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**THE MODEL OF THE BEHAVIOUR OF**  
**AN HONOURABLE MERCHANT**

**S U M M A R Y**

**of a dissertation for the degree of Doctor**  
**in Professional Field 3.8 ‘Economics’,**  
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## INTRODUCTION

In the context of ongoing turbulence in the global economy, business leaders, policymakers, and society as a whole increasingly grapple with questions surrounding corporate accountability. The concepts of corporate social responsibility and sustainable development, particularly the Sustainable Development Goals (SDGs) outlined in the United Nations' Agenda 2030, have become focal points of public and academic discourse. These trends are increasingly evident in the financial sector: public corporations are now mandated to disclose reports on their social and environmental impact, a growing number of investors are prioritizing socially responsible investment opportunities, and specialized stock indices have been developed to measure these efforts. These contemporary concepts, however, have historical antecedents, notably the principles of the "honourable merchant" rooted in the Hanseatic League of North German towns, a tradition dating back to the 12th century.<sup>1</sup> Centuries before the advent of modern corporate governance, merchants recognized that the long-term success of their ventures depended on adhering to a code of integrity, fostering trust among business stakeholders.

In recent decades, the credibility of corporate financial reporting has gained prominence, especially in the wake of successive financial crises. Confidence in financial disclosures underpins trust in capital markets, which is critical for economic growth and stability. Consequently, accounting principles and standards—particularly international financial reporting standards—are under constant scrutiny and refinement to enhance the reliability of corporate financial statements. However, the preparation of financial and accounting records disclosed to investors and the public often allows for the application of different approaches, which can influence the portrayal of the company's financial position. In other words, the

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<sup>1</sup> See Kort, Michael (Gemeinwohlbelange beim Vorstandshandeln, 2012), l.c., 928 with further evidence

preparation of financial and accounting reports often involves a degree of subjective judgment, which can shape the perceived financial health and performance of companies. The concept of "prudent business judgment," emphasized by the Hanseatic League centuries ago, underscores the enduring relevance of ethical decision-making in commerce.

This dissertation examines the core principles of the "honourable merchant" concept and its implications for modern accounting practices, particularly in the recognition and measurement of provisions within financial statements. The study focuses on business organizations in the Federal Republic of Germany.

The primary objective of this dissertation is to theoretically elucidate the nature and characteristics of the concept of the "honourable merchant" and to explore its applicability in the accounting practices of business organizations, specifically in the context of accounting for provisions in the Federal Republic of Germany.

To achieve this goal, the following key scientific tasks are addressed:

1. Examine the peculiarities of the concept of the "honourable merchant," including its historical and legal dimensions, as well as the principle of "prudent business judgment.";
2. Identify the challenges and nuances in accounting for provisions, highlighting the complexities within contemporary accounting practices;
3. Evaluate the application of probability theory in provision accounting, focusing on the role of subjective judgment in shaping financial estimates;
4. Analyze case law in the Federal Republic of Germany related to prudent business judgment and its implications for provision accounting;

5. Present and evaluate real-world case studies from the practice of business organizations in Germany, illustrating the integration of the "honourable merchant" concept in accounting for provisions.
6. The study employs a diverse methodological framework to address these tasks, including theoretical analysis and synthesis, case studies, descriptive analysis, and prescriptive modeling grounded in an interdisciplinary approach. Historical methodology, retrospective analysis, and content analysis of legal and regulatory sources are extensively utilized. The primary research relies on qualitative methods, such as secondary data analysis and theoretical generalizations, to describe and synthesize the specific dimensions of the investigated issues and their application in practical case studies.

The central question and thesis formulated by the author investigate whether historically successful socio-economic models and practices can be effectively adapted to the modern economy. The study explores the role of morality in economic processes and examines practical approaches for integrating ethical principles into contemporary economic and business practices.

## Study Highlights

- \* This thesis examines the concept of "prudent business judgement" in the context of Article 253 (1) Clause 2 of the German Commercial Code (HGB) and its implementation in law.
- \* It discusses the historical roots and development of the "honourable merchant" in German commercial law, including the influence of the "merchant" profession and the attributes ascribed to it.
- \* The thesis explores the lack of a clear legal definition for the term "honourable merchant" and derives the model for the honourable merchant from legally anchored general clauses that embody specific basic values.
- \* It provides an analysis of accounting law theories and the role of provisions, including the historical development of static and dynamic interpretations of the balance sheet as well as the differences between determining assets and profits.

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**Achievements and Significance:** The study "The Model of the Behaviour of an Honourable Merchant for the Reporting of Provisions" provides an in-depth analysis of the concept of "prudent business judgement, " as outlined in the German Commercial Code (HGB) and its implications for the accounting of provisions. By exploring the historical evolution of the "honourable merchant" model, the research sheds light on the legal foundations and practical relevance of this concept in modern business practices. Furthermore, this study delves into accounting law theories and the role of provisions, thereby offering valuable insights into the structural principles governing balance sheets and liabilities. By examining subjective

and objective probabilities in business decision making, this study contributes to a better understanding of how uncertainties are managed within financial reporting. Overall, this study adds to the existing knowledge on ethical and legal considerations in commercial activities, specifically in the context of provision reporting and prudent business judgments.

**Background And Context:** The text provides references to various studies in the fields of decision theory, stochastic processes, and quantitative planning, suggesting that the study is likely related to these areas. Additionally, the mention of "Prudent Business Judgement in Provisions" in Lothar Grimminger's dissertation focuses on risk management or financial decision making within a business context. References to specific authors and their works suggest that the study is grounded in existing literature and aims to contribute to the understanding of these subjects.

**Contributions To The Field:** This study contributes to the field by analysing the concept of "prudent business judgement" in the context of provisions reporting according to the German Commercial Code. It delves into the historical development of merchant judgement, the implementation of EC guidelines, and objective probability in theoretical statistics. Additionally, this study provides insights into subjective probability formation within changing environmental conditions through selected examples such as car manufacturers, customer bonuses, and environmental provisions. Overall, it offers a comprehensive examination of the model of an "Honourable Merchant" and its implications for accounting practices.

**Discussion And Interpretation:** The text discusses the concept of objectivizing probabilities in the context of economic decision making. It

distinguishes between subjective and objective estimates, highlighting the theoretical basis and the development of statistical probability theories. The text also discusses the significance of random experiments in theoretical statistics and balance sheet preparation. Furthermore, it delves into the influence of organizational structure and market position on the probability of events occurring in business valuation problems. The text emphasises that decisions in economics can be categorised into three fundamental types, based on the data situation: decisions with certainty, decisions with risk, and decisions with uncertainty. Practical business administration offers various methods for decision-making and aims to improve the data situation by transitioning from uncertainty to risk or from risk to certainty through the presentation of hypotheses.

**Limitations And Future Work:** Limitations of this study include reliance on experience and intuition for assessing future developments, the potential impact of incomplete findings or changing data collection on the results, and the uncertainty inherent in creating provisions when the reason and amount of obligations are uncertain. Future work could involve more empirical research to validate the theoretical frameworks discussed and explore practical applications of the proposed decision-making methods, as well as considerations of how advancements in data analytics could enhance decision preparation and execution in uncertain and risky situations.

**Methodology:** The methodology for this study involved the determination of subjective probabilities through direct and indirect methods. Direct methods include questioning experts to express their opinions using credibility figures. Indirect methods may involve transforming individual decisions into group selection to establish relative frequency distributions.

Group judgments can help eliminate cognitive distortions and biases that may affect individual assessment. This study may also consider simultaneous temporal and intercompany analyses using techniques such as panel analysis.

**Research Objectives and Hypotheses:** 1. Define how a merchant can create or learn an attitude which is regarded as being “honourable.” 2. Examine the impact of the degree of conviction on subjective probabilities in the decision-making processes. 3. Investigate the diversity of probability estimates among experts and their implications for decision-making accuracy. 4. Analyse the methods used to specify subjective probabilities and their relationships with objective indicators in business administration.

**Hypotheses:** 1. H1: An honourable attitude is created by dealing with the historical traditions of role models and the social and economic environments. 2. H2: The degree of conviction of a subject directly influences the subjective probabilities assigned to events. 3. H3: Different experts provide varying probability estimates, owing to subjective interpretations that potentially affect decision outcomes. 4. H4: The use of diverse estimation methods to determine probabilities can lead to a range of accuracies in decision-making processes. 5. H5: Objective indicators, such as experience, expert appraisals, and historical data, contribute significantly to the discovery and evaluation of subjective probabilities in decision making.

**Results And Findings:** The study discusses the subjective and objective nature of probabilities, highlighting how they can be influenced by the degree of conviction of the subject. This emphasises that diverse experts may provide different probability estimates, leading to a range of valuation results that can still be considered accurate. The text touches upon the



challenges of determining "objectively true" versus "subjectively appropriate" probabilities and how statistics, particularly inductive statistics, aim to provide relatively objective starting points for probability specification through random samples. The text also mentions various methods and indicators used to specify subjective probabilities such as expert appraisals and historical data. This underlines the lack of standardised evaluation methods and suggests that business administration offers practical proposals for decision-making under risk and uncertainty scenarios.

**Structure And Flow:** 1. **\*\*Introduction\*\*** - Overview of the study's focus on accounting law theories and the role of provisions in financial statements, based on relevant texts. 2. **\*\*Understanding the Balance Sheet\*\*** - Explanation of the competing balance sheet interpretations, particularly the static and dynamic approaches. - Historical perspective of competition between static and dynamic approaches. - Clarification of the broader use of "balance sheet" in relation to financial statements. The discussion on how the objectives of financial statements form the basis for balance sheet theory. 3. **\*\*Objectives of Financial Statements\*\*** - Analysis of the varying purposes of financial statements based on traditions or interests. - Reference to Tanski's work on financial statement purposes. - Exploration of different conceptions from balance sheet theorists as highlighted by Zöbeli's research. 4. **\*\*Role of Provisions in Financial Statements\*\*** - Examination of provisions in financial reporting and their significance. - Insights on prudent business judgments and their application in provisions. Discussion of self-regulation management systems, environmental and social standards, codes of conduct, and sustainability reports in relation to provisions. 5. **\*\*Conclusion\*\*** - Summary of key

points discussed regarding financial statements, balance sheet theories, and the role of provisions in accounting law. Implications of the study's findings for understanding financial reporting practices. Following this structured approach, this study provides a comprehensive analysis of accounting law theories, balance sheet interpretations, and the role of provisions in financial statements, as outlined in relevant text segments.

The overall summary of the text delves into the concept of the "honourable merchant" under German commercial law, examining its significance, historical context, and lack of a precise legal definition. It traces the evolution of this idealised merchant figure, emphasising the core values associated with merchants and their adaptation to the modern economic landscape. Additionally, one chapter elucidates balance sheet interpretations, accounting law theories, and the role of provisions in the context of prudent business judgment. It discusses liabilities, including provisions for uncertain liabilities and pending losses, guarantees, and expenses. Furthermore, one chapter explores the objectivizing of probabilities, comparing numerical and accounting law definitions while analysing subjective and objective probabilities in theoretical statistics and business administration. Selected examples such as car manufacturers, customer bonuses, and environmental provisions were used to illustrate these concepts.

## **Abstract**

This study examines the concept of "prudent business judgement" within the framework of the German Commercial Code, specifically focusing on Article 253 (1), Clause 2. It argues that there is a need for further elucidation and guidelines to effectively apply this concept in daily business operations. Additionally, the paper explores the historical and contemporary significance of the "honourable merchant" model in German commercial law, particularly in light of financial and economic decision making. It delves into the ethical standards underlying this model, such as consideration, honesty, loyalty, faith, and responsibility. Moreover, this study considers the relevance of creating provisions in accounting, emphasising the necessity for uncertainty about future obligations. Overall, this research offers valuable insights into the interpretation and practical application of prudent business judgement and the model of honourable merchants in the German commercial context.

## **Summaries of Chapters**

### **Summary Chapter 1 Introduction**

#### **The Concept of the "Honourable Merchant" within German Commercial Code**

The research paper explores the concept of the "honourable merchant" within the framework of the German Commercial Code (HGB) and aims to elucidate the specific attributes and requirements associated with this model. The paper delves into the historical roots of the "honourable merchant" concept, tracing it back to the late Middle Ages and the early

modern period, when merchants organised themselves into influential guilds and cultivated a distinct notion of honour and proper conduct. The model of the "honourable merchant" is based on the construct of "good customs" and "propriety", anchoring it in a historical and legal context as a standard for appropriate business conduct.

### **Legal and Practical Significance of the "Honourable Merchant"**

The paper also addresses the significance of the "honourable merchant" within the context of legislation, highlighting its legal and practical relevance as an unspecific legal term. This emphasises the dynamic interpretation of legal notions and their alignment with contemporary economic values and ethics. Furthermore, the paper emphasises the role of legally anchored general clauses that embody specific basic values, such as consideration, honesty, loyalty, faith, and responsibility, which contribute to the definition of the "honourable merchant" within the legal system.

### **Historical Commitment and Ethical Challenges**

In examining the historical commitment to the model of the "honourable and prudent merchant", this paper underscores the ethical challenge posed to modern entrepreneurial practices and the need for greater entrepreneurial self-regulation. It emphasises the global economic citizen's responsibility and fundamental competencies as well as the ethical considerations that shape business practices and regulations. Overall, this paper offers a comprehensive exploration of the historical foundation and contemporary implications of the "honourable merchant" honourable merchant model within the legal and economic landscape.

### **"Prudent Business Judgment" and Application in Daily Operations**

This study addresses the concept of "prudent business judgment" within the scope of Article 253 (1) Clause 2 of the German Commercial Code (HGB) and its application in daily business operations. It emphasises the enduring significance of business models under "Lex Mercatoria" and the importance of credibility as a key asset for merchants. This study underscores the need for merchants to act honourably, even if it means foregoing personal advantage, pointing to the growing relevance of corporate social responsibility and specific company guidelines for ethical action. Additionally, the study highlights the role of class organisations and chambers of industry and commerce in upholding propriety and morality among merchants.

### **Corporate Responsibility and Instruments**

Looking ahead, the focus has shifted from individual merchants to companies and their corporate responsibilities. Instruments shaping corporate responsibility include voluntary self-regulation management systems, environmental and social standards, codes of conduct, and sustainability reports. Moreover, the study references various sources, such as Beschoner and Hajduk, Leibinger, Henning-Bodewig and Liebenau, and VEEK, to support its arguments and provide additional insights.

### **Evolving Landscape of Corporate Responsibility**

This study offers a comprehensive exploration of "prudent business judgment" within the context of the German Commercial Code, emphasising the evolving landscape of corporate responsibility and ethical conduct. It delves into the enduring relevance of traditional business models, the evolving role of merchants in demonstrating honourability, and the increasing importance of corporate social responsibility and ethical

guidelines for companies. The study's reliance on various sources lends credibility to its findings, offering a valuable resource for understanding and navigating the complexities of business ethics within the German commercial context.

### **Summary Chapter 2 The model of a "honourable merchant" for German commercial law**

Chapter 2 discusses the evolution of the concept over time, its historical roots, and its relevance to modern economic contexts. This model emphasises the values of honourability and reason as fundamental to business activities, though subject to subjective interpretation. While the notion of an honourable merchant saw a decline with a focus on efficiency, recent times have brought back a call for ethical standards in economic practices. This discussion highlights the importance of understanding the background and application of this model within German legal traditions.

This study addresses the seemingly simple but demanding definition of an "honourable merchant" utilizing "prudent business judgement" prudent business judgement' for the reporting of provisions. It delves into the historical and developmental aspects of this definition and examines its practical implications for modern business practices. This study highlights the challenges of upholding this ideal in a dynamic and complex business environment. It emphasises the importance of understanding the broader context of financial reporting, which goes beyond the balance sheet to encompass all annual financial statements and underlying accounting processes. This study also explores the influence of legal requirements and reporting methods on the portrayal of a company's economic position in its

financial statements. It touches upon the necessity for a comprehensive understanding of accounting knowledge and case law to accurately handle financial disclosures. Furthermore, this study discusses the complexities related to the preparation of a balance sheet, particularly in terms of the accounting methods employed and the treatment of provisions. It emphasises the role of subjective and objective probabilities in decision-making for the creation of provisions within the context of sound merchant judgement, as required by case law. This study aims to elucidate the evolving concept of a merchant and its relevance in decision-making for balance sheet preparation, with a focus on historical development and practical applications of probability in this context.

### **The model of a "honourable merchant" for German commercial law**

The research paper explores the concept of the "honourable merchant" in German commercial law, emphasising its historical significance and relevance in modern business practices. This paper highlights the role of family tradition and the honourable merchant model in shaping the business vision and values of owner-managed companies. It argues that living out the model of the honourable merchant can render compliance obsolete and stresses the importance of anchoring universally applicable values and standards of conduct in corporate culture. This paper traces the roots of the honourable merchant in German law and emphasises its inclusion in legal frameworks and case law. It discusses how the concept of the honourable merchant has evolved over time, and its connection to the principles of ethics and morality. Furthermore, it emphasises the significance of virtues, such as consideration, honesty, loyalty, faith, and responsibility, in the model of an honourable merchant. Finally, this paper reflects on the ethical challenges faced by contemporary global economic

citizens and the responsibility of organisations in maintaining propriety and morality. Overall, this study offers a comprehensive exploration of the historical, legal, and ethical dimensions of an honourable merchant and its implications for modern business practices.

### **Summary Chapter 3 Accounting law theories and the role of provisions**

**Chapter 3** addresses the Principles of Proper Accounting that have evolved over time in German accounting law through refinement by the German Federal Fiscal Court and the introduction of the German Accounting Guidelines Act. These principles emphasise the protection of creditors, with caution being a predominant principle that materialises in the realisation and imparity principle. Documentation principles play a crucial role in ensuring accurate information about business events for provision determination. While accounting regulations are extensive, interpretations and methods still allow flexibility. The principles of Proper Accounting serve as derived postulates with legal validity and act as norms when legal loopholes or interpretational issues arise. These principles can be deductively or inductively derived, with a deductive approach that focuses on how a conscientious merchant should maintain books and an inductive approach that reflects actual practices. The origin of these principles lies in the interests of merchants, who collectively shape accounting practices, emphasising the normative aspect of accounting law.

This study discusses accounting law theories and the role of provisions, focusing on understanding the balance sheet and competing balance sheet interpretations. It delves into the historical perspective of static and dynamic approaches that compete with each other. The static approach



concentrates on the achieved level of assets, juxtaposing the assets recognised on the reporting deadline to liabilities. The dynamic approach focuses on determining profits to provide an account of a past period by presenting comparable and accurate period profits.

### **Understanding the balance sheet**

This study discusses the historical competition between static and dynamic approaches to balance sheets and financial statements. The static approach focuses on asset and liability levels as of the reporting date, whereas the dynamic approach emphasises profits to account for past periods. The static approach has roots in balance sheet norms, asset and liability rules, and capitalisation rules. It includes a detailed system of accounting norms to show the asset and liability levels, profits, and debt coverage potential.

On the other hand, the dynamic approach focuses on determining profits and the impact of pending transactions. It involves the division of business events into payments and profits, thus accounting for asset changes. The practical application of the balance sheet theory and policy involves different types of prepared balance sheets, such as start-up, conversion, merger, and liquidation balance sheets.

The paper also covers prominent defenders of the static approach, such as Nicklisch and Le Coutre, who have focused on the theory of classification and breakdown of the balance sheet. The dynamic balance sheet interpretation, traced back to Schamlenbach and refined by Kosiol, integrates profits and payments without separating them from each other. The dynamic approach also addresses the cause of the prepared balance sheets, including start-up, conversion, merger, restructuring, insolvency, and liquidation balance sheets.

## **Historical Development of Static Balance Sheet Theory**

The older static balance sheet theory was substantially shaped by Berlin attorney Herman Veit Simon, who led the legal discussion on the application of the General German Commercial Code (ADHGB) in 1861. Static balance sheet theory involves a detailed system of accounting norms intended to show the level of assets and liabilities in comparison to each other. The study also covers the responsibilities of bookkeeping and the derivation of the principles of proper accounting. The deductive derivation is based on how a conscientious merchant should keep his books, while the inductive derivation is based on the actual means and way that the merchant keeps his books. The deductive method is favoured for determining the German Principles of Proper Accounting. The Principles of Proper Accounting have a legal norm and are explicitly mentioned as standards in accounting law.

This paper emphasises the documentation principles that provide an introduction to correct accounting and aims to deliver the necessary and correct information on business events. This also highlights the importance of the Principles of Proper Accounting for financial statements to be prepared in accordance with commercial accounting norms. The Principles of Proper Accounting form a system of norms and principles that includes the protection of creditors as the foremost objective. The principle of caution dominates the Principles of Proper Accounting and assumes a concrete form in the realisation and imparity principle.

In conclusion, the study underlines the significance of following complete documentation to offer the necessary and correct information on business events, particularly for the determination of the provision amounts. The

Principles of Proper Accounting play a crucial role in ensuring accurate and reliable financial reporting, and are essential for compliance with accounting regulations.

### **Breakup static approach**

This study discusses the breakup static approach as a method for valuing assets in the event of a fictitious company breakup. This emphasises the importance of interpreting balance sheet assets as available to satisfy creditor claims in the case of bankruptcy. This paper highlights the Reich Supreme Judicial Court's call for disclosing assets at their general fair value and differentiating between immediate liquidation and divestiture prices without emergency circumstances. The valuation of assets and liabilities at a general fair value is emphasised, with a focus on objective determination and exclusion of subjective discretion or speculation. The breakup static approach is applied in cases where the company cannot continue in its previous form, such as liquidation, bankruptcy, restructuring, or partial conversion. The use of the going-concern principle and the strict lowest-value method for asset valuation is also discussed. Furthermore, the paper explores the practical application and criticism of the breakup static approach, especially concerning overvaluation, silent reserves, and the strict retention of the lowest value method. This article provides multiple references to legal acts, court rulings, and accounting principles to support its arguments.

### **Dynamic approach**

This study discusses the development of dynamic balance sheet theory, focusing primarily on the income statement (profit and loss account) within the context of legal requirements and internal company objectives.

Schmalenbach's perspective, rooted in a ruling by the Reich Court in 1908, emphasizes that the true assets of a company cannot be accurately determined solely based on the balance sheet. This is because of the various forces and advantages that impact a company, which are not fully represented in the balance sheet. Schmalenbach advocates for a total income statement, where every receipt of payment leads to income and every payment made leads to an expense over the entire lifespan of the company. He argues that preparing an annual balance sheet based on legal requirements breaks up the company's entire life into sub-periods, resulting in pending transactions that are not fully captured in the balance sheet. As a result, the dynamic balance sheet does not show levels, but instead describes movements, representing an ever-changing snapshot of the company's future sales resulting from identified pending transactions. Additionally, Schmalenbach views balance sheet profits as an indicator of a company's profitability, whereas the balance of the account for profits and losses reflects the profit or loss in the period. Ultimately, Schmalenbach conceptualises the dynamic balance sheet as a profit balance sheet with the income statement as an accompanying part, emphasising the need to enter and describe movement rather than static conditions.

## **Assets**

This study discusses the importance of liabilities and equity in financial reporting by focusing on four main points: comparability, balance sheet continuity, precise period delineation, and profit congruence. Comparability is emphasised for measuring annual operational profit and its components, with a target-actual comparison serving as a substitute. Balance sheet continuity involves maintaining the balance sheet's identity, consistency of valuation approaches, and reported values. Precise period delineation

includes checking for profit-related business events to determine their impact on profits in later periods. Finally, profit congruence aims to achieve a doubt-free determination of expenses and income to satisfy creditors. The study references Schmalenbach's work in emphasising the need for a trackable way of determining expenses and income.

### **Types of Provisions**

The study delves into the different types of provisions as defined by the German Commercial Code, such as provisions for uncertain liabilities, pending losses from pending transactions, omitted servicing expenses, and unspecified expenses from the past financial year. This explains the objectivity criteria and the required probability of usage for the recognition of a liability as a provision. Furthermore, it emphasises the principles of valuation consistency, the imparity principle, and the creation of lump-sum provisions without apparent reason. Overall, this study provides a comprehensive overview of the accounting obligations and principles related to the creation of provisions in accordance with the German Commercial Code.

This study discusses provisions for pending losses from pending transactions, provisions for guarantees without legal obligations, and provisions for omitted servicing and omitted removal of waste (expense provisions) in the context of accounting practices. The authors explain that pending transactions, such as those with outstanding services or future expenses, should be reported as pending losses if future expenses are not covered by attributable future income. They emphasise that only unavoidable pending losses should be recognised, and that the pure possibility of a loss transaction is not sufficient. The paper also delves into

provisions for guarantees without legal obligations, highlighting the necessity of a duty to report a liability in this case. Furthermore, the authors explored expense provisions for omitted servicing and omitted removal of waste, clarifying the criteria for the recognition of provisions, including the neglect of actual expenses, the neglect of expenses in the last financial year, and the requirement for owed work to be completed in a specific timeframe. Overall, this study provides a comprehensive examination of the various accounting provisions and criteria for their recognition.

#### **Summary Chapter 4 Prudent business judgement**

**Chapter 4** discusses the historical development of merchant or business judgment and its significance in the context of the formation of solid unions between large cities in central continental Europe at the end of the thirteenth century. This highlights the importance of trade books in maintaining records on commercial credit and business investments because of the absence of universal forms of payment. The content of trade books was later incorporated into the city "Schoßregister", and merchant self-assessment played a crucial role in the tax burden calculation. Furthermore, the paper discusses the implementation of EC guidelines and references in law, specifically the German accounting law anchored in the German Commercial Code (HGB), and the adoption of international accounting standards for publicly listed companies. The significance of prudent business judgment is in accordance with Article 253 (1). Two of the German Commercial Codes (HGB) are also addressed, emphasising their limitations, objective valuation framework, probability breakdown, and complete disclosure. This research provides practical examples and

mentions case law rulings as guidelines for the individual measurement of provisions. Additionally, it discusses the historical milestones in the development of financial statements, including the German Accounting Law Reform Act (BilReG) of 2004 and the German Accounting Law Guidelines Act (BiRiLiG) from 1985, which brought about significant changes in accounting laws related to recognition, valuation, disclosure, and consolidation requirements.

### **Historical development of merchant or business judgement**

In the late thirteenth century, significant unions were established among the major cities in central continental Europe, leading to the formation of the Hansetage, which were crucial merchant assemblies in the fourteenth and fifteenth centuries. Trade books, which meticulously maintained records of commercial credit and business investments, served as the basis for exchange due to the absence of universal forms of payment. These trade books were utilised from the fifteenth century onwards, not only to track debts, but were also integrated into the city "Schoßregister", a record of paid property tax. The term "Schoß" primarily pertained to property tax, with the tax burden being determined by the merchant's self-assessment based on a proposal by the city council. This demonstrates the development and utilisation of trade books and the integration of their content into city tax records, shedding light on the economic and administrative practices of the time.

This section discusses the historical significance of the proper estimation and recording of trade assets in commercial books from the 16th century to the 20th century. It highlights the legal certification and importance of

accurately keeping debt books and trade books in various historical eras, emphasising the consistent demand for orderly and correct bookkeeping. The evolution of the interpretation of "orderly" and "honourable" bookkeeping duties is traced from the 19th century to the Prussian states' commercial code and the German Commercial Code. This section also addresses the increased merchant discretion in valuation during economic crises, which led to diverse results in financial reporting. It emphasises the significance of merchant judgment in estimating values for balance sheet items and the requirement of integrity in financial practices, regardless of specific legal terms. This study reveals the long-standing importance of accurate estimation and integrity in commercial bookkeeping practices throughout history.

### **Implementation of EC guidelines and references in law**

The implementation of EC guidelines and references in German accounting law, as detailed in this research paper, is anchored in the German Commercial Code (HGB). The need for comparable accounting in EU member states led to the implementation of the 4th EC Directive for the harmonisation of accounting requirements and corporate law in German legislation. As a result, the German Accounting Guidelines Act (Bilanzrichtlinien-Gesetz) was adopted in 1985, integrating the requirements of the 4th EC Directive into the German Commercial Code.

### **Prudent business judgement in accordance with Art 253 (1) Cl. 2**

The term 'prudent business judgment' was widely included in German legislation relevant to reporting parties, without a detailed definition of its



meaning and application. Historical developments in financial statements, such as the Capital Raising Facilitation Act and the German Accounting Law Reform Act, reflected the integration of international norms and the alignment of accounting standards with international expectations.

The German Accounting Law Modernisation Act further strengthened informational intent and alignment with international information expectations, leading to significant changes in accounting laws related to recognition, valuation, disclosure, and consolidation requirements. Despite the emphasis on prudent business judgment and the disclosure of all actual circumstances, challenges remain in estimating reporting deadlines and achieving a probability breakdown. This study emphasises the inevitability of subjective decisions in accounting due to limited knowledge and reliance on experience and intuition. Finally, the study highlights the importance of case law in providing guidelines for the individual measurement of provisions and addressing practical questions in accounting.

### **Summary Chapter 5 Objectivising probabilities**

This **chapter 5** explores the concept of probability in two different contexts: the theoretical aspect of statistics and its application in business decision-making. In simpler terms, it discusses how we understand the likelihood of specific events and how businesses use this understanding to make decisions.

Chapter 5 delves into the concept of probability, distinguishing between numeric and non-numeric statements on probability, with the former falling under statistics and the latter under accounting laws. It also discusses

classic examples of probabilities, such as flipping a coin or rolling a die, how they relate to reporting uncertain liabilities in business, and the origin of probability theories. The significance of random experiments for theoretical statistics is highlighted, along with the definitions of statistical probability and criticism. The study further delves into the subjective term probability in business administration versus the objective term probability in theoretical statistics. It also goes into decision-making under conditions of certainty, risk, and uncertainty, as well as the transformation of uncertainty to risk. The inclusion of subjective probability formation in changing environmental conditions is discussed along with the influence of economic cycles and market situations on a company's goal formation and pursuit. The paper concludes by emphasising the subjective nature of probability estimates in the creation of provisions and decision-making in business administration.

### **Objectivization of Probabilities**

This study discusses the objectivisation of probabilities in both theoretical statistics and business administration. This highlights the differences between numeric statements on probability and those that do not contain such information. This study explains the statistical interpretation of probability and the role of inductive statistics in drawing conclusions on fundamental legality. It also discusses classic examples of probabilities, such as coin flips and dice tossing, and their applications in reporting uncertain liabilities.

### **Theoretical Basis of Probability**

This study discusses theoretical probability in statistics, highlighting the development of probability theory and the challenges of applying it in

practice because of the unpredictability of real-world events. The theoretical basis of probability in statistics and modern physics research has also been explored, focusing on the calculation of probability and the requirements for the applicability of probability processes. The origins of probability theories, including classical probability theory developed by de Laplace and the work of mathematicians such as d'Alembert and Leibnitz, are also discussed, along with the axiomatic justification of probability theory presented by Kolmogoroff in the nineteen-thirties.

### **Economic Valuation and Probability Formation**

This study further delves into the significance of random experiments in economic valuation problems and the impact of a company's organizational structure and market position on the probability of occurrence in selected valuation problems. It also explores the inclusion of subjective probability formation in changing environmental conditions, the significance of economic cycles, and goal formation and pursuit at a company, influenced by subjective estimates of the economy and market development. Finally, the study addresses decisions with certainty, risk, and uncertainty, as well as the transformation of uncertainty to risk. It explains the various methods for determining subjective probabilities, the impact of these probabilities on balance sheet policies, and the role of subjective probability estimates in creating provisions. This study emphasises the concept of the objectivised minimum probability required for the recognition of provisions and the reliance on subjective probability estimates in practice.

### **Contrasting Numeric and Non-numeric Probability**

This section continues by contrasting numeric probability, which involves calculating the chance of an event occurring, with non-numeric probability,

which does not provide specific probability numbers. In statistics, probabilities are used to analyse random events or developments and draw conclusions based on observed data. The paper also delves into classic examples of probabilities, such as flipping a coin or rolling a dice, and how this relates to decision making in business, especially in creating provisions for uncertain liabilities.

Furthermore, this study explored the impact of a company's organizational structure and market position on the probability of event unfolding by referencing various economic theories and decision-making methods. It also covers the types of decisions made with certainty, risk, and uncertainty as well as how businesses transform uncertainty into risk through the analysis of additional information.

### **Subjective Probability Formation and Changing Conditions**

The subjective aspect of probability in the business context is highlighted, where decision makers rely on estimates and personal judgments rather than purely objective calculations.

The chapter concludes with the unavoidable inclusion of subjective probability formation in changing environmental conditions and explains how companies use subjective estimates and assessments to make decisions based on economic cycles and market situations. This emphasises that businesses often rely on subjective probability estimates, guided by individual judgment and expertise, to make informed decisions in the face of uncertainty.

### **SciSummary Synopsis long: Datei "...Kapitel 6"**

This paper discusses various examples of measurement and management of provisions in the context of accounting. The first example focuses on the car manufacturer's procedure for calculating guarantee provisions. It details the IT-based process developed for better objectivisation as well as the considerations for defects identified during vehicle development and customer complaints at repair shops. The second example pertains to a textile manufacturer granting customer bonuses, including the entry threshold for the bonus and considerations for the measurement of provisions based on sales revenue and contractual agreements. The third example examines sales representative commissions, detailing the calculation of minimum commissions and measures for the measurement of provisions. The study also explores environmental provisions in the context of a metal processing plant and provides insights into obligations, timing, and estimation of provision amounts. The chapter concludes by covering other examples commonly found on balance sheets, including expected follow-up tax payments, litigation costs, pension obligations, commission liabilities, and provisions for the use of guarantees and bills of exchange, and offering detailed explanations for each. This study provides a comprehensive overview of different scenarios and considerations related to the measurement and assessment of provisions in accounting.

### **Summary long**

This study discusses the development of an IT-based process for calculating guarantee provisions in the automotive industry. It provides an example of a car manufacturer implementing a more precise approach to account for guarantee costs by tracking each case and calculating the costs for a specific model series. This study highlights the development of an IT-based process for identifying and addressing product problems in the

automotive industry using real-world examples. Examples include identifying and addressing defects in vehicle development, customer complaints at repair shops, and the possibility of recall campaigns. The study also discusses the calculation and evaluation of provisions for environmental damage, expected follow-up tax payments, litigation costs, pension obligations, commission liabilities, use of guarantees and bills of exchange, and guarantees. Additionally, it emphasises the importance of recognising and assessing obligations, determining the timing and amount of obligations, and evaluating the adequacy of provisions. Furthermore, the study covers provisions for commission liabilities, the use of guarantees and bills of exchange, and expected follow-up tax payments, among other financial considerations. This research provides detailed insights into the methods and criteria used for creating provisions for uncertain liabilities, while also emphasising the need for objective evaluation and prudent financial management in various business scenarios.

### **Car manufacturer**

The car manufacturer in this study has a complex process for calculating guarantee provisions. Initially, the percentage of sales was set aside for guarantees, but a more precise IT-based process was later developed. Defects in vehicles are identified during development, and customer complaints at repair shops contribute to the knowledge of product problems. For example, a defect was found in the air conditioner of a model series, which required collaboration with a supplier to estimate the future repair or replacement costs. The measurement of guarantee provisions considers different model series, batches, plants, model years,

and regional differences. In addition to product-related provisions, the paper also discusses provisions for environmental damage, expected follow-up tax payments, litigation costs, pension obligations, commission liabilities, and guarantees. The formation of provisions for uncertain liabilities should follow prudent business judgement, which involves subjective interpretation and can lead to intensive court treatment due to inconsistent rulings. This paper also discusses the balancing act between legal breakup static and dynamic balance sheet theories, along with the inclusion of subjective interpretations of what is viewed as probable or prudent in creating provisions. Business decision problems are characterised by uncertainty rather than risk, and the determination of provision expenses includes subjective views and expert opinions. Ultimately, the amount of provision expenses is based on the views of the person reporting or the questioned expert, leading to intensive court treatment due to inconsistent rulings.

This study explores the process of measuring the guarantee provision for a car manufacturer, concentrating on the assessment of defect repair costs and the various sources of knowledge used to inform this process. This study outlines a business assessment that considers the number of affected vehicles, average repair costs, and estimated ratios, culminating in the calculation of a €45 million provision. This highlights the significance of customer complaints at repair shops and the development of proprietary software to identify defects and affected parts. This paper presents a case study of a defect involving rust on body parts, detailing efforts to determine the extent of affected vehicles and associated repair costs. Additionally, this paper discusses the possibility of recall campaigns for safety-related risks, emphasising the precision of determining affected cars and the calculation

of provisions. Furthermore, this study addresses measures taken by customer service, such as minor part replacements, and underscores the complexity of the guarantee provision process, which integrates various calculations and criteria, including different model series, batches, plants, model years, and regional differences. Overall, this study provides insights into the multifaceted nature of measuring the guarantee provision for a car manufacturer, incorporating diverse factors and considerations to inform the handling of product flaws and estimation of associated costs.

### **Customer Bonus**

This study discusses the behaviour of textile manufacturers offering customer bonuses based on sales revenue. The rebate percentage ranges from two to 12 percent and depends on the sales amount, with a minimum threshold of €30 million for customers to qualify for the bonus. Bonuses are typically enjoyed by major customers such as department stores and retail chains, who often negotiate individual rebate scales. Additionally, the sales revenues of the entire group are considered in the rebate calculation through a combination of multiple trade companies. To measure provisions, sales revenue is determined based on the customer, and the contractual agreement is examined to determine the achieved bonus percentage rate. The textile company identifies bonus recipients and computes the bonus amount by multiplying the customer (or group) sales revenue by the bonus percentage. The description outlines the process and criteria for granting customer bonuses by the textile manufacturer, shedding light on the company's approach to incentivise and reward its key customers based on their sales performance.



## **Sales representative commissions**

This study discusses the commissions owed to an independent sales representative, Sales Representative B, by Retail Company A to negotiate and support the production of watches and glasses by third-party manufacturers in Hong Kong. The commissions are structured to be dependent on sales, with minimum provisions set for each contractual year and paid quarterly. For watches, the minimum commission is 5% of the sales revenue increase compared to the previous year, while for glasses, it is 2% of the amount exceeding the sales target. The study also considers the need to quickly determine the exact sales revenue for watches and glasses, especially during the hectic Christmas season.

## **Environmental Provisions**

Furthermore, this paper delves into the creation of provisions for environmental damage, following public legal, private law, or factual obligations. This entails the need for a practical example in the form of an environmental protection officer who must possess thorough knowledge of production to identify critical production steps and ensure compliance with environmental regulations. The officer is responsible for constant measurements to ascertain compliance, estimate potential expenses for exceeding thresholds, and regulate damages. Subjective assessment by a specialist forms the basis for creating provisions in this case. Overall, this paper outlines the structure of sales representative commissions, the importance of quick revenue determination, and the creation of provisions for environmental damage, highlighting the complexity and considerations involved in these processes.

This study discusses the need to adhere to regulations and guidelines when dealing with uncertain liabilities. This highlights that obligations can arise from laws or contracts, and in the context of environmental protection provisions, there is a lack of consensus in the literature regarding the criteria for specifying a statutory obligation. The criteria for such obligations may include a cleaning order from a regulatory body, or specific actions related to material or temporal aspects. This paper refers to a comparison of arguments on contaminated properties in Baum and Heinz-Georg's work. Furthermore, the study touches on the essential criterion of the extent of the obligation, but the section cuts off before providing further details.

### **Other examples**

This research paper illustrates various items that frequently appear on balance sheets, such as expected follow-up tax payments, litigation costs, guarantee obligations, pension obligations, commission liabilities, and the use of guarantees and bills of exchange. This emphasises the need to differentiate between tax liabilities that have become legally binding in the past financial year and those that have already been assessed as legally binding. Additionally, the study explains the formation of provisions for guarantee obligations and the reporting of taxes, as well as the rejection of provisions for possible higher payments to pension insurance associations. Provisions for commission liabilities are also discussed in relation to the period-appropriate profit calculation. The study also highlights the necessity of forming provisions for the use of guarantees and bills of exchange based on cautious accounting and the principle of taking into

account the risks and losses incurred up to the reporting deadline. The number of provisions is mainly measured based on the legal claim of the entitled party, and industry-specific percentages based on experience are used for the number of provisions. Overall, the study provides detailed insights into the creation and reporting of various liabilities and provisions for different items on balance sheets.

### **Theses**

The thoughtful merchant is featured prominently as the focal point of reporting on the balance sheet, and fundamentally, they make a subjective judgment.

The values of honesty and reason have traditionally been considered essential for any business or economic activity; however, these values do not necessarily serve as protection against unethical behaviour. Instead, individuals should adhere to the law and act in the best interest of the general well-being, without relying on the ideals of the 'honourable' or 'prudent' merchant.

Business decision problems involve uncertainty rather than risk, and business administration offers methods for mathematically quantifying uncertainty. These methods incorporate the decision maker's subjective view through an uncertainty parameter, leading to the inclusion of subjective interpretations of probability or prudence. In terms of methodology, the accountant consults an expert and business administration provides several procedures for this purpose.

The merchant's perspective on the balance sheet, or the view of the questioned expert, influences the determination of prudent numeric value for a provision amount. Although objectivity is desirable, this is not always achievable. The specific amount of provision expenses is not determined by a strict, uniform system, which leads to extensive court battles. A review of court rulings over the past few decades reveals that the German Federal Fiscal Court (BFH) and appellate courts do not provide consistent rulings, but are instead influenced by the prevailing opinion or majority view, rather than a consistent approach.

## CONCLUSION

The analysis conducted within the scope of this dissertation leads to the following key conclusions regarding the application of the "honourable merchant" concept in the accounting practices of business organizations, particularly in the context of accounting for provisions in the Federal Republic of Germany:

- The prudent merchant is placed in the foreground as the subject for the reporting on the balance sheet, and fundamentally he makes a subjective decision.
- For centuries, the fundamental values of honourability and reason were anchored in the fictional account of a merchant as the prerequisites for all business or economic activity. This is more an appeal than protection against discretionary misuse by the acting persons. They should fundamentally conform to the law or act somewhat more in the sense of the general well-being without the honourable or prudent merchant becoming an actual model for (subjective) individuals.
- The formation of provisions for uncertain liabilities should take place in accordance with the German Commercial Code (HGB) on the basis of prudent business judgement. What is to be viewed as prudent business judgement is subject to significant subjective interpretation.
- Each interpretation of the balance sheet influences the prudent business judgement. This means firstly what the task of the balance sheet is meant to be and secondly which formal requirements the balance sheet should satisfy.
- Over the course of time, various interpretations of the balance

sheet, particularly two major, albeit diverging opinions developed: the first main direction is the legal breakup static approach based on Herman Veit Simon's considerations, which view creditor protection as the foremost priority. Due to this approach, the case law from the German Federal Fiscal Court (BFH) today prefers that all liabilities be recognised as of the reporting deadline and be measured at their probable value. The second main direction resulted from the dynamic balance sheet theory in more recent times and is based on the work of Eugen Schmalenbach. It does not negate the necessity and accuracy of creditor protection, but the accounting should take place as if the company will continue to operate on the basis of the values for which a continuation of the company (going concern) is to be considered realistic.

- Both of these main approaches to reporting on the balance sheet have in common that they do not provide any clear statements on how to disclose the merchant-like, sensible or prudent recognised values. Both theories and their ongoing development reject stochastics in any case as it was developed a few hundred years ago by scholars such as Laplace. According to them, the prudent approach was considered the most likely. This answer may create theoretical clarity, but it does not deliver any actual instrument in practice. That is because the probabilities of random experiments that are known in theoretical stochastics or at least calculated cannot ever be determined in economic reality. Consequently, theoretical statistics, also described as classical probability in the language of accounting case law, is not applied.

- Business decision problems are characterised by the fact that they do not take place under risk, but rather under uncertainty. The discipline of business administration knows numerous procedures for how to quantify uncertainty in a mathematically formal way. All these processes have in common that a subjective view of uncertainty on the part of the

decision-maker is included in the determination of the decision. This usually takes place through an uncertainty parameter.

- The application of business decision theory results in the inclusion of subjective interpretations of what is viewed as probable or prudent. In methodological terms, the person doing the accounting achieves this by questioning an expert. The discipline of business administration also offers a series of procedures here.

- The view of the person doing the reporting on the balance sheet or the questioned expert with regard to the risk and the selection of the business methods determines which numeric value is ultimately considered as (subjectively) prudent for a provision amount. Since the subject cannot be excluded and also should not be, he remains the dominant factor. An objectivisation is only possible in part.

The individual specification of the amount for the provision expenses is based on no strict, uniform system and results in intensive court treatment. A study of court rulings over the course of the last decades makes it clear that the practice of the German Federal Fiscal Court (BFH) and the appellate courts does not show any consistency in terms of their rulings. Rather, their practice is much more subject to the spirit of the times, the prevailing opinion or the majority opinion.

As a result of the comprehensive research conducted in this dissertation, the following contributions have been outlined:

1. The dissertation demonstrates the feasibility and relevance of adapting historically successful socio-economic, political, and business models for application in the modern economy and industries of the 21st century.

2. A detailed retrospective analysis of the development of the concepts of the "honourable merchant" and "prudent business judgment," exemplified by the practices of the Hanseatic League, underscores the critical role of morality in economic processes from both historical and legal perspectives.

3. The research explores and evaluates the potential for applying the "honourable merchant" model in today's economic environment, providing a framework for its integration into modern business practices.

4. Based on theoretical synthesis and empirical research from a philosophical perspective, the following axiom is formulated: the subjective interpretation of "probability" in management contrasts with the objective concept of "probability" in theoretical statistics, forming the foundation for decision-making under conditions of certainty, risk, and uncertainty.

5. Through the analysis of real-world case studies, the dissertation illustrates the practical applicability of the "honourable merchant" model in fostering prudent business judgment and resolving specific challenges faced by contemporary organizations.

6. Important conclusions are drawn regarding the applicability of the "honourable merchant" model of conduct at national (Federal Republic of Germany), regional, and organizational levels, as well as its alignment with the European Union legislation.



## LIST OF PUBLICATIONS

By Lothar Grimminger

On the dissertation titled:

### THE MODEL OF THE BEHAVIOUR OF AN HONOURABLE MERCHANT

For the degree of Doctor in the scientific field 05.02.18 'Economics and  
Management (Commerce)'

1. Гримингер, Л. (2023). Морал и икономика: концепцията на почтения търговец. Варна : Стено, 168 с. ISBN: 978-619-241-248-7 **(монография)**
2. Grimminger, L. (2022). The honourable merchant: characteristics and historical background. Логистиката в условията на криза: предизвикателства и решения : Сборник с доклади. Наука и икономика, Варна, 206-213. ISBN: 978-954-21-1128-3 **(научен доклад)**
3. Grimminger, L. (2019). Das Kriterium der „vernünftigen Beurteilung“ von Geschäftsaktivitäten des „ehrbaren Kaufmanns“. Scientia : [Jahrbuch], Köln : Marosi Verl., Band 3, 75-98. ISBN: 978-3-945636-13-8 **(научна статия)**
4. Grimminger, L. (2015). Das Leitbild des ‚ehrbaren Kaufmanns‘ für das deutsche Handelsrecht. Scientia Nova : [Jahrbuch], Köln : Marosi Verl., Band 19, 61-90. ISBN : 978-3945636015 **(научна статия)**