

STATUTORY AUDIT

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Abstract: The paper brings forth additional information necessary for a better application and perception of the concept of statutory audit for all those who are interested in this matter. It emerges from the need of European harmonization and international convergence, limiting the content and the addressability of the statutory audit within a system of opponent collocations. As well, its approach outlines several elements characteristic to the reorganization of the specific national law-making, in order to meet real-time requirements and to improve the quality of this assurance provider.

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1. INTRODUCTION

Considering numerous approaches provided by specialists, theoreticians and practitioners, there are a series of concepts referring to audit, no matter whether we deal with accounting, financial, financial-accounting, unique, legal, compulsory, contractual, statutory audit etc., besides the fact that certain criteria classifying it by nature and by destination are completely ignored, one may also notice that the concept of statutory audit is not always properly applied. Therefore, we have considered several specifications meant to avoid ambiguities existing in Romania, which are presented in the following paragraphs.

2. NEED FOR CONCEPTUAL HARMONIZATION

According to field literature,⁴ the requirement for auditing annual and consolidated accounts of certain entities as a whole, undertaken by experts, introduced by the European Community through Accounting Directives, is meant to protect public interest.

The assurance provided by financial statements should lead to the *consolidation of reliability* for all parties interacting with the entities referred to. Audited financial statements for an entity, within a member state, may be used by third parties from other member states. A greater transparency resulting from the harmonization of information published by entities and its reliability should represent truly important contributions to the performance and development of the Unique European Market.

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⁴ I. Mihăilescu, Financial Audit versus Statutory Audit. Necessary specifications during professional practice, Financial Audit, no 2/2009, Bucharest, Chamber of Financial Auditors of Romania Publishing, pg. 3-4.

These objectives may be jeopardized if third parties are not provided with a certain level of confidence which is essential for a constructive climate. However, for a long period of time, the Normative Framework was deficient; there was no unitary perception of the statutory auditor's role, status and responsibility. ***The absence of such a common outlook*** generated a negative impact on the quality of the audit and, thus, on the reliability in financial information disseminated on a timely basis, as well as on the freedom of managing and performing services within the audit field.

The lack of harmonized perceptions to the level of the European Union, concerned with the statutory audit, might have become a serious impairment in settlements managed on international level, which were meant to improve the access of European entities on the international capital market. There is the risk that financial statements or annual and consolidated accounts provided by European entities ***cannot be accepted on international capital markets*** if these accounts have not been certified by an independent and qualified expert, according to International Standards on Auditing – broadly accepted on global level.

In this context, the European Parliament and Council have adopted the Directive 2006/43/CE concerned with a **harmonized approach** to statutory auditing within the European Union, as well as with the creation of a public monitoring system for statutory auditors.

Worldwide, there are entities under the need of appealing to auditors' services without always knowing who they are, what they represent and what these professionals do; others⁵ are pleased about this collaboration. In Europe, there are ***more terms*** or, rather, forms defining the same concept – service and for designating its probation auditors – audit and legal auditor. For example, in France, the experts act under the title of account commissioner (commissaire aux comptes), in Romania, they are designated as independent external censors - for a certain recent historical period, in Belgium, commissioner-controllers, and in United Kingdom statutory auditors etc.⁷ It seems that the collocation of **statutory auditor** is the concept attribute generally accepted at the level of the European Union.

3. WHAT ACTUALLY THE STATUTORY AUDIT STANDS FOR?

The conceptual identification of statutory audit is **sustained by**:

- ***its legal character***, which results from the fact that it is the only class of auditing controlled on European level and, generally, covered by law and/or company **statute**.⁸ In other words, though, as we have already seen, we may easily evidence the need for the analysis of financial statements, the statutory audit is enforced by law and this obligation is expressly subject to the company's articles;

- the assurance provided and the status of ***independence*** proved by the persons appointed to achieve these missions, the autonomy of the organism to which they belong, ***authorizing*** them for this purpose.

Consequently, which is the appropriate significance for the concept of financial audit? According to a broad vision, we may say that any verification, inquiry and analysis of financial information may be classified as financial audit. Therefore, we appreciate the fact that the collocation **financial audit is wider ranging than that of statutory audit**. For example, an audit of the financial statements provided by an entity, which is not

⁵ M.Toma, Orientation to Financial Statement Audit of an Entity, CECCAR Publishing, Bucharest, 2005.

compelled by law and/or its statute to this effort of transparency, represents a financial audit, but it is not a statutory one.

Moreover, for a small enterprise, the evaluation or the assessment of financial statements may be undertaken by a professional, who is not necessarily a certified and totally independent financial auditor, provided that the report beneficiaries are aware and agree with these terms, oversights – considering the statutory audit area of expertise. This approach may suggest a financial audit, but it is nothing like a statutory one.

By statutory audit, we consider the inquiry undertaken by an expert – appointed by the ownership, certified and independent – concerning the financial statements elaborated by the management of an entity, meant to express a motivated assessment on the accurate, precise and complete view of the financial position, situation and results, following the adequate accounting and financial reporting framework. This activity providing stability and informational accuracy is requested by law and has a compulsory character for certain entities by reasons of significant public interest (impact). Moreover, these entities are forced to include this obligation in their statute.

On a rough estimate of figure no 1, one may interpret it as a graphical representation of mountains, hills and plains, and among mountains, we may suggest the following range of mountains: Himalaya, Alps and Carpathians! Etc. what is all about? From left to right, we indicate the range starting from great multinational companies and ending with national entities of public and social interest. This is the group of organizations compelled to statutory audit by law, while the rest of them have no obligations as explicit from this point of view. Motivation is extremely simple: if the massive Everest collapses, this will generate an immense disaster, in return, if a hill or a mound disappears, at general level, this matter, unfortunately, pays little attention; anyway, the impact is intangible.

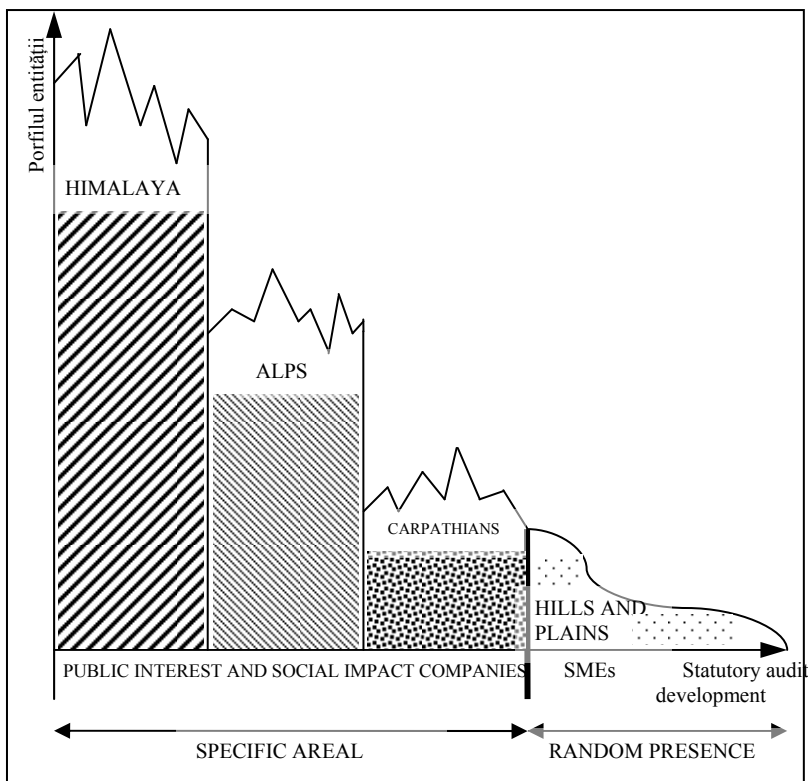


Figure no 1 Target group for statutory audit

For a better understanding, we point out the fact that the financial audit include *two components*:

- statutory audit – organizations are compelled by law to apply it, under the circumstances enforced by the law; generally, it stands for a means of providing reasonable protection against the informational risk; however, it cannot be undertaken by any expert and

- elective audit – enterprises can apply it, out of any legal constraint and it may be undertaken by a larger group of experts, even by simple individuals. For example, if a company, placed within the second category, decides¹¹ that financial statements which are to be disseminated should be evaluated by a certified auditor and includes this directive in the company’s articles, then the form of auditing its financial statements has no longer elective characteristics, acquiring statutory features, if the auditor respects the independence and assurance requirements.

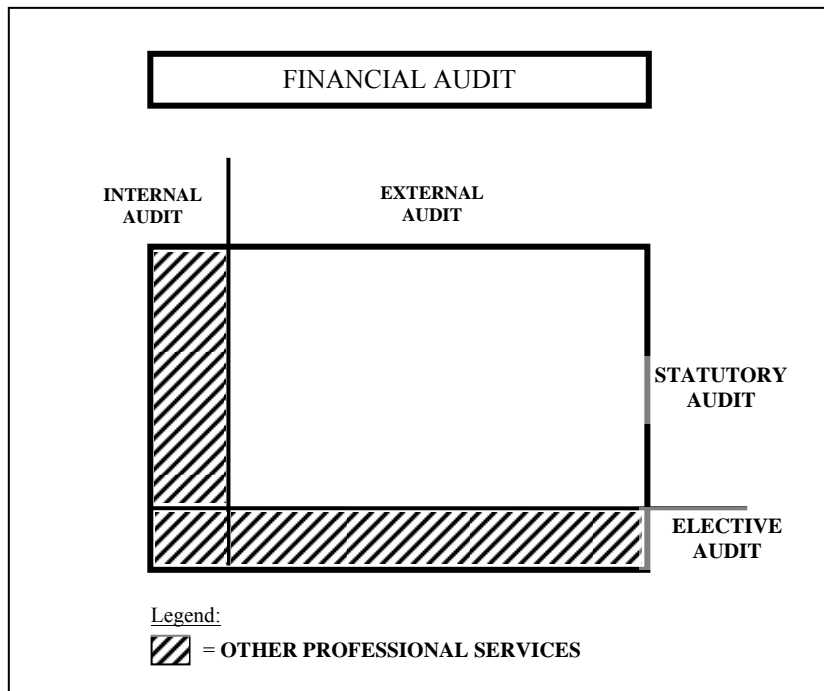


Figure no 2 Group of services of financial audit split into statutory audit and other professional services

For an entity out of legal responsibility and not opting for statutory audit in the company’s articles, which, simply, applies to the evaluation of certain financial information, the expert, undertaken this service, will respect the International Standards on Financial Audit, but he/she is not obliged by law in this sense, therefore, theoretically,

he/she does not provide generally available assurances concerning the quality of verified / spread information.

Moreover, we believe that, as a necessary condition, we should underline the limits of standards applied by the probation statutory audit. Therefore, without approaching their complex structure, we should mention that the activity of statutory auditors is developed according to International Standards on Auditing, issued by IAASB, corroborated with International Standards concerning Assurance Matters.

For a better delimitation, in figure no 2, we have illustrated the separation of other components of the financial and statutory audit. Therefore, we have represented its dissociation into external and internal audit, considering the fact that the latest concerns, focused on the quality of financial information necessary for the management, for the internal circuit of the entity, exist and evolve. The external audit includes compulsory and elective components.

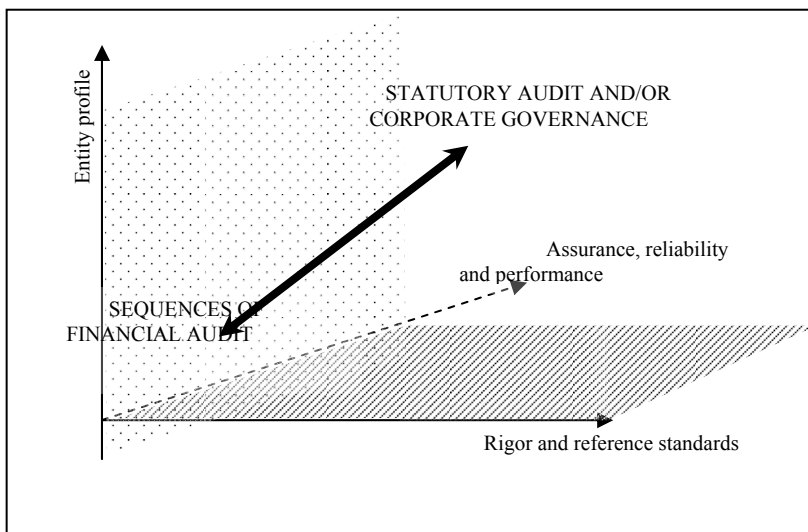


Fig. 3 Statutory Audit Manifestation

On the other side, if we consider this matter in a three-dimensional system, in order to easily observe the manifestation of the statutory audit and of the corporate governance, figure no 3, then we have the obligation to perform the following three conventions concerning the distribution of variables:

- the specific rigor varies on the Ox axis,
- the reference entity profile, size and complexity oscillate on the Oy axis,
- and on the Oz axis, we have placed induced assurance and / or reliability.

Therefore, we may easily notice that:

- as we move away from the crossing point of the three axes, the need for and the presence of the internal statutory audit and of the audit committee becomes more obvious;

- as we reach the crossing point, these elements fade, sometimes, lacking completely.

For example, if we consider a small enterprise, generally, it is not compelled to apply the statutory audit, but as it sets itself to rigor and performance, it may reach this source of assurance, retrievable to the level of “mountains” and designed for giants.

We should also mention that at the European level, due to high complexity of the statutory audit and to high costs it may generate, the concept of **miniaudit** has been introduced and, presently, it is already applied. Its content is very well rendered by the designation itself, namely, assurance services, with lower protection against the informational risk afferent to financial statements.

4. NATIONAL REASSESSMENTS

Presently, in Romania, certain aspects concerning the statutory audit are regulated by the Law no 31/1990 considering entities, republished with previous up to date modifications and subsequent completions, the Accounting Law no 82/1991, republished and by the Emergency Decree of the Government no 75/1999 concerning the activity of financial audit, republished with previous up to date modifications and subsequent completions. Following the enacting of the Governmental Emergency Decree no 90/2008 concerning the statutory audit, field legislation has been reviewed, implicitly, the terms applied. In this context, certain issues benefited by “**additional information**” meant to explain the causes. For example, the statutory audit may be undertaken only by auditors or audit firms constituting the certification matter, for this purpose. The competent authority which is responsible for the certification of statutory auditors is the Chamber of Financial Auditors of Romania (CFAR). Statutory auditors and audit firms are registered in the **Public Register**. Each persons authorized to perform statutory audit is identified with an individual number according to the Register. The electronic format of the Register is accessible to the public on CFAR site.

All statutory auditors should **comply with principles** of professional ethic and should complete their missions according to International Audit **Standards**, adopted by CFAR. The statutory audit activity may apply a national audit standard approved by CFAR, only if there is no international standard on financial audit referring to that issue and the auditing report should include a mention in this sense. Due to the fact that experts involved in auditing activity have a huge public liability, all statutory auditors and audit firms form the object of a system of **quality provider**. Actually, this system represents the assessment of the quality and frequency of services performed, of the level to which requirements or implicit and explicit needs of this area of activity are satisfied. The quality evaluation of a task is an elaborated process meant to determine a diagnose taking into account the quantity and quality of collected samples, considering the reasoning and significant conclusions reached by the audit team, which substantiate the opinion included in the report attached and published together with financial statements. For this purpose, the Council of the Public Oversight Board for the Statutory Audit Activity established efficient systems of investigations and sanctions for detecting, correcting and preventing the inadequate performing of the statutory audit.

The results achieved and the measures imposed to the auditors will be properly presented to the public. Another characteristic of the statutory audit, a non-restrictive one, would be that according to which each mission results from the implementation and performance of a tripartite relation. The statutory auditor or the audit firm **is called by the general meeting** of shareholders / partners of the audited entity, generally, for a period of 5 to 7 years offering, thus, a durable character or continuity to their services. Once appointed, they can be resigned only when there are solid reasons, such as: loss of independence, claiming incompetence or non-deontological conduct etc. Opinion divergences concerning accounting treatments or audit procedures do not represent a solid reason for resignation.

5 CONCLUSIONS

We consider that our study based on technical descriptions, suggestive illustrations and normative arguments will reduce the chances for the inadequate application of concepts within the audit area of activity, determining more rigorous perceptions on the business environment, even on the social one, from the part of experts.

All these considerations and conceptual specifications, besides the harmonization of the concept on European level, determine the implementation and the development of statutory audit function in our country, its main objective being **actors' liability and public interest protection**.

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