

HARMONIZED STATUTORY AUDIT - LEGAL LIABILITY AND SANCTIONS

Professor PhD. Ionel BOSTAN
" tefan cel Mare" University of Suceava, Romania
ibostan@seap.usv.ro

Abstract:

Recently, the normative native framework as regarding the audit has realized the assimilation of the 2006/43/CE from 17 May 2006 Directive of the European Parliament and of the Council regarding the statutory audit of the annual accounts. Thus, it created a supervisi on public system for the statutory auditors and the audit firms under the European principles, bringing significant modifications and additional fillings OUG no. 75/1999 regarding financial audit activity.

Keywords: Statutory audit, Auditors chamber, probation access, financial situations, ethical code, sanctions.

JEL Classification: M49

1. INTRODUCTION

Romania, as member state with full rights of the European Union, has the task to transpose in its own legislation the 2006/43/CE Directive from 17 May 2006 of the European Parliament and of the Council regarding the statutory audit of the annual accounts.

Under this circumstance, the Executive has emitted the OUG no. 90/2008 – regarding the statutory audit of the annual financial situations and of the consolidated annual financial, published in the Official Gazette no. 481 from 30/06/2008 (approved per Law no. 287/7 Nov. 2008)

Except the rigorous settlement of this domain, the new normative act assigns also the rules of creating a public supervision system for the statutory auditors and audit firms under the European principles, bringing significant modifications and additional fillings OUG no. 75/1999 regarding the financial audit activity.

2. THE ACCESS IN THE PROFESSION. THE APPLICATION IN THE STATU ARY AUDIT PRACTICE OF THE STANDARDS AND OTHER PROFESSIONAL NORMS.

Let's remember that statutory audit represent "the audit of the annual financial situations or of the consolidated annual financial situations, as it's scheduled of the EU law, transposed i n the national settlements", and the statutory auditor is "individual person authorized by the competent authority, respective the Chamber of Financial Auditors of Romania (CFAR), to perform statutory audit".

Statutory auditors and audit firms must effectuate the statutory audits according to International Audit Standards (IAS). To the audit performing, statutory auditors and audit firms can apply a national standard, adopted by CAFR, as long as European Union didn't approved an IAS the refers to that problem, specifying this aspect in the audit report.

The audit activity is complex, auditors requiring multidisciplinary knowledge: general bookkeeping, preparing the annual financial situations, IFRS, financial analysis, price bookkeeping and managerial bookkeeping, risk management and intern control, the audit and the professional aptitudes, professional standards regarding the statutory audit and the statutory auditors, IAS, professional ethic and independence.

Otherwise, the probation auditor access test covers domains settled by the law of the commercial societies and by the corporative governance, insolvent law, fiscal legislation, civilian code and commercial code, social assurances law and the work code. Concomitantly there is also tested information technology knowledge, financial economy, general and business economy, mathematics and statistics, financial management.

For this reason, also the statutory auditor (independent person) and the audit firm is imposed to make an obligatory assurance to cover the professional risks.

We don't close our intervention without making some mentions to the auditor obligations that derivate from the Ethic Code appliance. CSPAAS, with CAFR, is ensuring that all the statutory auditors and all the audit firms respect the professional ethic principles that refer at least to their performance in the public interest, integrity and objectiveness, professional competence and the attention deserved.

In this case, when it effectuates a statutory audit, the statutory auditor and/or the audit firm is independent by the examined entity and it isn't involved in the decisional process of the examined entity. The persons to whom it was attributed the quality of Chamber member can't hire or develop activities that brings prejudices or that can prejudice their integrity, objectivity, independence or professional reputation.

A statutory auditor or audit firm mustn't effectuate a statutory audit in case that exist any direct or indirect financial relation, business relation, employment or other relation – including the extra services performance, other than that of the audit – between the statutory auditor, audit firm or the network of the audit firm, in one side, and the audited entity, on the other side, in these circumstances in that a third objective part, reasonably and informed could conclude that the independence of the statutory auditor or of the audit firm can be compromised.

If there are situations that can lead to threats to the auditor independence, as that of verification of its own activity, own interest, representation or family relations, must apply protection measures to reduce this threats.

In case that the importance of this threats compared to the protection measures applied is such as the independence is compromised, the statutory auditor or the audit firm mustn't effectuate the statutory audit. The report made in those circumstances is stricken of absolute nullity.

The fact that an statutory auditor or a close associate is in a certain relation with the audited entity or is in the relation with key-employees or with the directorate of this entity, and this relations could lead to situations that affect the independence or the objectivity of the statutory auditor, makes that the respective statutory auditor can't examine the financial situations of that entity.

4. CONCLUSIONS

The violation of the stipulations regarding the independence and objectivity, scheduled in the normative act to which we've made reference earlier, is calculated to lead to sanctions, including the recession of the statutory audit authorization or of the audit firm, according to the rules emitted by Chamber and approved by the Public Oversight Board - CSPAAS

A serious deviation is considered the exercitation of the statutory audit activity without having the statutory audit quality that is considered an infraction and is punished according the penal law. The sanctions applied by CAFR to the statutory auditors and to the audit firms are: castigation, written advertisement, the suspension of the right to practice the activity of statutory audit (in a period sized with 3 months and one year) and the recession of the authorization, attended by loosing the statutory auditor quality.

The deviations that for it is applied sanctions as well as the acknowledge and sanction procedure are established through the CAFR Statute, with the CSPAAS notice, and the applied sanctions, definitively remained after covering all the legal contestation forms, are published in the Official Gazette.

In this scheme of the sanction approach, remembering about some consequences, let's add that the recession of the audit firm authorization brings the dissolution by rights and its liquidation. Then, in the suspension period, that person doesn't have the right to practice under any form of statutory audit, can't make use of the statutory auditor quality and can't participate to the CAFR activity.

