FRAUD DETECTION ACTORS

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Abstract: Fraud occurs both in the public and private sectors and is practiced most often in collusion with those around us, with colleagues, customers and suppliers targeting both material goods and goods from other categories. The consequences of fraud are enormous for the company and may threaten its existence and there is the possibility of putting its reputation at risk.
Generally speaking, financial control acts and operations consist of documentary and factual verifications, written records of findings, appraisals and conclusions, as well as decisions on actions and possible coercions necessary to restore the compliance of controlled subjects' financial activity with the law.
Internal Auditing is a support function because it enables business managers and organizations to better manage their activities.

JEL classification: M41, M42

Key words: fraud ; creative thinking; auditing; detection ;accounting researches ;

1. INTRODUCTION

The risk of fraud in the business environment is increasingly present, pregnant and reported within companies. At the same time, many companies that have not yet faced this problem believe that the situation of fraud will not even appear and prefer not to think about it and take preventive measures in this regard.

Fraud occurs both in the public and private sectors and is practiced most often in collusion with those around us, with colleagues, customers and suppliers including both material goods and goods from other categories. The consequences of fraud are enormous for the company and may threaten its existence, but there is also the possibility of putting its reputation at risk.

Thus, the cost of fraud detection for small and medium-sized businesses is difficult to measure, especially since most of the frauds are not known or brought to the attention of the general public.

Fraud has financial consequences but non-financial effects are just as important and should be taken into account.

Fraud can lead to loss of confidence in the company from customers, shareholders and other stakeholders and to an irremediably damaged reputation. This is the reason why particular attention must be paid to it, from the highest level of the company to its operational level.

The most common fraud situation is the one that the employees of the company do, but it is very common for the fraud to be done by the owners of companies, the directors or other persons responsible for supervising the various activities.

The best way for a company to avoid moving away from its preset goals and reduce the risk of fraud that could affect the achievement of these objectives is self-control followed by corrective actions at all levels. This can be done through internal control and internal audit.

2. Modern concept of financial control

Through its purpose, financial control is meant to verify the compliance with and the enforcement of legal norms, activity carried out in order to restore the lawfulness of the formation and use of public interest financial funds and implicitly with the aim of establishing the judicial liability and applying legal measures in cases of violation of the financial law rules.

Due to this content, the financial control activity cannot be confused with the financial activity of formation and use of money funds of public interest on which the acts and operations of financial control are performed. Accordingly, legal regulations on financial activity and financial control are also distinct. (Nicola, I., 2003)

Generally speaking, financial control acts and operations consist of documentary and factual verifications, written records of findings, appraisals and conclusions, as well as decisions on actions and possible coercions necessary to restore the compliance of the controlled subjects' financial activity with the law.

These verifications, records and decisions can be found with some inherent variations in the financial control procedures carried out, whether preventively or at the same time or afterwards, on the financial acts and transactions that make up the financial activity subjected to financial control. (Saguna, D.D., 1997)

2.1 Need for Financial Control

Fiscal control is a legal concept and represents the power behold by tax authorities to fix gaps, insufficiencies and errors committed by tax payers. This power of the state has its source in the Constitution - the state has the right to control taxpayers so that they do not fraud the tax.

This legal right of the state is often in conflict with the fundamental right to freedom of citizens and brings up the question of possible violations of fundamental rights and fragile balance between the state's rights and its powers, on the one hand, and the obligations of taxpayers and their fundamental rights, on the other hand. (Vasile, A., 2003)

Apparently, the interests of the state and the interests of individuals should never be in conflict, but reality contradicts, sometimes violently, the appearance, so that perfection in a state of equilibrium we have mentioned remains only at the stage of desideratum. But paraphrasing Francis Querol, we can say that if the balance is not perfect, it must be at a minimum acceptable level.

Assessing the effectiveness of a state, according to the same F. Querol, depends first on its predisposition to bring the product of taxes to public cashiers and consequently to ensure that citizens do not circumvent their tax obligations.

The control generally means the permanent or regular analysis of an activity or situation in order to follow its good evolution and to take improvement measures.

Control is the complex of coordinated means, methods and institutions aimed at preventing deviations and establishing liability for the damage caused.

As far as financial control is concerned, it involves examining whether the state's financial economy is in line with the legal requirements of fiscal and budget activity and aims at detecting errors, shortcomings, deficiencies in order to remedy them and avoid them in the future.

Financial control is the activity that avoids damaging acts or ensures their discovery with speed and safety. (Vedinas, V., 2006)

The public budget is an act of great importance for the state's financial economy, for the good functioning of the state and its institutions, for the welfare of the citizens and communities, and the basis of these budgets is represented by taxes and imposts paid by taxpayers.

Determining the revenues and public expenditures to be made, which is the essence of the state's financial activity, of its budgetary activity, is done through the consensus of the nation, through the vote its representatives give when adopting the budgets.

By voting on state's revenues and expenditures, the nation exercises a right of financial supremacy. However, the vote given by the people for gathering revenues and spending them is only the first act of supremacy, the second being that of control, which is not just a right, is also an obligation.

That is why the public budget itself appears not only as a planning act, as an instrument by means of which the nation, through its representatives, participates in the public sector, but also as an instrument that allows and makes possible the control of public finances. Without a budget, control would be prevented in its mission of establishing the overall state of public finances and public patrimony, and therefore the nation could not control the government's financial policy, which is one of the most important parts of the governance program. (Saguna, D.D., 1997)

2.2 Financial Control Procedures

The legal regulation of this control was introduced in the context of the modern improvement of financial control in our state, by the provisions of the specialty law stipulating that ministries, departments, other central state bodies, prefectures and the Bucharest municipality, as well as the autonomous administrations are obliged to ensure the organization and operation of preventive financial control over revenue and expenditure and financial control of its own patrimony management.

It results from these legal (Santai, I., 2002) provisions and their implementing rules, that, in organic terms, have not been established two distinct forms of their own financial control in ministries, prefectures and other autonomous bodies, which are: preventive financial.

2.2.1 Preventive Financial Control

As shown by its name, financial control is regulated in our country, as in all modern states, with the priority aim to intervene promptly and to stop financial acts and operations that are not in conformity with the law and, among them, mainly with the approval and authorization of budget expenditures.

Given its mission par excellence preventive, this control is regulated in some states as a distinct form of financial control, and in other states as part of the current administrative financial control exercised on the commitment of budget expenditures.

The extent of the scope of this category must be assessed also in the light of the public finance law provisions, which stipulate that, regardless of the state budget expenditure, the authorizing officer can approve it and it can be maid only if it has been previously accepted, according to the law, by the head of the financial accounting department or other persons charged with exercising the preventive financial control.

Preventive financial control procedure starts with the submission for verification of documents or other written acts on actions and transactions subject to this control.

In general, undergo the preventive financial control the documents or records regarding the patrimonial rights and obligations of the bodies or institutions involved, in the phase of employment and payment in relation to any legal or physical person. (Balan, E., 2004)

The following operations are compulsory subjected to this financial control:

- concluding contracts with internal and external partners,
- receipts and payments in lei and foreign currency of any kind, made in cash and through banking operations, in relation with legal entities and individuals,
- changing the quarterly distribution of budget revenues and expenditures,
- openings, distribution and transfer of budgetary credits, including financing capital expenditure,
- switching to expenses and other operations that result in a decrease in profit or social capital,

This legal specification of the operations subject to preventive financial control, the obligation to subject them to verification, and the fact that these operations are routinely involved in the cash management not only of the ministries, prefectures and autonomous administrations but also of the public institutions, firms and other economic units with state capital supports the exercise of this extended financial control over the execution of the state social security budget, the execution of local budgets and the operations of this kind inherent in the management of these institutions or firms.

2.2.2 Financial Management Control

In accordance with the provisions of the Law on Financial Control which established "Financial Management Control", the rules issued by the Ministry of Finance on the organization and exercise of its own financial control in ministries, departments, other state bodies and autonomous administrations approved by government, include the detailed specialized regulation of this control.

In organizational terms, financial management control (Mosteanu, T., 1993) is exercised by a separate department, reporting directly to the heads of ministries, departments and other bodies of central government, prefectures, Bucharest municipality and autonomous administrations.

Financial management control departments comprise functions whose performance requires higher or medium economic or financial studies.

The primary objective of the financial management control is to verify compliance with the legal rules regarding:

- absence, integrity, preservation and protection of goods and valuables of any kind owned by any title,
- use of any kind of material values, downgrading and disposal of goods,
- making, in cash or by bank account, payments and receipts in lei or foreign currency of any kind, including salaries and deductions from them,
- compilation and calculation of primary, technical-operative and accounting records.

With these objectives, which can be completed in relation to the specifics of the bodies, institutions or other beneficiary units, the management control departments are obliged to program and perform the control of each material and monetary asset management at least once a year and in the case of low volume management after a two years period.

The manager of control department (Prisacaru, V., 2000) is obliged to follow the fulfilment of the control program, to record the control actions carried out, the results of the controls - pluses in management, material damages, applied sanctions, etc. - and also to inform the entity's top management of the results, at the same time proposing those necessary for the proper management of their own patrimony.

Reporting records are particularly necessary in cases of contraventions, deviations, damages and the existence of criminal offenses.

In the reporting records, based on their own checks, are stated the guilty persons, the facts or omissions found, the legal provisions violated, the economic, financial and patrimonial consequences, as well as the actions decided upon and started during the control, along with the ones necessary for recovering the identified damages, for the contravention or disciplinary sanctioning action or for initiating the criminal investigation and legal judgment by criminal courts.

At the same time, the main financial control documents are officially registered at the management of the unit and, from the date of registration, within 30 days, the management of the respective entity is compelled, under its own responsibility, to take the necessary measures to remedy the deficiencies, to sanction and to recover the loss.

3. COMPARATIVE ANALYSIS OF INTERNAL AND EXTERNAL AUDIT

It can generally be said that the audit is a process conducted by legal or physical persons who are certified, called auditors, which analyze and evaluate professionally information about a particular firm. They use specific techniques and procedures to obtain evidences called auditing evidence, through which the auditors issue in a document called audit report a responsible and independent opinion, using the assessment criteria resulting from the legal regulations or good practice unanimously recognized in the field of the audited entity (Boulescu, M., & All, 2001)

Thus, it appears that between internal and external audit there are similarities such as:

- the audit process, also called audit mission, is conducted on the basis of international or national standards;
- auditors are independent persons who acquire this quality under strictly regulated conditions;
- in auditing, the analysis information is based on methods and techniques universally recognized in the field that provides audit evidence for the auditor on which his opinion relies;

- evaluation and interpretation of the results obtained is carried out under the conditions of existence and taking into account some evaluation criteria based on identified accounting references or sound management principles;
- auditing is an objective examination of an element in order to issue an opinion or to reach a conclusion on the audited phenomenon.

Since the external audit is an independent function of the entity, whose mission is to certify the accuracy of the accounts, results and financial statements, there are differences such as:

- the internal auditor is part of the unit's staff while the external auditor is a service provider, legally independent;
- internal auditors work for the entity's managers, and external auditors are certifying the accounts of all those who need it, i.e. shareholders, clients, suppliers and bankers.
- external auditors carry out intermittently their missions while the internal auditor continuously works in his business, with missions planned according to the degree of risk that concern him with the same intensity no matter how long the respective period is;
- external audit is concerned with any fraud as soon as it has, or is believed to have, an influence on the results;
- the independence of the external auditor is that of the holder of a liberal profession, which is legal and statutory while that of the internal auditor has certain restrictions;
- the internal auditors' method is specific and original but external auditors perform their work according to verified methods, based on comparisons, analyzes, inventories.

Although there is no specific (Bufan, R., 2003) regulation regarding the performance of external audit in public institutions, the Committee for Internal Public Audit, in accordance with Article 6, letter *g* of Law No. 672/2002, analyzes the cooperation agreements between internal and external audit regarding the actual audit activity, and the Central Harmonization Unit for Public Internal Audit, in accordance with Article 8, letter *m* of the abovementioned law, cooperates with the Court of Accounts and with other public institutions and authorities in Romania .

In the article 16 of Chapter 3 of the "Financial Control and Auditing Functions" from Law No. 94/1992, republished, on the organization and functioning of the Court of Accounts, as amended and supplemented by Law no. 77/2002, the following are mentioned:

- Court of Accounts performs the function of external financial control on the formation, management and use of the financial resources of the state and of the public sector as well as on the management of the public and private patrimony of the state and of its administrative-territorial units.
- Through control, the Court of Accounts seeks to monitor the compliance with the law in the management of material and monetary means.

The Court of Accounts also analyzes the quality of financial management in terms of economy, efficiency and effectiveness. However, regarding the relationship between internal audit and external audit, the following can be noted:

- the internal audit is carried out by a specialized structure, organized under the law in the public institution concerned;

- the structure is subordinated to the head of the public institution in which it is organized or, as the case may be, to the hierarchically superior public institution;
- the external audit is exercised by a structure or person who is outside the organizational structure of the audited public institution.

It should also be stressed that external auditors are interested in overall annual results, while internal auditors are also interested in the interim results of current management.

However, there is also certain that external and internal audits are complementary, given that the scope and objectives are fully complementary and sometimes even closely intertwined, yet without any confusion.

3.1. External Audit

It emerged in the 1930s during the US economic recession when governors asked listed companies for the phenomenon to be quantified by independent specialists from external audit offices.

At present, external audit exists in all countries and operates according to the same rules - auditors must audit and give an opinion on the organization's financial statements.

Therefore:

- in the private sector, external auditors are appointed by the shareholders who also set period that should be audited and auditors report to them;
- in the public sector, certification is required on behalf of the taxpayer.

The audit is the process performed by individuals / legal entities, legally certified called auditors, which analyzes and assesses professionally the information related to a particular entity, using specific techniques and procedures for gathering evidence called audit evidence, based on which, they issue in a document called an audit report, an independent and responsible opinion by calling on the evaluation criteria resulting from legal regulations and good practice, unanimously recognized in the field in which the audited entity operates.

3.1.1. External Audit Objectives

They are elaborated by an independent professional and respond to the needs of third parties and the audited entity in terms of:

- attestation of the reliability of transactions and financial statements, which is called a financial attestation audit;
- compliance with legal regulations, statutes, regulations, rules and decisions of managers, is called conformity or regularity audit;
- applying good practice and respecting "healthy" management principles in resource use is called performance audit.

External auditors are externally regulated by an authority in the field. In Romania this authority is the Chamber of Financial Auditors (C.A.F.R.).

3.2. Internal Audit

Internal audit emerged in England and France in the early 1960 s, as a result of information requirements on financial statements and financial reports issued by patrimonial entities.

It is in fact a consequence of the requirements for better and more securely manifested information at the time by state bodies, banking systems and capital investors to prevent bad situations.

This function (Bostan, I., Grosu, V., 2010), has constantly evolved over time, becoming today an important, organized and diversified function that allows the setting of clear and precise objectives applicable to new and varied fields.

The internal audit function has undergone an evolutionary path until the definition of the concept has been stabilized. These progressive approaches have highlighted a number of elements that need to be retained for the "outline of the circle" of internal audit.

From the analysis of the evolution of internal audit function up to the present we can appreciate the following elements of involvement in the life of the audited entity:

1. Assistance given to management;
2. Aid given to employees without judging them;
3. Independence and overall objectivity of auditors.

3.2.1. Assistance given to management

Internal Audit is a support function because it enables business managers and organizations to better manage their activities.

The Assistance (Counselling) component attached to internal audit clearly distinguishes it from any control or inspection action and is unanimously recognized as having tendencies to evolve furthermore.

The internal auditor is almost as responsible as the tax agent to whom one addressed for solving a tax issue, as well as the manager who is approached for a program or activity. The managers of the entity are helped or rather assisted by internal auditors to address the issues of their decisions in order to provide better control over their activities, programs and actions. This assistance helps to improve the internal control system and the work of each person responsible for an activity.

Consequently, it is unanimously accepted that the internal auditor advises, assists, recommends but does not decide, his obligation being the identification of means to help improve the control each manager has on his / her work and those under coordination in order to achieve the internal control's objectives.

3.2.2. Aid given to employees without judging them

In an entity where the internal auditor belongs to the culture of the organization, he is accepted with interest and this question has all the aspects of a false problem.

In an entity experiencing significant potential risks, the lack of compliance with the underlying regulations and showing low effectiveness and external fragility due to misappropriation of funds, disappearance of assets or fraud, it is obvious that the manager will not be to avoid judgement and assessment depending on these findings.

In the standard case of the internal audit mission that highlights deficiencies and potential improvements, there are three levels of reflection that make it clear that a manager or a person in charge should not undergo scrutiny.

The first level is that of internal audit objectives that aim to achieve better control over activities, and that means improving existing performance rather than judging it. Even if the internal auditor is judged by his audit reports, this may happen but is not the objective of the internal audit.

The second level is that of achievements. Not only is the audited not to be questioned, but if this is still to be done in a positive way.

The third is the level of responsibilities. Analysis of the causes of irregularities made by the internal auditor reveals most often that weaknesses are rooted in the shortcomings on which the person in charge has not a good control.

In this situation, the solution does not belong to the responsible person and is in the hands of the hierarchy and even of the whole social group if it is a case of causes with cultural dimension: professional training, budget, organizational, informatics issues related etc.

This paradoxical situation often stimulates the logic of the audited who finds out that the internal audit confirms the shortcomings signalled by him.

3.2.3. Total Independence of Internal Audit

This rating is attributed to the internal auditor to emphasize once again that his position must not bear any influence or pressure that might be contrary to the objectives assigned to him. To ensure the independence of an audit service within an organization, it must be positioned at the highest hierarchical level to ensure independence from other functions.

Internal auditors will report within the organization at a level that allows them to fulfil their responsibilities.

Independence of the position is also conditioned by the independence of auditors; this independence is ensured when the auditor consciously imposes compliance with the rules of the profession by adhering to high standards of behaviour.

Although the internal auditor has to comply with the entity's management strategy and policy, he / she must be independent in the performance of his / her duties by complying with internal audit rules. This is a deontological limitation, not a violation of management’s policy.

3.3. Differences between Internal Audit and External Audit

- Regarding status of auditor there is fundamental evidence that the internal auditor belongs to the staff of the enterprise and the external auditor is in the situation of an independent legal service provider.
- With regard to the beneficiaries of the audit, the internal audit works for the benefit of the company's coordinators: managers, general management, possibly the Audit Committee. The external auditor certifies the accounts for all those who need it: shareholders, bankers, guardianship authorities, clients and suppliers .
- As far as the audit objectives are concerned: while the internal audit is meant to assess the proper conduct of business activities and to recommend actions to improve them, the external audit’s objective is to certify:
  - regularity
  - sincerity
  - true and fair view of the accounts, results and financial situation.

It is noted that in order to achieve these objectives, external auditors (Oprean, I., 2007) will also need to appreciate the internal control's provisions, which must precisely guarantee the three fundamental characteristics mentioned above: they will be financial, accounting and quantitative provisions.

The objective of internal audit is not centred only on a specific real-time fact, it also takes into account the potential risks.

- As far as the scope of the audit is concerned: with regard to its objectives, the scope of external audit encompasses all that contributes to the determination of the results and to the preparation of the financial statement, but in all the functions of the enterprise. External auditing that would limit its observations and investigations only to the accounting sector would do an incomplete work. The scope of internal audit is much broader because it includes not only all the functions of the enterprise but also all their approaches
- With regard to fraud prevention: the external audit is interested in any fraud, since it has or is likely to have an impact on the outcome. Instead, a personal file privacy fraud concerns internal audit, not external audit.
- On independence: it goes without saying that this independence is not of the same nature; the external auditor's independence is that of a professional services provider so it is legal and statutory while internal auditor's independence is discussed under the restrictions mentioned in the previous chapter.
- Regarding the frequency of the audit: external auditors generally perform their missions in an intermittent and privileged fashion for account certification: quarter-end, year-end. Outside these times, they are present only in the case of certain large groups whose business importance requires the permanent presence of a team throughout the year, a team that is considerably increasing in numbers during the accounts' closure period. The internal auditor is constantly working in his enterprise for missions planned according to risk and they require its attention with the same intensity at any time. We also note that the external auditor is in the same relationship with the same interlocutors, in the same services, while the internal auditor continually changes the interlocutors. From a relational point of view, external audit is permanent and internal audit is periodic.
- About the method: external auditors perform their work based on methods that are verified based on analysis and inventory. The method of internal auditors is specific and original: it will be described in detail in the third part of this chapter.

The differences between the two functions are so precise and well-known, there should be no confusion. However, they should not be ignored, because the appreciation and proper implementation of complementarities is entirely a pledge of effectiveness for organizations.

4. THE PUBLIC SECTOR IN ROMANIA AND ITS IMPORTANCE

The concept of "public" is commonly used in current language by associating it with different words, designating common concepts of everyday life, such as: public property, public interest, public good, public place, public university, public sector, etc.

The public sphere has a different content, which differs from one continent to another, or even from one country to another (Great Britain to France), which may further complicate the establishment of generally valid theoretical milestones.

In Romania, the explanation of the word "public" as well as of the spheres of coverage starts with the general definition given by the Romanian Language

Explanatory Dictionary (DEX, pages 851, 868): "which belongs to a human collectivity or comes from such a community; which concerns all, involving all; [...] of state government; which concerns the whole nation; made available to everyone."

The public sector is present in economic life in several ways. There is no market economy in which the public sector does not directly or indirectly find itself among the factors influencing and guiding the economic agents, respectively their activity.

This is the part of the economy where there is public property. As subjects of public property can be identified all the governmental agencies and departments, as well as all public companies that produce or deliver public, private or mixed public goods

Thus, as a public property object, not only public goods are identified, but also some private and mixed goods, i.e. those that lose at least one feature of public goods under certain market conditions. (Ghita, M., Spranceana M., 2006)

In terms of economic activities, we can say that the economic cycle is carried out by operations made by economic agents in different markets. Therefore, they found themselves in various positions: sellers or buyers, suppliers or beneficiaries, intermediaries etc.

If one tries to simplify the representation of economic activity, there are two essential categories of agents: producers and consumers. The material-physical and the money-financial flows express the links between them and the market of factors of production as well as the market of goods and services.

We can say that the recognition of the public sector in economic life complicates and simplifies the functioning of economic activity. Involvement of the public sector in economic activity helps the efficient and equitable development of economic flows and is reflected schematically through the emergence of other economic circuits.

Thus, by means of incomes and expenses, the state plays its role in economic life either through the usual behaviour of an economic agent or by exercising its attributes of market regulator.

In the first situation, the state can be a producer, consumer or partner in exchange operations.

In the second situation, the state is the sole owner of coinage, the main producer of social protection and is in charge of budget execution.

The common opinion is that the state is also involved in the economy at both microeconomic and macroeconomic level. (Popa, M., 2008)

The measures adopted to regulate the activity of some economic agents are targeted at microeconomics and include: setting prices, fixing minimum or maximum price limits, determining minimum and average wages, managing and administrating public property, providing subsidies, mediating labour disputes, granting financial aid etc.

At macroeconomic level, state's involvement targets measures taken to eliminate or remove imbalances such as inflation and unemployment, natural monopolies, and takes the form of macroeconomic policies such as fiscal policy, public spending, monetary or budgetary policies etc.

Of course, state's involvement at these two levels is somewhat forcefully delineated. In fact, the microeconomic level is in close correlation with the macroeconomic one, and public actions are also interdependent.

The state is also involved in providing the necessary information so that both buyers and sellers can act knowingly. Poor quality information or informational asymmetry generates distorted behaviour of market operators and malfunctioning of the market, with effects on macroeconomic performance. (Bacanu B., 2008)

5. CONCLUSIONS

In the business environment, the risk of fraud is becoming more and more present, pregnant and reported within the companies. At the same time, many companies that have not yet faced this problem believe that fraud will not even occur and prefer not to think about it and take preventive measures in this direction.

The measures adopted to regulate the activity of some economic agents are aimed at microeconomic level and include: setting prices, fixing minimum or maximum price limits, determining the minimum and average salary, managing and administering public property, granting subsidies, mediating labour conflicts, granting financial aid.

The objective of internal audit is not centred only on a specific real-time fact, it also takes into account the potential risks.

Given its mission par excellence preventive, this control is regulated in some states as a distinct form of financial control, and in other states as part of the current administrative financial control exercised on the commitment of budget expenditures

The best way for a company to avoid moving away from its preset goals and the risk of fraud that could affect the achievement of these objectives is self-control followed by corrective action at all levels. This can be done through internal control and internal audit.

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