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**Harmonizing Audit of Financial Situations
to Romanian Companies with European Legislation**

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Abstract: Regardless of the form of ownership or social capital, companies registered in Romania must prepare annual financial statements. Depending on the size criteria, these are mandatory to be audited. At the same time, the auditing of the financial statements can be made outside the established size criteria. Given the development of the Romanian society and the integration of Romania into the European Union, the need to harmonize the legislation of our country with the European one has emerged. An important role for this purpose is the application of the European legislation in the Romanian legislation through the implementation of the European Regulations and the European Directives. Harmonizing national and European legislation, along with international accounting and financial reporting standards, lead to a better implementation of methods and techniques for detecting tax fraud and combating money laundering and terrorist financing. The need for auditing financial statements comes from the need for insurance - both for shareholders and for state institutions and business partners of companies - that financial reports objectively reflect the clarity and reality of the information contained, that they are prepared in accordance with legal requirements in the field and that the significant dangers of the information presented are excluded

Keyword: audit; fraud; statements; accounting; money

Introduction

In order to be able to talk about the harmonization of the audit of financial situations in Romania with the one in the European Union, I consider it necessary to make a minimal review of the “history” of the postdecembrist appearance of both commercial companies and accounting - and not only of institutions professionalism in the matter. At the same time, it is necessary to understand the regulation of drawing up and reporting the financial statements. The Aba under these conditions consider that reference can be made to the audit of the financial statements and the harmonization of the financial audit with the European legislation.

I. Historical and Legal Framework of Association Forms

The Revolution of December 1989 led to the liberalization of national economies, to the emergence of different forms of association - specific to democratic societies and market economies - and to the need to regulate them. Since 1990 Romania has gone through a transition phase, from the centralized economy to the market economy, which will be seen in the regulations that will appear in the next period of time. It is trying to destroy the old society and lay the foundations of a society based on democratic

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principles. In this context appeared regulations such as:

- Decret-law 54/05.02.1990 on organization and unfolding of economic activities based on free initiative; From the preamble and article 1 of the decree-law, we find out that “The development of the free initiative in the economic and social sectors that directly interest the population is able to lead to the growth and diversification of the range of products and services under the conditions of the free market”. Taking into account the continuous development of demand for products and services, especially for citizens’ consumption needs, economic and perspective imperatives, directly related to raising people’s living standards and establishing the legal framework to promote free enterprise initiatives small and services, the National Salvation Front Council decides:

“Art. 1 - In order to satisfy in better conditions the requirements of goods and services of the population, the efficient use of resources of raw materials and materials, especially local ones, as well as the increase of the use of the labor force, can be organized, by free initiative:

- a) small enterprises with a maximum number of 20 employees;
- b) profit-making associations;
- c) family associations;
- d) activities performed by individuals independently.

Organization of the activities referred to in lit. a) -d) can be done only by citizens who are domiciled in Romania.

Art. 2. - The state guarantees the free organization and development of the production activities and services provided under art. 1. The organization of these activities is based on authorization, under the terms of this decree-law.

Art. 3. - The organization and carrying out of the production activities and services based on the free initiative can be done only in compliance with the legal provisions. Violation of the law results in material, civil, administrative, contraventional or criminal liability, as the case may be, of the guilty person.” Along with the beginning of the legal framework for exercising some economic activities, there is also the Law 12 / 06.08.1990 on the protection of the population against illicit activities.

- Law 15/07.08.1990 on the reorganization of the state economic units as autonomous regies and commercial companies; The law mainly addresses:

“Art. 1 The state economic units, irrespective of the organ under their subordination, are organized and operate in accordance with the provisions of the present law in the form of autonomous regies or commercial companies. Also, economic units, goods or activities may, as the case may be, be leased or leased in accordance with the provisions of this law. Autonomous governments and commercial companies may, in the circumstances of this law, associate themselves with the joint realization of productive and commercial activities.”

- Law 31/16.11.1990 on commercial companies, completed and modified in the years that followed, very many times and which became on this occasion the Romanian referential of commercial companies. Moreover, at art. 1 and 2 of the law it is said as:

“Art. 1. - (1) For the purpose of conducting business acts, natural persons and legal persons may be associated and may be incorporated companies, in compliance with the provisions of the present law. (2) Companies with headquarters in Romania are Romanian legal persons.

Art. 2. - Companies shall be in one of the following forms:

- a) company in a collective name;
- b) a limited partnership;
- c) joint stock company;
- d) joint stock company and
- e) limited liability company.”

- Law 26/05.11.1990 on the trade register, the main purpose of which is its very first article:

“1. Before commencing economic activity, the following natural or legal persons must be registered or, where appropriate, registered in the trade register: authorized natural persons, individual enterprises and family businesses, commercial companies, national companies and national companies, autonomous administrations, economic interest groups, cooperative societies, cooperative organizations, European societies, European cooperative societies and European economic interest groups headquartered in Romania, as well as other natural and legal persons provided by law.”

The regulation of salary is done with the issue of Law 14/08.02.1991, the law of salary,

As a result of the reform policy already begun, the Law on Accounting, Law 82/24.12.1991, which will start in January 1993 on an experimental basis, but which will become mandatory as of January 1, 1994, the date from which the Romanian accounting plan will have another approach.

Regarding the implementation of the new accounting plan, the companies could - in the first quarter of 1994 - manage the accounting in parallel, both after the old accounting plan and the new one.

The Accounting Act thus promulgates a system in which financial accounting is disrupted by the analytical one but is adapted to the beginning of the market economy and which respects both the provisions of the European Directives and those of the International Accounting Standards Committee. It is noted that in the economy of market principles that govern accounting differ from those in the centralized economy and have to meet the planning needs.

II. Istoric of Financial Statements

Among the first references to the financial statements are the “property listings” of the parent of the accounting, Fra Luca Bartolomeo Paciolo and which are published in Venice in 1494 in the accounting treaty in the double game “Tractatus de Computis et Scripturis”.

In the centralized socialist economy, where the state was the only owner, the financial statements wore the same form for all businesses, indifferent between them and not taking into account the size and importance of the business carried out. We will not insist on them.

During the transition period the financial statements kept the traces of the centralized economy, their format changing from one financial exercise to another.

Over time, they have undergone changes, both as content and as a presentation and way of filing and publishing.

Financial statements are synthesis documents that are primarily intended to meet the need for information from multiple addressers. These are, according to the FASB-Financial Accounting Standards Board, the main element of financial reporting, with the purpose of transmitting information

of an accounting nature outside company.

We distinguish general financial statements and consolidated financial statements (a parent company and its subsidiaries over which it exercises power and control) to which International Financial Reporting Standards (IFRS) apply.

Under IFRS 1 “Presentation of Financial Statements”

“13. The financial statements shall present fairly the entity's financial position, financial performance and cash flows. Fair presentation requires accurate representation of the effects of transactions, other events and conditions, in accordance with the definitions and recognition criteria for assets, liabilities, income and expense set out in the Framework. It is assumed that the application of IFRSs, with additional information presented when necessary, results in financial statements that present a true and fair view.

14. An entity whose financial statements comply with IFRSs shall disclose in the notes an explicit and unreserved statement of such compliance. Financial statements should not be described as complying with IFRSs unless they comply with all provisions of IFRSs”

The accurate preparation and presentation of the financial position of the firm is the main objective that the financial auditor checks in the audit engagement. I am also subject to the auditing tests both the financial-accounting system and the internal control existing within the audited company.

Developing the system for the application of the audit tests in accordance with the requirements of the European Union and meeting the audit objectives (completeness, evaluation, reality and accuracy) may discover the existence of tax frauds.

In the field of national institutions with the right to regulate, guide and apply legislation in the field of accounting, financial statements and audit, we have:

1. CECCAR

In 1992, the Association of Chartered Accountants and Authorized Accountants in Romania (CECCAR) was established and in 1994, based on Government Ordinance no. 65 of August 19, 1994, the Body of Chartered Accountants and Authorized Accountants in Romania was re-established as an autonomous and public utility legal entity.

2. CAFR

The Chamber of Financial Auditors of Romania (CAFR) is the professional body that organizes, coordinates and authorizes the conduct of the audit activity in Romania. CAFR emerged as an imperative requirement for the development of Romanian society, in the context of the conditionalities arising from the connection of our country to the processes taking place all over the world.

The Chamber of Financial Auditors in Romania was established by Government Ordinance no. 75/1999 regarding the audit activity, which states and legitimates the profession of auditor and the professional organization of the auditors.

CAFR has been permanently involved in transposing Directive 2014/56/EC into our legislation. To this end, measures have been taken to ensure that in the rules to be adopted the audit activity is independent, strong and especially in the service of the public interest.

3. CCR

The Court of Accounts was re-established in 1992 and is present through the Chamber of Accounts in

all counties of the country.

The objectives of the Court of Auditors are:

- Ensuring compliance with the legal regulations of an economic, financial, fiscal and accounting nature, in order to identify any errors or irregularities in the preparation of the financial statements, in the correct and efficient management and use of public funds, and the application of the measures to remove them;
- Improvement of the harmonized legislative framework implemented in the field of external public audit as the evolution of the international practice, while ensuring the highest degree of coherence of the national legislation in force, while ensuring the compatibility with the international standards adopted by the International Organization of Supreme Audit Institutions INTOSAI (en) and the European Guidelines for their implementation; strengthening the institutional capacity of the Romanian Court of Accounts as an independent, professional and credible institution of external control and audit of public funds; creating the premises necessary to ensure the convergent functioning of public institutions in relation to their competencies; protecting the financial interests of the Romanian state and the European community

4. ASPAAS

ASPAAS-PUBLIC SUPERVISORY AUTHORITY OF STATUTORY AUDIT ACTIVITY-is a public authority having legal personality and competence in the field of statutory audit and performing its tasks in accordance with Law 162 / 2017. Thus, in this law:

“(1) The statutory audit is performed by financial auditors or audit firms that are authorized/authorized in Romania under the terms of this law, who are members of the Chamber of Financial Auditors of Romania, hereinafter referred to as CAFR, under the conditions of the law, and which is recorded in the electronic public register provided in art. 14 under the conditions established by this law and by ASPAAS regulations.

(2) Competent authority responsible for authorizing financial auditors and audit firms is ASPAAS.

(3) ASPAAS only authorizes as financial auditors the natural persons who fulfill the conditions provided in art. 5 and art. 7 - 11.

(4) Financial auditors may carry out statutory audits on behalf of an audit firm or in his own name, according to the law.”

Of the European institutions with audit attributions, we have:

European Court Of Auditors

The European Court of Auditors, based in LUXEMBOURG, was created by the Budget Treaty of 1975 and was formally established on 18 October 1977 with the first session a week later. At that time, the CEC was not a formal institution; it was an external body to verify the finances of the European Communities. It has replaced two separate audit bodies, one dealing with the finances of the European Economic Community and Euratom and one dealing with the European Coal and Steel Community. [1]

The CEC did not have a legal status until the Maastricht Treaty, when it became the fifth institution, the first institution since the establishment of the Community. By becoming an institution, it has acquired new competences, such as the capacity to bring actions before the European Court of Justice (ECJ). At first, its audit power referred only to the pillar of the European Union (EU), but through the Treaty of Amsterdam it gained all the power to control the finances of the EU as a whole [

In order to perform the functions assigned to the Chamber of Accounts, auditors carry out on-the-spot

inspections at other EU institutions, EU countries or other countries benefiting from EU financial assistance. However, this institution has no real authority. If the auditors find violations, they inform them.

Duties of the Court of Auditors:

- audit the EU's revenue and expenditure to verify that the funds have been properly collected and spent, if they have been used in such a way as to produce added value and have been properly accounted for.
- verifies all persons and organizations managing EU funds, including on-the-spot checks in the EU institutions (in particular within the European Commission), in Member States and in countries receiving EU aid.
- formulate findings and recommendations in the audit reports for the European Commission and national governments. reporting suspicions of fraud, corruption or other illegal activities to the European Anti-Fraud Office (OLAF).
- draws up an annual report for the European Parliament and the EU Council, which Parliament examines before deciding whether or not to approve the way the Commission manages the EU budget.
- publishes expert opinions designed to help policymakers make the best decisions to make the most efficient and transparent use of European funds.

Contact Committee

The Contact Committee is a group bringing together the presidents of the Supreme Audit Institutions of the EU Member States and the President of the European Court of Auditors every year. This committee provides a framework for cooperation and exchange of professional knowledge and experience on the audit of EU funds and on other EU-related topics. The current contact between the participating institutions is maintained through the liaison officers designated by each institution. The Working Groups, Networks and Task Forces within the Committee have the role of contributing to the development of common positions and practices.

The Network of Supreme Audit Institutions in Candidate Countries

The Court cooperates with Supreme Audit Institutions in candidate and potential candidate countries to join the European Union to facilitate regular exchanges of information, develop audit methodologies and promote vocational training. These activities are being carried out in partnership with SIGMA, a joint initiative of the Organization for Economic Cooperation and Development (OECD) and the EU.

The main means of cooperation is represented by the Network of Supreme Audit Institutions in the candidate and potential candidate countries for accession to the European Union, which functions similarly to the Contact Committee. This network involves periodic meetings of Chairs of Supreme Audit Institutions and liaison officers, as well as working groups, seminars, workshops and parallel audits. The main purpose of the network is to promote the implementation of audit methods and techniques in line with international standards and good practices in the EU.

III. Harmonization

According to the EXPLANATORY DICTIONARY OF THE ROMANIAN LANGUAGE, to harmonize = to put or bring into harmony, to agree on the parts of a whole, to match, to agree; to be in full consensus; to frame; to match; fit; to agree.

Even before Romania's accession to the European Union, it was necessary to harmonize the legislation of our country with the legislation of the Union, establishing itself as an obligation under the Association Agreement, signed and ratified in 1993 by Romania. Thus, in "Chapter III, Harmonization of legislation"

Article 69

The Parties recognize that an important condition of Romania's economic integration into the Community is the harmonization of the present and future legislation of Romania with that of the Community. Romania will endeavor to ensure that its legislation becomes gradual, compatible with that of the Community.

Article 70

Harmonization of legislation will be extended especially in the following areas: customs law, company law; banking law, company accounts and taxes, intellectual property, labor and employment protection, social security, financial services; rules of competition, protection of health and life of humans, animals and plants, consumer protection, indirect taxation, technical standards and norms, laws and regulations in the nuclear field; transport and environment.

Article 71

The Community will provide Romania with technical assistance for the implementation of these measures, which may include, among others:

- expert exchange;
- providing the latest information, in particular on the relevant legislation;
- organization of seminars;
- training activities;
- aid for translating Community legislation into relevant sectors. Romania as a member of the European Union was supposed to adopt the *acquis communautaire*. The notion of *acquis communautaire* implies the legal norms, all of them, and which legislating the institutions of the European Union, an important role being played by the jurisprudence of the Court of Justice The European Union.

The acts issued by the Community authorities are norms and are issued mainly by the Council of the European Union and the European Commission in accordance with the competences established by the Treaty of the European Economic Community.

Of the binding acts we mention:

- Regulations - are the most important legal acts because they apply in their totality and are binding in all Member States, with priority over national legislation.
- The directives, like regulations, are binding, but it leaves every country the way it adapts it to national practice.
- The decisions are administrative in nature with direct applicability to a Member State, a natural person or a legal person. This is the way that a particular case is ordered to be solved in a certain way.

Until ASPAAS was set up in 2017, CAFR was responsible for financial auditing, which was responsible, among other things, for adapting national audit standards to those at European and international level.

Thus, the following have been integrated into the national legislation and practice - without being limited to their enumeration:

- Recommendation IP/00/1327 adopted in 2000 by the European Commission on the setting of minimum standards for the external quality assurance system for statutory audits in the European Union.

- In 2005 the European Group on Public Audit Bodies for Auditing was set up -EAOB. -Directive VIII of the Council of the European Community -DIRECTIVE 2006/43/EC of 17 May 2006 on statutory audits of annual accounts and consolidated accounts, amending Council Directives 78/660/EEC and 83/349/EEC and repealing Directive 84/253/EEC Council of the European Union. In particular, this directive establishes a harmonized framework at the level of the European Community, licensing of financial auditors and quality assurance for the statutory audit in the European Union.

- Regulation (Eu) No. Regulation (Ec) No 537/2014 Of The European Parliament And Of The Council of 16 April 2014 on specific requirements regarding the statutory audit of entities in the public interest and repealing Decision 2005/909 / EC of the European Commission.

As proof of the transposition into Romanian legislation of the *acquis communautaire*, we note OUG 90/2008, which established the Public Audit Board for Statutory Audit (CSPAAS) and was approved by law 278/2008. This was later modified by OUG 78/2009, GO 23/2012, Law 187/2012 and Law 1479/2013.

As a result of the harmonization of the Romanian legislation with the European one, the necessary framework has been created in order to be recognized as financial auditors the natural and legal persons that have been authorized for this purpose in other EU countries. At the same time internal audit and internal financial control have gained new valences.

The reform of the European Union audit has resulted in the adoption of a new regulatory framework and is transposed into Romanian legislation by the adoption of Law 162/2017 transposing Directive 56/2014 and Regulation 537/2014. The most important elements of the Regulation are applied Public Interest Entities (EIP) and mainly addresses:

- Extension of the audit firm's attributions
- Services of a nature other than auditing are only allowed with the approval of the Audit Committee.
- Requirement of the audit firm (once a maximum of 10 years with the possibility of extending for a maximum of 10 years).

It should be noted that Law 162/2017 abrogates OUG 90/2008.

Entities choosing to audit financial reports are required to organize their internal audit.

The basic elements of the statutory audit concept are:

- competent and independent professional who can be a natural person or a legal person;
- the subject of the examination by the professional accountant is the situation financial statements of the entity in their entirety: balance sheet, profit and loss account and other components of the financial statements, according to the applicable accounting reference;
- the purpose of the examination: to express a reasoned opinion on the true, clear and complete image of the financial position (patrimony), the financial situation and the results obtained by the audited entity;
- the quality criterion according to which the review is being conducted and the opinion expressed is the audit standards and accounting standards.

European Accounting Directives - inevitably allow the questionable nature of many accounting figures

- accuracy of financial statements;
- business continuity and solvency;
- the existence of frauds;
- the firm's compliance with its legal obligations;
- the company's responsible behavior towards environmental and social issues.

IV. Fiscal Fraud and Fraudual Reports

Auditing financial statements is a laborious work, that involves performing many audit and analysis procedures for many documents, collecting information and confronting them, analyzing the financial-accounting information system on the basis of the information system reports. Although mainly information there is no internal control in the respective company and the evaluation of its preventive character, in order to express an adequate opinion on the quality of the financial statements.

In accordance with ISA 240, there is evidence of material misstatement in financial sutures and their nature, which may be by mistake or because of fraud. "In the process of planning and conducting audit procedures as well as evaluating and reporting audit results, the auditor should consider the risk of material misstatement in the financial statements as a result of fraud or error".

The error involves an unintentional misrepresentation of accounting information, which may be due to both the omission of registration of documents and the wrong evaluation of some information during their registration in the records of the respective company.

Fraud is an intentional action of one or more people in the leadership, those charged with governance, employees or third parties, which involves the use of deception in order to obtain an unfair or unlawful advantage.

Of course, in order to arrive at such a conclusion, the auditor proceeds first in accordance with ISA 315 "Identifying and Assessing the Risks of Material Misstatement by Understanding the Entity and its Environment", acting with professional skepticism, using the training and experience specific to its profession, in the existing context.

The granting of structural and investment funds by the European Union has led to the emergence of new methods of fraud and new possibilities of covering up some of the deceits, which have been legally feasible by including these operations in a financial reporting It may therefore be the case that the European Commission through the European Anti-Fraud Office (OLAF) has developed the manual for EU Member States "The Role of Auditors in Member States to Prevent and Detect Fraud in the Field of Structural and Investment Funds of the EU."

Financial audit originates in the need for insurance, both for shareholders and those charged with the company's governance, as well as for investors and other interested persons. Correct the preparation and reporting of financial statements, their integrity, auditor's certificates, give confidence in the real position of company on the market.

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