU) No 600/2014 in conjunction with Commission Del. Reg. (EU) 2017/580	Records of orders and transactions held by operators of trading venues		
45	Article 26(5) of Reg. (EU) No 600/2014 in conjunction with Articles 1, 6 – 11, 15 of Commission Del. Reg. (EU) 2017/590	Reporting of transactions in financial instruments executed on the multilateral or organised trading facility with firms which are not subject to Regulation (EU) No 600/2014		
46	Article 27 of Reg. (EU) No 600/2014; Article 4 of Reg. (EU) No 596/2014 in conjunction with Commission Del. Reg. (EU) 2017/585	Supplying reference data		
47	Article 31(2), (3) of Reg. (EU) No 600/2014 in conjunction with Article 17(2) – (6), Article 18 of Commission Del. Reg. (EU) 2017/567	Requirements for providing portfolio compression		
48	Section 57 (1), (2) of the WpHG	Reporting of positions in commodity derivatives for operators of trading venues		
49	Article 16(1) of Reg. (EU) No 596/2014 in conjunction with Article 2(3) and (5), Article 3(1), (3), (4), (5) and (8), Articles 4 – 6 of Commission Del. Reg. (EU) 2016/957	Arrangements, systems and procedures for the detection, prevention and reporting of market abuse		
Miscellaneous				
50	Section 89 (4) of the WpHG	Points of focus for the audit determined by the Supervisory Authority	yes/ no:	
	Explanatory notes regarding number 50:			
51	Internal audit conclusions in areas relevant to the audit		yes/ no:	
	Explanatory notes regarding number 51:			

No	Provisions	Audit area	Conclusion	Reference (audit report)
52	Further conclusions relevant to the assessment of compliance for investment services provided where not covered by numbers 1 to 51		yes/ no:	
	Explanatory notes regarding number 52:			
53	Quantitative information on the structure of the client base			
53a	Number of retail clients			
53b	Number of professional clients			
53c	Number of eligible counterparties			
54	Short description of identified deficiencies and of the provisions that have been violated, particularly with regard to guidance developed and published by the Supervisory Authority and ESMA:			
55	Additional information on the nature and extent of business activity (please tick as appropriate)			
		Retail clients	Professional clients	Eligible counterparties
	Investment services within the meaning of section 2 (8) of the WpHG provided within the reporting period			
	Sentence 1 no. 1 (Principal broking services)			
	Sentence 1 no. 2a (Market making)			
	Sentence 1 no. 2b (Systematic internalisation)			
	Sentence 1 no. 2c (Proprietary trading)			
	Sentence 1 no. 2d (High frequency trading)			
	Sentence 1 no. 3 (Contract broking)			
	Sentence 1 no. 4 (Investment broking)			
	Sentence 1 no. 5 (Underwriting business)			
	Sentence 1 no. 6 (Placement business)			
	Sentence 1 no. 7 (Financial portfolio management)			
	Sentence 1 no. 8 (Operating a multilateral trading facility – MTF)			
	Sentence 1 no. 9 (Operating an organised trading facility – OTF)			
	Sentence 1 no. 10 (Investment advice)			
	Sentence 6 (Proprietary business)			
	Ancillary investment services within the meaning of section 2 (9) of the WpHG provided within the reporting period			
	no. 1 (Safe custody business)*			

	Retail clients	Professional clients	Eligible counterparties
no. 2			
no. 3			
no. 4			
no. 5 (Investment [strategy] recommendation)			
no. 6			
no. 7			

* Supplementary information on the safe custody business
(reference date for the supplementary information is the cut-off date for the audit):

Number of securities accounts:
Aggregate volume of securities accounts: