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# SUPERVISION ON AUDIT AND THE EFFECTS OF EU DIRECTIVE 56/2014 CASE STUDY: PORTUGAL AND SPAIN

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## **ABSTRACT**

This paper will consider the transposition of EU Directives either in Portugal or in Spain. It is well known that their aim is to reinforce the audit supervision. The impact of last Directive 56/2014 will be reflected under the Portuguese and the Spanish frame law. As a consequence the supervision on auditors will be considered and the charges connected to this supervision will be described concluding that there are some differences either as to their value or as to their independence of duties. As final remark a good practice from Sweden on these issues will be displayed.

**KEY WORDS:** EU Directives, Audit Supervision, Charges, Portugal, Spain

## **1. INTRODUCTION**

The past years have highlighted certain corporate governance shortcomings in European listed companies. These shortcomings relate to different actors: companies' and their boards shareholders (institutional investors and asset managers) and proxy advisors. From these events some have mostly contributed to some bankruptcies and failures of organizations. In brief and about this issue two main problems stand: insufficient engagement of shareholders and the lack of adequate transparency.

Stakeholders were consulted on two Green Papers ("Corporate governance in financial institution" and "The EU corporate governance framework"). In relation to what they considered to be the most important issues to be tackled at European level and based on these consultations and further analysis, the Commission's Action Plan concluded: European company law and corporate governance - a modern legal framework for more engaged shareholders and sustainable companies provides the Commission's roadmap in the area, should be based on two objectives: enhancing transparency and engaging shareholders. This Action Plan announces a number of initiatives, amongst other, a potential revision of the Shareholder Rights Directive – what has occurred.

In order to contribute to the long-term sustainability of EU companies, to create an attractive environment for shareholders and to enhance cross-border voting by improving the efficiency of the equity investment chain in order to contribute to growth, jobs creation and EU competitiveness a renewed strategy must be considered based on better operating conditions for listed companies. This goal would require the realisation of the following specific objectives:



- i Increase the level and quality of engagement of asset owners and asset managers with their investee companies
- ii Create a better link between pay and performance of company directors
- iii Enhance transparency and shareholder oversight on related party transactions
- iv Ensure reliability and quality of advice of proxy advisors
- v Facilitate transmission of cross-border information (including voting) across the investment chain in particular through shareholder identification.

To reach all these aims some new rules were established as considers, in particular, the supervision of the financial outcomes of the listed companies namely in what concerns the activity of the auditors.

So this paper intends to address this issue under two different perspectives: on one hand it will have to do with the state of art of the supervision as to the Portuguese listed companies and on the other it will deal with the supervision on the Spanish listed companies. To begin with the most recent European Directives about the audit function will be considered. Next the transposition of these Directives either in Portugal or in Spain will be described. Besides a perspective of a good practice from a Nordic country – Sweden - will also be considered.

### **European Directives**

-2006/43: states the conditions for the acceptance and register of the people that are able to do the financial accounting audit as concerns the rules as to their independence, objectivity and ethics as well as the scope of the public supervision. Special disposal about the audit on the accounting of the public entities defined in the Directive 2006/43/CE, were deeply developed in the Rule (EU) 537/2014 from the Parliament and the Council. According to the Treaty about the Functioning of the EU (TFEU), the internal market is comprehended by a non barriers space in which the free trade of goods and services is assured as well as the settlement freedom. The elimination of the obstacles to the development of auditing services between the Member States will contribute to the integration of these services within the EU.

-2014/56: this Directive from the EU Parliament and the Council, dated 16th April 2014 changes the contents of Directive 2006/43/CE as to the consolidated accounting and the audit opinion. The public supervision of the auditors (CPA-chartered public accountants) and their societies includes their approval and register, the adoption of all the norms and procedures as to the ethics and as to the internal quality control as well as the applicable inspection and sanctions. To reinforce the transparency of the supervision of the auditors and to allow a bigger responsibility each member state will define one only authority responsible for the public supervising of the auditors and their societies. The independence of these entities towards the auditing sector represents a crucial issue as to the integrity, efficiency and good functioning of the public supervision auditors and societies. Thus the public supervision authorities shall be managed by people that are not auditors and the Member States shall establish independent and transparent procedures for the selection of these persons. Furthermore this Directive explains in addition:

from issue 4-A some ideas: *the Member States will name two or more competent authorities to be in the management of these functions and they inform the Commission about it. The competent authorities are organized in order to avoid conflict of interests.*

from issue 4-B: *the Member States may delegate or authorize the competent entity to deliver any of the functions to some other organ or authority that was designated by law to do those functions. This delivery shall explain the terms and conditions in which the functions shall be executed. These authorities and organs are organized in order to prevent the conflict of interests. In case of delegation of functions on other authorities the competente authority should claim case by case the delegated competences.*

from issue 5: *the competente authority has the right, whenever needed, to begin and conduct the inspections on the auditors and/or to their societies and to decide about the adequate measures to apply. Whenever some experts are contracted to achieve specific functions the competente authority guarantees that they have no conflict of interests as to the auditors and/or as to their societies.*

According to this European Directive it seems clear that, from 2016, the activity of the auditor as concerns the financial statements of the European listed companies is to be inspected or supervised by an external and independent authority not related or connected to the auditing profession either as CPA or as to their auditsocieties. Let us start now by the analysis of the impact of this Directive in Portugal.

## **2. EUROPEAN DIRECTIVES IMPACT IN PORTUGAL**

Foolowing the above described audit measures described in EU Directive 56/2014 this part of the paper will deal with some relevant issues: 2.1 CMVM is the stock market regulator in Portugal and we will register the consequences of the EU Directive on this entity; and 2.2 The standing of the Portuguese Order of the Auditors. The first issue will do with the interpretation of the Statutes of CMVM,



the application of EU Directive, and respective related law changes and the second one will consider the Statutes of the Order of the Auditors. At last a good practice from a Nordic country – Sweden, dating back to more than 20 years, will be considered.

## 2.1 CMVM and EU Directive

The Portuguese commission for the trade of stock is called *CMVM Comissão do Mercado de Valores Mobiliários* and was created in April 1991, and has the following objectives: supervision, regulation, co operation and promotion of the stock market. CMVM statutes register the following fundamental ideas: from article 4 - Mission and functions one can read:

- 1 — CMVM mission is to rule and supervise the financial market and all the connected entities and issue all the complementary rules.
- 2 — CMVM commitments:
  - a) To rule and supervise the financial market promoting investors' safeguard;
  - b) To assure financial markets stability contributing to the identification and prevention of the systemic risk;
  - c) To contribute to the development of the financial markets;
  - d) To render support and information to the not qualified investors
  - e) To help the Government and the respective representative for the finances, under request or on self suggestion, to define adequate policies as to the financial instruments, namely their market and operating entities;
  - f) To fulfill all the more functions defined by law.
- 3 — In order to properly fulfill their duties, CMVM may request from any public or private entity the needed information.

To reach these objectives the following hierarchical managing positions of the organization will help. So article 7 deals with the Main board management functions of CMVM: a) Board of managers; b) Inspection Board; c) Consulting Board; d) Ethical Commission; e) General Council for the Supervision of Audit - from article 35 of the Law 148/2015 September - concerning the Supervising of the Audit (*as from EU Directive 56/2014*). Particularly as concerns the functions of the Inspection Board (b) that is responsible for the control of the compliance, good financial and asset management of CMVM it means that it may be consulted at any time by the Board of managers. We must register that the business of this entity is to deal with the Stock Exchange - a portfolio of all the companies belonging to it. This is the reason why this entity should perform an audit (independent) to guarantee the compliance of its assets. Besides when looking at the content of article 37<sup>1</sup> of CMVM Statutes (note page) the function of inspection and audit that was already committed to CMVM.

To follow the EU Directive 56/2014 a General Council for The Supervision of Audit was created but in fact, it was transferred from CNSA - *Conselho Nacional de Supervisão e Auditoria* - National Council for Supervision and Audit a body created in 2008 by the Auditors Order. Now it was accrued to the roll of duties of CMVM.

Presently through the Portuguese Law 148/2015 (article 9, issue 1-6), dated 9th September, CNSA was absorbed by CMVM and renamed Law Settlement of Supervision and Audit - RJSA - *Regime Juridico de Supervisão e Auditoria*.

At this moment one should cite the content of the EU Directive 56/2014 as to issue 4A and issue 4B - *as the the independence and authority designated by law to to perform those functions registering that these entities should be managed by people that are not auditors and the Member States shall establish independent and transparent procedures for the selection of these persons and furthermore even as to subcontracted people the Directive is clear because it says Issue 5 -:,, the competent authority guarantees that they have no conflict of interests as to the auditors and/or as to their societies*. So following the Directive inspiration it seems that an independent profile (and independent means an outsider as to any kind of organization) with no conflict of interests is needed.

Besides this Supervising function that inspires little transparency once it is fulfilled by the very Stock Market Commission (CMVM), the Rule 74 C (*Portaria 74-C/2016, was issued in 24th March 2016 but in force from 1 January 2016!*) considers that the auditors should pay to CMVM for this service. So whenever they issue an audit report about the organizations' financial statements (every 3 months), charges shall be paid. The following table summarizes these charges:

<sup>1</sup>Article 37 – inspection and audit:

CMVM human resources, when doing any inspection or audit, on behalf of CMVM, are considered an authority agent being able to: a) Enter all the company buildings, lands and means of transport; b) To inspect all books and register; c) To get all the copies/extracts of controlled documents; d) To ask to any legal representative, any worker or alike, any explanation about facts/documents e) To identify for future act of decision people that break the law under the scope of CMVM procedures; f) To claim the help from the police and administrative jurisdiction when needed; g) CMVM can hire experts to support and develop the follow up of the workers involved who will have the same rights of the workers under the situation according to CMVM rules.



**Table 1 Charges of CMVM on behalf of audit supervision**

Type of organizations	Auditors fees (eur)	Charges (eur)	multiplier
<b>Not public interest entities PIE</b>	<15 000	Auditors fees/2500	10
“	>15 000 < 30 000	Auditors fees/5000	20
“	>30 000 < 60 000	Auditors fees /10000	40
“	>60 000	Auditors fees /20000	80
<b>Public interest entities PIE</b>	<15 000	Auditors fees/2500	100
“	>15 000 < 30 000	Auditors fees /5000	200
“	>30 000 < 60 000	Auditors fees/10000	400
“	>60 000	Auditors fees/20000	800

Looking at the described numbers one can imagine the impact that this may have in the future and although this is a direct charge on auditors it is very likely that they will try to recover it in the future invoice to the clients.

## 2.2 Statutes of the Order of the Auditors

At this point of this issue something must be said about the Order of the Auditors under this new supervision approach. The Portuguese Law 140/2015 (7th September) established the new Statute of the Auditors. When reading its main issues reported in article 6 it is described that independently of the public supervision of CMVM the Order commitments are broad and specialized either as to the access and the exercise of the profession and their supervision and regulatory principles.

From these assumptions related to the Auditor that make this function as inspiring public faith one should remark particularly as to the disciplinary jurisdiction that this must work out.

After all it seems that some of the management positions of the Order of Auditors in Portugal (namely the disciplinary council) are empty once CMVM took care of them.

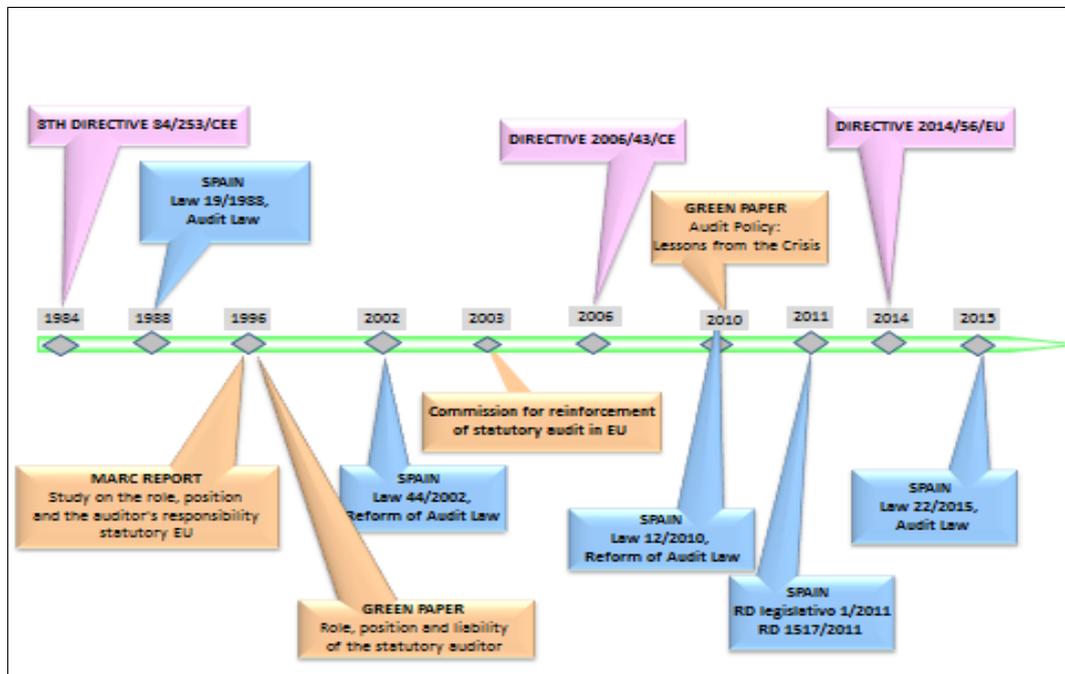
One should refer that these two countries – Portugal and Spain - were the pioneers in the anticipation of the implementation of these Directive measures. Let us now consider what happened in the nearby country – Spain.

## 3. EUROPEAN DIRECTIVES IMPACT IN SPAIN

Spain audit activity started in 1988 through Law 19/1988 (12th July) concerning Financial Statements Audit (Congress of Deputies, 1988). According to the 8th Directive 84/253/CEE defining the activity of audit and ruling standards and its main characteristics of profession access – personal conditions and society requisites in order to register as Auditors that could belong to (ROAC).

Yet along the time there were some changes occurring in these audit procedures. Considering the impact of the different European Directives the Law 12/2010 (30th June), translated the contents of Directive 2006/43/CE European Parliament and the Council (17th May 2006). This Directive was crucial for the harmonisation of the audit activity in the EU area defining the principles that should rule the system of public supervision. The financial crisis of 2008 raised some problems about the fitness and adequacy of application of all the European Directives about audit procedures questioning about the activity of audit as a tool that should contribute to the financial stability of the Members.

It was under this scope of analysis that in 2014 the Directive 56/EU (of the Rule Nr. 537/2014 of the Parliament and Council, from 16th April 2014) was issued. In terms of evolution of audit one can summarize it (table 2):



**Figure 1. Evolution of audit in legal terms**

### 3.1 Law 22/2015: consequence of the application of Directive 2014/56/EU

Its goal was to reinforce the stakeholders trust as to the financial statements and as to the quality of the audit therein embedded. In consequence of this Directive, Spain issued the Law 22/2015 (20th July) about Audits of Accounts (Congress of Deputies, 2015).

According to the Explanatory Statement of the Law, the ultimate purpose of the reform is to strengthen users’ trust in economic and financial reporting by enhancing the quality of audits of accounts. In this way, the intention is on the one hand to increase transparency in auditors’ activity by clarifying the purpose of the audit and its scope and limitations, and on the other to reinforce the independence and objectivity of the auditors in the performance of their activity. Moreover, it aims to contribute to the integration of the audit market through the incorporation of the so-called European passport, and a higher degree of harmonisation, not only in the rules governing the activity, but also in the rules for oversight and disciplinary measures. This Law has a chapter of audit accounts in general and a specific another chapter for the audit accounts of Public Interest Entities<sup>2</sup>. The aim is to guarantee a high quality of information safeguarding the stakeholders.

Law 22/2015 will be in force from the 17th June 2016 and has demonstrated to be quite unpopular as concerns what has been approved by the Spanish government. Yet recent financial Spanish scandals have contributed to the use of the Directive 2014/56/EU in order to improve the independence, the transparency and the supervision on audit to enable its inherent quality and to reinforce public faith about the financial statements of companies. Most changes occurring in the Spanish law frame are present in Law 22/2015 and its main aspects are the following as to the PIE- Public Interest Entities:

#### A. Audit Commission

The PIE will be obliged to have an audit committee. In order to contribute to reinforce the independence of auditors and the quality of audits in Public Interest Entities the functions attributed to the Audit Committee reinforced (see table 3).

<sup>2</sup> According to article 3.5 of the Law 22/2015 public interest entities are: issuing body in the secondary market, credit entities and insurance entities, supervised by Bank of Spain, Stock Market Commission, General Direction of Insurance and Pensions; entities are important either on the nature of the activity or in the dimension of work; group societies where the dominant one is one of the previous situations.



**Table 2 Functions of the Audit Committee of the PIE**

<p>a. Information to the general assembly about the questions related to the Audit Commission and explaining the audit results in order to contribute to the integrity of the financial statements and the very function of this commission.</p> <p>b. Supervision: of the effectiveness of the internal control of the Company, of the internal audit and risk management and discussion: about the deficiencies of the internal control and eventual suggestions without compromising the auditor independence.</p> <p>c. Supervision of the elaboration of the financial statements and to suggest to the management board suggestions or recommendations in order to safeguard the Company integrity.</p> <p>d. To contact the Board of Directors in order to select, elect, re-elect and replace the auditor of accounts being responsible for this process</p> <p>e. To establish relations to the external auditor in order to get information about the issues that can be a threat for his/her independence, to be examined by the Commission and all the services belonging to articles 5, ap 4, and 6.2.b) EU Rule (UE) Nr 537/2014, 16th April and considering section 3 from chapter IV title I of the Law 22/2015, 20th July, of Audit Accounts, about the Independence as well as all the information related to the services rendered and respective remuneration associated to the audit work either directly from the auditor or indirectly from the subcontracted parts.</p> <p>f. To give an idea every year, and before the auditor issues the opinion about the financial statements, about the independence of the accounts auditor and all the services related to the audit.</p> <p>g. To previously acknowledge the Board of Directors about the issues considered in the law, the statutes and the rule of the Council, in particular:</p> <ol style="list-style-type: none"> <li>1. The financial statments and the consequent reporting to be made public.</li> <li>2. The creation and aquisition of capital participations through any special entity purpose located in tax free countries.</li> <li>3. The operations with linked parties.</li> </ol>
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#### **B. Rotation**

The new Law establishes that auditors should stay in a PIE (Public Interest Entities) company at least for 3 years and at most, including all the extensions, 10 years (art 17 of the EU Rule 537/2014, parts 3, 5, 6 and 8). Yet after finishing these 10 years the auditor can have an extension of 4 years at maximum provided this extra time is used to be shared with other auditors.

#### **C. Fees limitation**

In order to ensure independence, the new law set limits on audit fees(see table 4):

**Table 3. Limits on audit fees**

<b>Entities with no public interest (Art. 25)</b>	The limit of the fees related to the services of audit along the three last sequential years should not represent more than 30% of the total annual receivable fees of the auditor or of the related society of auditors; if that happens the auditor should not do the audit in the next following year.
<b>Entities with public interest (Art. 41)</b>	The limit of the fees related to the services of audit along the three last sequential years should not represent more than 15% of the total annual receivable fees of the auditor or of the related society of auditors; if that happens the auditor should not do the audit in the next following year.



#### D. Incompatible services

In order to reinforce the professional scepticism attitude and objectivity and in order to prevent conflict of interests from the services rendered to the PIE some audit works are considered incompatible: accounting services; internal audit, law procedures and services, internal control framework design, risk management related to the financial information. Furthermore the fiscal services and assets evaluation will be also considered incompatible unless their material irrelevance.

#### E. Transparency

The content of the audit report shall be more detailed for the Public Interest Entities, in order to improve the information either as to the audited company as to the stakeholders. Besides for these companies the auditors will do an extra report to be delivered to the Audit Commission, and the annual report will comply with the transparency issues referred in Directive 2014/56/EU.

#### F. Supervision

The competences of ICAC are increased in particular as concerns the evaluation of the systemic risks and the analysis of the auditors declarations and reported information. The resources needed to do this are paid through the ICAC (Institute of Accounting and Auditing - Instituto de Contabilidad y Auditoría de Cuentas) taxes calculated on the auditors' fees and for each audit report issued (see table 5):

**Table 4. Charges on the auditors**

not PIE – Public Interest Entities	Euros	PIE – Public Interest Entities	Euros
<30 000 euros	123,4	<30 000 euros	246,90
>30 000 euros	246,9	>30 000 euros	493,80

#### G. Sanctions

According to Directive 2014/56/EU some procedures about the infractions and sanctions and related advertisement are introduced

### 3.2 Public Supervision of Audit Accounts in Spain

The responsibility of the public supervision of audit accounts in Spain is committed to ICAC - Institute of Accounting and Auditing (Instituto de Contabilidad y Auditoría de Cuentas), who has the following functions (article 46.2):

<b>Responsibility of the public supervision of audit accounts = ICAC functions:</b>
Authorization and inscription in the Official Register of Audit Accounts and related audit companies.
The adoption of the norms – ethics, quality of internal control used along the audit process - according to the law, as well as the supervisión of its fulfillment.
Continuous training of the auditors of accounts.
Inspection and investigationsystem.
Regular <i>surveillance</i> of the evolution of the services of audit in case of the PIE.
Thedisciplinaryregime.



ICAC is the competent and specialized authority as concerns the companies economic and financial information reported by the auditors and it is the standard of supervision of this activity. Yet, one must refer that the Stock Commission (CNMV)<sup>3</sup> has a supervising competence on the Audit Committee of the PIE, in spite of the competences of ICAC which is the only authority responsible for the public supervision system according to article 32.4 of the Directive. It pertains to ICAC the obligation to look upon the duty of independence of the auditors. As concerns the Audit Committee these measures are just a kind of safeguard of the auditor Independence and this does not exclude the supervision competences from ICAC (an autonomous body of the Ministerio de Economía y Competitividad - Ministry of Economy and Competitiveness) that results from the EU Directive having the aim of efficiency, effectiveness and accuracy as well as integrity achieved under the following assumptions:

- Being an independent entity where the top management is not composed by people that work as auditors of accounts.
- Being transparent, as concerns the work process program and the activity reports.
- Depending on the capacity, technical knowledge, adequate resources and having a safe financing exempt from any influence from the auditors or related societies of auditing.

ICAC Management members are in brief the following:

<b>President</b>	Representative of ICAC.
<b>Committee of Audit Accounts (functions)</b>	<p>Defining the rules for the professional exams needed for the Registration of the Auditor of Accounts.</p> <p>Issue of the ethics and quality control audit norms.</p> <p>Suggestions and changes as to the scope of audit to be made on the rules and laws sent to the Ministry of Economy and Competitiveness.</p> <p>Determination of the rules for audit training.</p> <p>Resolution about the presentation of the auditors about their activities to ICAC.</p>
<b>Accounting Council (functions)</b>	After consulting the Accounting Consultative Council <sup>4</sup> , shall evaluate the suggestion of interpretation of any accounting issue related to the accounting framework within the Commercial Code scope.

### 3.3 The Auditors and Representative Public Corporations

These public corporations are under the Rule and Law of Audit of Accounts that presently has been altered by the Law 22/2015 and is still in due course. These entities are considered under public law provided they fulfill the following assumptions:

- a) The Statutes identify the activity as Audit Accounts.
- b) At least 10% of the auditors with inscription in the Official Register of Auditors belong to this corporation.
- c) At least 15 % of the Auditors of accounts with inscription in the Official Register of Auditors, in activity, are members of this corporation.

Regulated functions of the corporations (according to Art. 105 of the Rule on Audit<sup>5</sup>) are:

To do, to adapt and to review the ethics and internal quality control under self motive or motivated by

<sup>3</sup>The Stock Commission - Comisión Nacional del Mercado de Valores - is a competent body of supervision and inspection of the stock market and the activity of all that are related to. Its functions are:

- to supervise the transparency of the financial market, of the correct price construction and respective investors' protection, promoting the diffusion of information needed to reach the beforementioned objectives.
- to assist the Government - The Ministry of Economy and Competitiveness.
- to suggest measures or procedures about the stock market.
- to do an annual report about financial market overview.
- will report a summary of its activities to the Ministry of Economy and Competitiveness.

<sup>4</sup> Consulting body of the Accounting Council made up by accounting experts as concerns economic and financial information, representing the public administration or the sectors of activity of the companies about which one must make a report.

<sup>5</sup> Royal decree 1517/2011, 31st October, approving the rule that develops the text concerning the Law of Audit of accounts, approved by the Royal Decree Law 1/2011, 1<sup>st</sup> July.



ICAC - Instituto de Contabilidad y Auditoría de Cuentas.
To propose and to achieve the professional exams to enter the corporation.
To organize training courses once allowed by ICAC.
To plan training schedules to be achieved by the auditor accounts.
To supervise the collaboration of its members.
To do the ethical rules and to conduct the elaboration of the code of conduct for its members.
To verify the observation of the practices and procedures undertaken along the activity of all members.
To Propose to ICAC- Instituto de Contabilidad y Auditoría de Cuentas a sanctionery procedure to be applicable to the infractor members.
To cooperate with ICAC in all the issues related to the audit of accounts, namely the quality system of the internal control of the auditors and related societies during the three years that precede the execution of the quality control.

All quoted societies (IBEX and secondary market) are audited by audit companies that belong to one of these professional corporations of the auditors of accounts:

- Spanish General Council of Economists (CGE).
- Spanish Institute of Censors Juries of Accounts (ICJCE).

At this point of this paper some conclusions about the two countries can be done.

#### 4. COMPARISON PORTUGAL/SPAIN

Although these two countries are placed closely in the same península they have different perspectives of analysis.

- While in Portugal the functions of Supervision of the Auditors are included in the Commission of the Stock Market, in Spain they have created an independent entity – ICAC - to deal with this matter following closethe EU Directive.
- Both countries have created some charges on auditors as to the issuing of audit reports. In Spain this rate is an absolute value for not PIE:123,4 and 246,90 and for PIE:246,90 and 493,80, got within a limit of, below and above, 30 000. In Portugal it depends on the class of the fees of the auditor (<15000; 15000-30000; 30000-60000 and >60000) and respective class of earnings with a multiplier factor associated under a the perspective of being: a not PIE and a PIE.

When comparing the results got, in Portugal and in Spain, for auditor fees of respectively 15 000 and 30 000 we get the following cost per issued audit report (every three months):

**Table 5. Comparison of Charges (euros) on Issued Auditor Reports in Portugal and Spain**

	FEES	Not PIE	PIE
PORTUGAL	15000	60	600
SPAIN	15000	123,4	246,9
PORTUGAL	30 000	120	1200
SPAIN	30 000	246,9	493,80



For auditor companies getting about 15000 euros not PIE pay in Portugal 60 euros per report issued and in Spain 123,4. If the companies are PIE in Portugal they pay 200 euros per report and in Spain 246,9. When the fees of the auditor raise in Portugal they pay much more than in Spain. For instance for 30000 euros earnings, in Portugal a not PIE pays 120 euros and in Spain 246,9 but as to PIE in Portugal they will pay 1200 euros while in Spain they pay 493,8. In Portugal PIE are much more charged than in Spain. One must say that in Spain these charges seem to be more adequate than in Portugal.

- In Spain these charges are launched by ICAC an independent entity (according to EU Directive 56/2015) and in Portugal, they emerge from the very Commission of the Stock Market Exchange what makes it quite weird in terms of transparency and conflict of interests.

And some ideas emerge: how can one guarantee independence, exemption and assurance if, on one hand, the stock market entity wants to have more clients belonging to its portfolio and at the same time the same body is to inspect and analyse their financial statements in order to issue a quality certification about it? And if there is a mistake with a report elaborated by the stock market about the auditor's report?

Looking around the world let's consider now a very good example showing nice practices about these issues implemented some time ago in Sweden.

## **5. EXAMPLE OF A GOOD PRACTICE OF AUDIT SUPERVISION: SWEDEN**

### **5.1. Introduction (Revisorsnämnden)**

In Sweden and dating back to 1973 the supervision of auditors became a task for the state when that function was transferred to a department within the governmental authority National Board of Trade from the private institution Stockholm Chamber of Commerce. In 1995, the organization took its present form. The Supervisory Board of Public Accountants (RN) was established by the Swedish Parliament in the Auditors Act of 1995, succeeded by the present Auditors Act (2001:883), hereafter referred to as the Auditors Act. Revisorsnämnden (RN) - Supervisory Board of Public Accountants RN is a governmental authority under the Ministry of Justice.

RN is the government's authority for all matters concerning auditors. RN has two overall tasks; firstly, to provide the Swedish business world with highly qualified auditors and, secondly, to supervise and regulate those auditors.

### **5.2. Organization**

RN is organised in an office, a disciplinary board and an exam committee. RN is led by a director, who is the head of the authority and who has the full decisive powers in all administrative matters and all matters connected to investigations and other duties of the authority. The director is appointed by the government and reports to the Minister of Justice. RN's office presently has 22 persons employed: auditors with 30 years' experience of auditing in average, lawyers, four economists (Graduate Business Administrators) or having other similar academic degrees and additionally, four persons form the administrative department. All matters concerning exams, issuing of authorisation or registration, opening investigations and closing investigations without disciplinary action are decided by the director or the staff member to whom the director has delegated his powers of decision. He may also, by powers delegated to him, decide in disciplinary matters. Such powers may derive from regulations or from the disciplinary board. This delegated competence is rarely used in a general disciplinary matter but merely in connection to the practical performance of investigations of the authority. If, for instance, a registered public accountant refuses to adhere to RN's requests, the director or his designee may take the decision on disciplinary action for that without previous contacts with the disciplinary committee. Hereby a clear line is kept between investigation procedures and decision-making in disciplinary matters. Investigations, in which disciplinary action is imposed on a public accountant or an audit firm, are decided by the disciplinary board. It consists of nine persons, all appointed by the government. The chairman and the deputy chairman are judges. The other members represent various professions and central governmental authorities such as the National Tax Board and the Financial Supervisory Authority, all selected for specific competence in audit related matters. Two members are auditors in public practice. Beside disciplinary matters, the disciplinary board is also responsible to decide on the issuance of such formal regulations that relates to the authority of RN and in matters of principle.

### **5.3. Supervisory Activities**

The most essential task is the supervision of auditors and audit firms. It takes 80 % of the staff total working hours and around 65 % of RN's financial resources. This supervision is initiated and carried out in various ways. RN's mandate covers all auditors and registered audit firms and all categories of audit clients. RN's task in the supervisory field covers supervision of statutory auditors and registered audit firms as well as supervision of audit activities. It also includes the task to ensure that professional ethics for auditors, as well as



generally accepted auditing standards, are developed appropriately. The tools available for RN's oversight are recurring quality control inspections as well as risk based inspections, disciplinary investigations, and the power to impose disciplinary sanctions. On the regulatory side of the supervisory function, RN can issue binding advance rulings in ethical matters and issue formal regulations in areas delegated by the Government. However, the most important regulatory impact on the application of standards is statements by RN in its disciplinary rulings.

#### **5.4. Quality control inspections**

RN has the sole responsibility for the system for inspections of audit firms and auditors. When it comes to listed companies, RN carries out inspections on the largest seven audit firms, by which all listed companies are audited, every third year. To cover also a significant number of individual auditors in a three year cycle, the big four audit firms are subject to inspection activities almost constantly. When it comes to inspections of auditors and audit firms that do not audit listed companies, RN relies on the inspections carried out by the professional organisation FAR (the professional institute for authorized public accountants "auktoriseraderevisorer"), approved public accountants (godkändarevisorer), and other highly qualified professionals in the accountancy sector in Sweden. The activities of FAR are monitored by RN. Under an agreement between RN and FAR, the organisation has a duty to report to RN material breaches of auditing standards or professional ethics.

#### **5.5. Investigations and disciplinary actions**

RN is the competent authority for investigations of all Swedish auditors and audit firms. RN's investigations can be initiated in the following situations. If an inspection carried out by RN shows material breaches of auditing standards or professional ethics, an investigation can be initiated. Similarly, RN can initiate an investigation if FAR reports to RN under the above-mentioned agreement. Further on, RN receives complaints, which usually lead to disciplinary investigations. Finally, RN opens investigations and disciplinary matters on its own initiative.

If a breach of standards or rules of conduct is found, RN may issue an admonition, a warning or, in the most aggravated cases, withdraw the approval or authorization, or registration (in case of an audit firm). In an investigation, the auditor is obliged to answer RN's questions and provide all documentation deemed necessary by RN. If the auditor fails to provide the required documentation, he or she would normally be subject to disciplinary action, already on that ground. In an investigation process the investigation team is generally composed by both lawyers and auditors. All such matters are prepared by the office and if a disciplinary action against the auditor is foreseen, presented to the disciplinary board (see below), which then decides on basis of the material prepared by the office. If an investigation does not indicate any breach of standards or rules of conduct, the case is closed. This is the process undertaken in Sweden that looks really well.

The segregation of functions and the transparency are issues that seem to be contemplated. There is not a commitment of qualifying an audit to someone that is going to need it. The functions and its development seem to be quite far from the interest area – leading to an absence of conflict of interests as the EU Directive states.

### **6. CONCLUSION**

Global economic and financial harmonization has to do with many different variables that one must aggregate some in order to get a specific scope of analysis that allows us to understand the different world we live in. Under EU Directive 56/2014 and a corporate governance perspective, this paper tried to see what was happening as to one of the most important stakeholders of this market – the auditors and their supervision – in the Iberian Peninsula. Portuguese and Spanish legal frame, as to the auditors, stock market and companies, was considered under the idea of looking at their effectiveness of work, quality, independence and related charges on fees. Spain seems to fulfill the EU Directive better than Portugal under the absence of conflict of interests perspective. As the charges on auditor supervision, mainly as to PIE, Spain charges seem to be much cheaper and adequate than in Portugal. Sweden was considered as an example of a country where all these procedures, that actually are being implemented according to the EU Directive in Europe, are in force for quite a long time. This approach about this issue makes us wonder: what about the global harmonization, embedded of so many and so big differences, that motivates a lot of speaking and writing?

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