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THE SYSTEM OF OVERSIGHT AND CONTROL OVER THE OPERATIONS PERFORMED BY STATUTORY AUDITORS AND AUDIT FIRMS IN POLAND

Summary: The objective of the article is to present the system of public supervision over statutory auditors, audit companies and the professional self-government of statutory auditors which functions in Poland. Its particular parts present the organization, tasks and operations performed by the bodies functioning within this system, i.e. the Audit Oversight Commission, the National Oversight Commission and an audit committee playing the role of a monitoring and supervision body established in public interest units. The analysis of the legal regulations, referring to the issues of public supervision, as well as the analysis of adequate source materials, represents the main applied research method.

Keywords: statutory auditor, public interest entity, an audit committee, public supervision, an entity authorized to audit financial statements.

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1. Introduction

Unsatisfactory quality of financial statement audits and the absence of supervision over the operations performed by statutory auditors are considered to be the reasons underlying the financial crises and bankruptcies which took place at the beginning of the 21st century and covered large listed companies and business organizations recognized as having prepared and published false financial statements. The positive opinions about these statements issued by audit firms resulted in both extensive economic and financial damage and the undermining of public confidence in the credibility of the presented information and, thus, also in the reliability of the services provided by the statutory auditors.

Different types of activities have been, and still are, undertaken for the purposes of future protection against the negative effects of bankruptcies experienced by companies and organizations. They take the form of, among others, far reaching changes in terms of the financial audit in force in the European Union Member States. Particular attention should be paid to the legal and organizational solutions

referring to the public supervision system organization and the control of the operations performed by statutory auditors and audit firms. The establishment of such a system, its tasks, functioning and efficiency should be discussed in connection with the following issues and terms: public interest entity, the Audit Oversight Committee, an audit committee, auditing operations, the key statutory auditor, the group statutory auditor or a network.

The objective of the article is to discuss the basic problems related to financial statements auditing included in the Directive 2006/43/EC of the European Parliament and the Council of 17th May 2006 on statutory audits [Directive... 2006], to present the functioning of an oversight and control system covering the operations performed by statutory auditors in Poland, including the characteristics of the bodies responsible for these functions, as well as a discussion of the changes planned in the area of controlling audit companies responsible for the audits of public interest entities.

The objective of the presented article was carried out by applying the following methods: legal acts criticism, deduction and induction, as well as the analysis of source materials.

2. General characteristics of the oversight and control system covering the operations performed by statutory auditors

Polish legislation, referring to financial audit operations¹, is based on the European Union Directive 2006/43/EC which, to a large extent, is based on American solutions. It takes into account several years of the USA's experience, the first to react to fraud resulting in either bankruptcy or liquidation of many companies and on 30th July 2002 passed the Sarbanes-Oxley Act, appointed the Public Company Accounting Oversight Board and implemented new specific solutions in accounting and auditing.

Among the basic reasons underlying the development of the above-mentioned Directive by the European Commission, the following can be listed:

1) verification of the requirements related to the personality and professional competencies of a statutory auditor, aimed at ensuring the uniform level of all auditors functioning in the EU, adequately verified knowledge and skills, meeting the highest ethical standards, the principles of confidentiality and professional secrecy, performing statutory audits ensuring their consistently high quality,

2) strengthening the independence of a statutory auditor and the entities entitled to perform audits in the course of performing such statutory audits and the transparency of auditor's operations,

3) establishment of an effective public supervision system covering the operations of both the statutory auditors and audit firms which employ them,

¹ This term is referred to as an audit, the reviews of financial statements or other opinion based services covered by the separate regulations or financial audit standards (Art. 2, par. 2 of the Act of 7th May 2009).

4) strengthening the system of sanctions and investigations through the obligatory registration of the statutory auditors and entities authorized to audit financial statements aimed at preventing and improving incorrectly performed statutory audits,

5) covering the so-called public interest units with particular care by means of an audit committee established within their structures and the improvement of an internal control system.

The implementation of the aforementioned Directive regulations in Polish legislation took place by passing the Act of 7th May 2009 on statutory auditors and

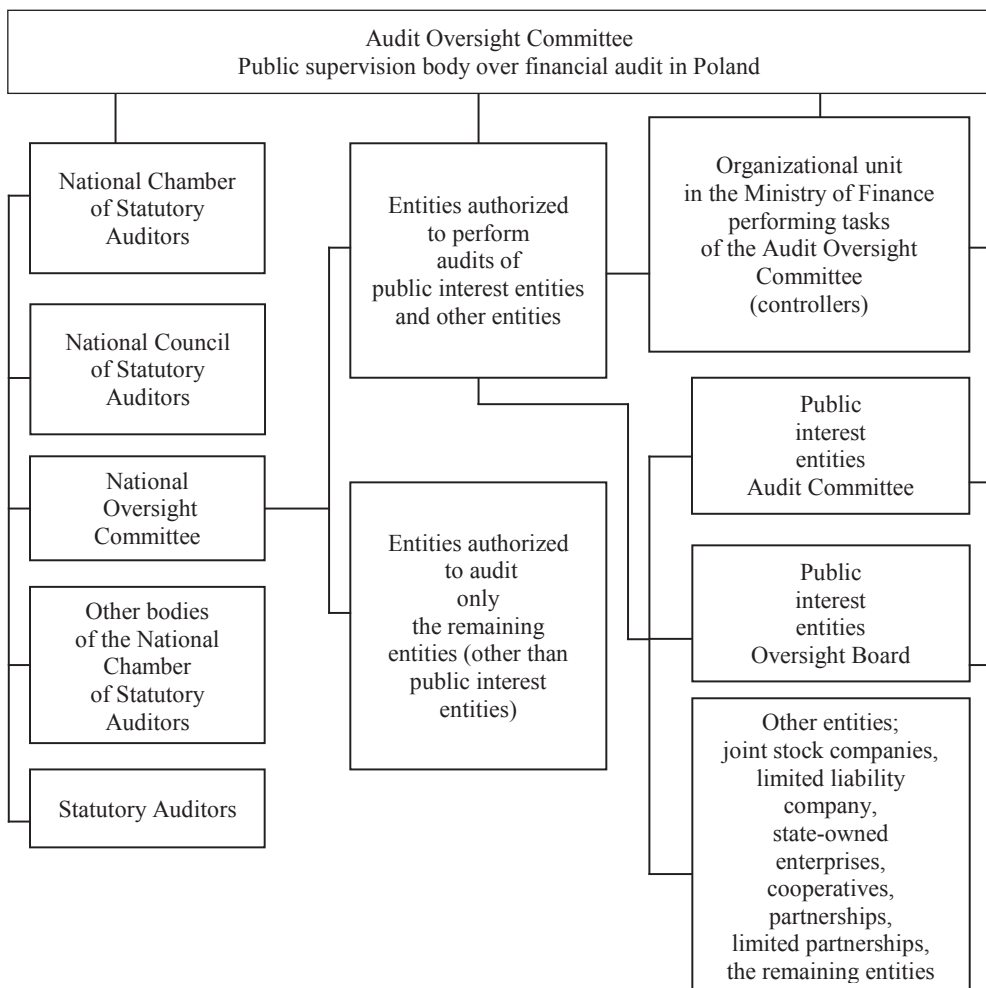


Figure 1. The organization of oversight and control system referring to financial audit operations

Source: author's compilation based on [Sawicki 2013, p. 385].

their self-government, entities authorized to perform statutory audits and public supervision [The Act..., 2009].

Currently, public supervision plays a crucial role in the structure of the financial audit system. The function of this body, established for the first time in Poland, is mainly carried out by the Audit Oversight Committee (AOC) appointed for a four-year term, by the Minister of Finance.

Apart from the Audit Oversight Committee, the supervision over the operations performed by the statutory auditors and audit firms also remains within the competencies of the National Council of Statutory Auditors (professional self-government) with certain competencies in the area of oversight and financial audit quality provision delegated to its bodies. These duties are mainly performed by the National Oversight Committee as the body of the National Chamber of Statutory Auditors.

Another body listed for the first time in our legal regulations of 2009 is an audit committee. The basic task of this committee, appointed in selected public interest entities², is to monitor financial reporting and perform financial audits, to monitor the effectiveness of internal control systems, internal audit and risk management, as well as to monitor the independence of both the statutory auditor and the entity authorized to perform statutory audits.

The structure of this system is presented in Figure 1.

Based on the general characteristics of the selected bodies, it can be concluded that the system of oversight and control covering the statutory audit operations is both multi-level and comprehensive.

3. The Audit Oversight Committee (AOC)

The Audit Oversight Committee (AOC) represents an independent, collegial, public administration body appointed pursuant to Art. 63 of the Act of 2009 [The Act... 2009]. It performs public supervision over the profession of a statutory auditor, the operations of entities entitled to audit financial statements and the activities of self-government for statutory auditors – The National Chamber of Statutory Auditors.

The AOC comprises of nine members representing the following entities:

1) two representatives of the Ministry of Finance, including the secretary or undersecretary of state in the Ministry of Finance as the chairmen,

2) two representatives of the Financial Supervision Authority, of which one is a vice-chairman,

² The term, public interest entity, referred to in the Directive 2006/43/EC (Art. 2, par. 13), is understood as an entity subject to Member State legislation, whose transferrable securities are accepted for trading on the regulated market of any of the Member States, a credit institution and an insurance institution. Additionally, Member States can designate other public interest units, e.g. the units of major public significance in terms of the activities carried out, their size and the number of employees.

- 3) a representative of the Ministry of Justice,
- 4) two representatives of the National Chamber of Statutory Auditors recommended by the National Council of Statutory Auditors,
- 5) a representative of the employers' organization,
- 6) a representative of the Warsaw Stock Exchange PLC.

The Minister of Finance can recall a member of the AOC following three strictly determined cases: at the request of the member him/herself or the entity he/she represents and also if he/she does not meet the conditions provided by the Act.

Table 1. Competencies and tasks of the Audit Oversight Committee

No.	Tasks of AOC	Explanations and comments
1	Approving resolutions of the National Chamber of Statutory Auditors bodies	Refers to the cases provided by the Act.
2	Approving annual control schedules prepared by the National Oversight Committee	Refers to statutory auditors and audit firms performing the operations of financial audit in public interest entities (PIE).
3	Controlling and participating in controls defined in Art. 26, par. 3 of the Auditing Act	Refers to controls carried out by the National Oversight Committee in audit firms: <ul style="list-style-type: none"> • performing financial audit operations in PIE – at least once in 3 years and • the remaining ones – at least once in 6 years.
4	Registration of statutory auditors and audit firms	Refers to individuals and companies from third countries (outside the European Union).
5	Challenging, to the administrative court, the resolutions by the National Chamber of Statutory Auditors bodies not subject to approval	Refers to these resolutions which violate legal regulations or are against public interest or have the stamp of an error or mistake – within 30 days from the resolution notification.
6	Appeals against the resolutions of the National Chamber of Statutory Auditors bodies	Refers to these resolutions to which the Administrative Code provisions apply.
7	Controlling the documentation of the National Council of Statutory Auditors	Refers to the documentation constituting the basis for adopting resolutions by the National Chamber of Statutory Auditors regarding an entry of statutory auditors in the register or an entry of audit firms on the list.
8	Approving candidates for controllers before their employment and the controllers designated for particular inspections	Refers to financial audits in PIE.
9	International cooperation	Refers, in particular, to the cooperation of the European Commission with the supervision bodies from other EU Member States or third countries.
10	Performing other tasks and activities	Refers to other tasks provided for in the Act and other operations indispensable for the correct implementation of these tasks.

Source: author's compilation based on [The Act... 2009].

AOC members have to be of an impeccable reputation, be recognized as respected authorities, with an extensive knowledge and experience in the areas relevant to financial audit, who can guarantee the correct performance of operations. The majority of AOC members, i.e. five persons, for at least three years before their appointment as the committee members and in the course of their term of office, cannot perform any activities in the area of financial audit, have the voting right in an entity authorized to audit financial statements, or function as a Management Board member or Supervisory Board member of this entity [The Act..... 2009].

The purpose of AOC operations is to ensure a properly functioning supervision system, providing the required financial audit quality through establishing legal, organizational and procedural standards and also through operational activities.

In order to carry out the above-mentioned goal, the statutory competencies and tasks of AOC were defined, as presented in Table 1.

Remuneration paid to the committee members is covered by the state budget. A separate organizational unit was established by the Ministry of Finance to facilitate the commission in performing its tasks. Moreover, in order to cover public supervision costs the National Council of Statutory Auditors is obliged to pay into the state budget account, by 31st March, 20% of the supervision fees for the previous year due from the audit firms performing the operations of financial revision in public interest entities.

4. The operations of the National Oversight Committee (NOC)

Apart from the Audit Oversight Committee, constituting the collegial and independent body, the supervision and control of financial audit operations is performed by the National Chamber of Statutory Auditors (professional self-government) to the bodies of which, as designated by the legislator, certain tasks in the area of oversight and quality provision were delegated.

The National Oversight Committee represents the primary body responsible for the provisions of financial audit quality, whereas in the case of disciplinary action the respective bodies are The National Disciplinary Spokesman and the National Disciplinary Court.

The National Oversight Committee comprises of three to five members, from among whom the chairman and the deputy are chosen.

The tasks to be performed by the NOC are as follows: supervision over complying with the regulations and procedures referring to financial audit operations performed by statutory auditors and the activities carried out by the entities authorized to audit financial statements, including control over:

- internal quality control system in an entity,
- entity's operations compliance with the appropriate legislation,
- audit documentation following the performed financial audit operations, including compliance with the obligatory financial audit standards and independence requirements,

- quantity and quality of the personnel resources involved,
- remuneration calculated for the performed financial audit operations.

Pursuant to Art. 26, par. 3 of the Act, the control of entities authorized to perform financial audits in public interest entities is performed at least once every three years, whereas in the remaining entities at least once every six years [The Act... 2009].

The above-mentioned controls are executed by controllers employed in the National Chamber of Statutory Auditors, while the controls covering entities which do not audit public interest entities can also be performed – based on civil law agreements – by inspectors functioning as statutory auditors.

Both the controllers and inspectors have to present the same characteristics and meet the same conditions as the Audit Oversight Committee (AOC). Candidates for controllers, prior to their employment, and the controllers designated to control entities performing financial audits in public interest entities, are approved by the Audit Oversight Committee (AOC).

Moreover, among the National Oversight Committee's tasks approved by the Audit Oversight Committee is the specification, in the form of resolutions, of the following:

- the mode of selecting controllers and inspectors,
- the principles of professional training for controllers and inspectors,
- the control protocol template for controllers and inspectors.

The National Oversight Committee develops annual control schedules³ published on the website of the National Chamber of Statutory Auditors. The National Oversight Committee also holds the list of entities authorized to execute financial audits and to perform, at least once every three years, financial audit operations in public interest units.

5. Functioning of an audit committee

An audit committee referred to, for the first time, in the new Act represents one of the new bodies in the current structure of the financial audit and control system which, in accordance with the regulations in force (American, European and Polish), plays two basic functions. Firstly, it functions as a monitoring authority with regard to three systems functioning in an enterprise, i.e. the accounting system covering financial reporting in particular, the internal control system and the risk management system. Secondly, its task is the supervision and coordination of the work performed by both the internal and external auditors.

In line with the first group of the listed functions an audit committee, as one of the corporate governance mechanisms, plays the role of financial information credibility guarantor with reference to the financial information generated by an

³ The Audit Oversight Committee approves control schedules in entities performing financial audit operations in public interest units.

entity, ensures the proper functioning of the internal control system implemented by an entity management and evaluates the applied methods efficiency in risk assessment, measurement and management. The second function performed by an audit committee is also important and consists in both the supervision and coordination of the work carried out by internal and external auditors. In this perspective an audit committee functions as the platform for cooperation and information exchange between external auditors and the audited entity bodies, including its internal auditors and the supervisory board, as well as between an audit committee and internal auditors.

Pursuant to Art. 86 of the Act, an audit committee should function in public interest entities, the members of which are appointed by the supervisory board or the control commission from among its members. An audit committee should be composed of at least three members. If, however, the supervisory board is made up of five or fewer members, an audit committee's duties can be assigned to the supervisory board itself [The Act... 2009].

It has to be emphasized that the solution set forth in the Act reduces the possibilities for an audit committee's establishment in other large economic entities in which the supervisory board is comprised of no more than five members. This restriction is not included in the Directive 2006/43/EC [Directive... 2006] in accordance with which the supervisory board without an audit committee should function only in small and medium-sized entities.

Additionally, the Act provides an enumerative list of public interest entities obliged to appoint an audit committee, but also specifies the entities exempt from such an obligation. Table 2 illustrates the division into these two groups.

Pursuant to Art. 86, par. 4, an audit committee should be composed of a minimum of three members of which at least one has to meet the independence requirement and present adequate qualifications in accounting or financial auditing. In practical terms this means that in order to follow the statutory requirements, an audit committee should include experts presenting specific qualifications and skills who are capable of detecting not only risk symptoms and to ensure the higher quality of financial statements, but also to operate firmly and maintain an independent approach in contacts with a given company's management executives [Zorde 2010].

The independence of one of the audit committee members is a crucial condition provided for in Art. 56, par. 3, pt. 1,3 and 5 of the Act [The Act... 2009]. Following this regulation an independent committee member violates the impartiality and independence rule if he/she:

- a) is in possession of equity shares and other property titles of an entity the audit committee of which he/she is a member, or in any other related entity,
- b) within the past three years participated in bookkeeping procedures or in preparing financial statements for an entity of which audit committee's he/she is a member,

c) is a spouse, a relative or presents an affinity up to the second degree of kinship in the straight line, or is related, as the result of the performed care, custody or guardianship, with a person acting as a member of supervisory, management or administration units of an entity the audit committee of which he/she is a member.

Table 2. Public interest entities obliged to and exempt from establishing an audit committee

Public interest entities obliged to establish an audit committee	Public interest entities exempt from an audit committee establishment
<ol style="list-style-type: none"> 1. Issuers of securities, having an official seat on the territory of the Republic of Poland, admitted to trading on a regulated market of the European Union Member State excluding territorial self-government units. 2. Domestic banks, branches of credit institutions and branches of foreign banks. 3. Credit unions. 4. Insurance institutions and main branches of insurance institutions, as well as reinsurance undertakings. 5. Electronic money institutions. 6. Open-end pension funds and pension societies. 7. Open-end investment funds, specialized open-end investment funds, closed-end investment funds whose investment certificates have not been admitted to trading on a regulated market. 8. Entities conducting brokerage activities excluding entities engaged exclusively in taking and transferring orders to buy or sell financial instruments or in investment advisory activity. 	<ol style="list-style-type: none"> 1. Open-end pension funds, pension societies and investment funds. 2. Branches of credit institutions and branches of foreign banks. 3. Main branches of insurance institutions. 4. Cooperative banks. 5. Public interest entities in which neither a supervisory board nor audit committee were appointed. 6. Credit unions.

Source: author's compilation based on [The Act... 2009].

Pursuant to Art. 86, par. 7 of the Act the tasks of an audit committee include in particular [The Act... 2009]:

- 1) monitoring of financial reporting processes,
- 2) monitoring of internal control system's efficiency, internal audit and risk management,
- 3) monitoring of the financial audit procedure's implementation,
- 4) monitoring of a statutory auditor's independence and an entity authorized to perform financial statements auditing.

Within the framework of particular oversight areas, an audit committee can carry out an extensive range of activities, examples of which are presented in Table 3.

Apart from the four aforementioned basic tasks to be performed by an audit committee, it is also crucial that its members monitor the mergers and acquisitions of capital companies.

Table 3. The tasks of an audit committee performed in particular oversight areas

Oversight area	Possible activities
Financial reporting	<ul style="list-style-type: none"> • monitoring financial information reliability, • analysis of methods used in significant, abnormal transactions, • timeliness of control of particular financial reporting stages, • verification of financial reporting assessment results and the key control procedures carried out by management and suggested corrective measures, • monitoring vital changes in financial reporting processes.
The system of internal control, internal audit and risk management	<ul style="list-style-type: none"> • oversight of the internal control efficiency system, • obtaining detailed information from management staff, an independent auditor, internal audit department and financial department management, regarding: auditing operations, communication and monitoring, • review of the results of an internal control system functioning and internal audit taking into account comments and recommendations of an independent auditor, • obtaining information from management about an increased exposure to particular risk, information about risk identification and monitoring, the assessment of steps undertaken by management in order to reduce such risk.
Performing financial audit activities	<ul style="list-style-type: none"> • ensuring communication possibilities between a statutory auditor, an internal auditor and the supervisory board, • oversight of the areas indicated by a statutory auditor during an audit as particularly sensitive to risk, • consulting, with a statutory auditor, all issues related to bookkeeping disclosures and presenting abnormal economic events in a financial statement, • discussing, with a statutory auditor, all encountered difficulties posed by management staff while performing an audit.
Independence of a statutory auditor and an entity authorized to perform financial auditing	<ul style="list-style-type: none"> • recommending, to the supervisory board or other supervisory authority, an entity authorized to audit financial statements, to perform a financial audit of an entity taking into account e.g. the requirement of statutory auditor independence and impartiality, • accepting all audit and non-audit type of services rendered by entities authorized to audit financial statements, as well as other entities.

Source: author's compilation based on [Recommendations... 2010].

The basic objective of an audit committee's appointment is to provide support for the supervisory board as the statutory body of the company in performing controlling and supervising duties. An audit committee should also play the role of the main contact point for statutory auditors and internal auditors, as well as liaise with the supervisory board.

6. Final remarks

The Polish supervision system, which follows the requirements of Directive 2006/43/EC, aims at strengthening the financial audit oversight and control activities carried out by both, statutory auditors and the entities authorized to audit financial statements.

The legal regulations referring to the system of oversight and control are provided for in the Act of 7th May 2009 on statutory auditors and their self-government, the entities authorized to audit financial statements and public supervision [The Act... 2009].

Public supervision, which is performed by the Audit Oversight Committee, plays a major role in an auditing system structure. The supervision and control obligations are also performed by the National Oversight Committee, the body of the National Chamber of Statutory Auditors. An audit committee represents the subsequent entity which plays the role of the monitoring and supervising body established in public interest units.

Having analyzed the particular functions of these bodies, it can be concluded that within the present legal status many tasks referring to performing supervision over statutory auditors and audit firms operations, are entrusted to professional self-government – the National Chamber of Statutory Auditors. Such a legal solution results in the fact that the supervision performed by the Audit Oversight Committee is more focused on the National Chamber of Statutory Auditors rather than the auditors and audit firms directly.

The initial proposal by the European Commission, included in the Green Book, meant the absence of possibilities to delegate the majority of public supervision tasks to professional self-government, also including performing audits of audit firms. This was supposed to strengthen the independence of public supervision bodies from the environment of statutory auditors and the harmonization of public supervision systems in the European Union. Such a solution, however, would mean for the majority of Member States, including Poland, the need to change the formula according to which their current public supervisions systems are functioning. Not all EU Member States perceive the need and see the possibilities for implementing such changes. Additionally, for many Member States, including Poland, the new regulations would also bring about a substantial increase of costs resulting from the public supervision body's functioning, and thus the need to search for new financing sources to cover them.

Therefore, currently a compromise proposal is being discussed which, in fact, means taking over, by a public supervision body, all the tasks related to performing audits of audit companies constituting public interest entities which, however, does not mean an overall marginalization of the role played by the professional self-government. Such self-government could continue performing controls of the audit firms auditing entities other than public interest entities, as well as perform the remaining tasks executed so far and resulting from the Act on statutory auditors.

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SYSTEM NADZORU I KONTROLI NAD DZIAŁALNOŚCIĄ BIEGLYCH REWIDENTÓW I FIRM AUDYTORSKICH W POLSCE

Streszczenie: Celem artykułu jest prezentacja funkcjonującego w Polsce systemu nadzoru publicznego nad biegłymi rewidentami, firmami audytorskimi i samorządem zawodowym biegłych rewidentów. Przedstawiono w nim organizację, zadania i działalność organów tworzących ten system, tj. kompetencje Komisji Nadzoru Audytowego, Krajowej Komisji Nadzoru oraz komitetu audytu, pełniącego funkcję organu monitorującego i nadzorującego, tworzonego w jednostkach zainteresowania publicznego. Główne metody badawcze to analiza przepisów prawnych w zakresie, w jakim dotyczą one kwestii związanych z nadzorem publicznym, oraz analiza materiałów źródłowych.

Słowa kluczowe: biegły rewident, jednostka zainteresowania publicznego, komitet audytu, nadzór publiczny, podmiot uprawniony do badania sprawozdań finansowych.