Abstract

This paper aims to describe and analyze adherence to the European Union’s Audit regulation in Croatia and Slovenia. Following the example of the US which adopted Sarbanes-Oxley Act to restore the public confidence in financial reporting and auditing, the Council of the European Union adopted a new Directive on the audit of company accounts. Since Croatia is in the process of full reintegration into the EU, convergence of the new EU directive has received increased attention like in the other pre-accession EU countries. Slovenia as a Member State was obligated to modify the national legislation according to European law, before Slovenian’s accession to EU in 2004. This field will stay for a prolonged time as a test area and one of the key segments for proper integration of similar countries to the EU. The Slovenian process of integration into EU might serve as a good practice to pre-accession EU countries.

Keywords: Auditing, EU Regulation, Compliance, Harmonization, Croatia, Slovenia

JEL classification: M42, M41

1. INTRODUCTION

In the Republic of Croatia the activities of formal adoption of the IFRS have a long history from the present day perspective. Listed companies are legally obliged to use IFRS by financial reporting. Since IFRS is the accepted legal binding standard in the EU, and Croatia has publicly opted to fully join the EU in the near future, all the reporting entities
are obliged by the same set of standards as EU companies, regardless of the same national regulation adopted at the beginning of the 3\textsuperscript{rd} Millennium. Business cooperation with partner companies in the EU and in other countries is urging domestic companies to strictly follow the required IFRS in venture dealings. As the response to EU regulation No. 1606/2002 Slovenia as a Member State had to adopt the IFRS for selected companies in 2005. The introduction of high quality standards provides comparable financial statements with the rest of EU. EU companies, as well as Croatian companies in the period before the full EU membership of Croatia, shall be in a better position to cooperate, enter new markets, expand cross-border cooperation, raise capital and be properly licensed and regulated. Proper implementation of accounting and audit regulatory framework of the EU shall have in those two countries a significant positive impact on all reporting entities.

2. INTERNATIONAL AND EUROPEAN HARMONIZATION OF AUDIT REGULATION

The beginning of a new millennium was marked with a series of corporate scandals, in the US and in other countries worldwide.

In 2001, 257 publicly traded companies in US filed for bankruptcy, and in 2002 another 191 public companies did the same. Twelve of the 20 largest bankruptcy filings in US history took place in 2001 and 2002. All 12 companies received an unqualified opinion on their most recent financial statements filed prior to the bankruptcy filing. None of the audit opinions included an explanatory paragraph reflecting the auditor’s substantial doubt about the entity’s ability to continue as a going concern [Venuti, 2004].

Indeed, this was not a good start of the millennium for the accounting and auditing profession. However, the scandal that had the biggest impact on these professions was Enron. Enron’s collapse, together with the fall of its audit firm Arthur Andersen, changed the auditing profession in such a way that that point in time would be specially marked in the history of auditing. The developments in audit regulation can now be referred to as auditing pre-Enron and post-Enron.

Enron was a scandal that questioned the sole purpose of auditing. Investors, shareholders and the public lost their trust in auditors. They didn't need auditors if the auditors were not able to predict such bankruptcies, detect fraud in financial statements, and warn shareholders and the public about it. Above all, if auditors do not obey their Code of Ethics, if they shred the audit documentation as Arthur Andersen did, then the public has every right to doubt the role of auditor in protecting the public interest. Something had to be done urgently to restore this public trust in the auditing profession.

The new wave in auditing came with Sarbanes-Oxley Act of 2002 in the US, followed by the modernization of the Eighth Company Law Directive on Statutory Audit in the European Union. With these new regulations, the role of internal auditors, audit committees, and good corporate governance was enhanced. Also, after the scandals, many national and international bodies were formed for a purpose of rebuilding the public trust in financial reporting and auditing, and for the protection of the capital markets from future corporate and auditing scandals.

The role of auditors is of great importance for the global capital markets. The auditor has an intermediary role between the companies that prepare financial reports and the users of these financial reports. Shareholders, investors, and other users of the financial reports want to know that the information in these reports were compiled, classified, reported and audited according to the relevant financial reporting and auditing regulatory framework.
And this has to be done on a consistent basis across countries. This could only be achieved if a process were launched that would harmonize the current IFAC's International Standards on Auditing with national auditing standards. This process should follow the current harmonization process in financial reporting and a convergence project between IASB and US FASB, where International Financial Reporting Standards are being widely accepted as global standards in more than 100 countries.

The auditor's role is to provide this information and to express an independent opinion on the financial statements. After the big corporate and auditing scandals in the world, auditor's independence was frequently questioned and debated. There is a question of non-audit services, and whether the auditor's independence is affected by providing these services to their audit clients. There is also the question whether the mandatory audit rotation every five to seven years would improve the auditor's independence, and if it would reduce the risk of fraud. These are the matters that were considered in an audit regulation worldwide.

2.1. AUDIT REGULATORY FRAMEWORK IN THE UNITED STATES

To start a discussion on European audit regulation, one must first look into audit regulation of the United States. Since most of the corporate scandals after the year 2000 happened in the US, the first reactions to the scandals and new audit regulation started there. On July 30, 2002, the Sarbanes-Oxley Act of 2002 was enacted. The purpose of the Act was to restore investor confidence in U.S. markets.

The most important provision of the Sarbanes-Oxley Act was the establishment of the Public Company Accounting Oversight Board (PCAOB). The Board has the following duties [AICPA, 2009]:

1. register public accounting firms;
2. establish, or adopt, by rule, "auditing, quality control, ethics, independence, and other standards relating to the preparation of audit reports for issuers;"
3. conduct inspections of accounting firms;
4. conduct investigations and disciplinary proceedings, and impose appropriate sanctions;
5. perform such other duties or functions as necessary or appropriate;
6. enforce compliance with the Act, the rules of the Board, professional standards, and the securities laws relating to the preparation and issuance of audit reports and the obligations and liabilities of accountants with respect thereto; and
7. set a budget and manage the operations of the Board and the staff of the Board.

Other provisions of the Act were the following:

- Annual quality reviews (inspections) must be conducted for firms that audit more than 100 issues, all others must be conducted every 3 years. The SEC and/or the Board may order a special inspection of any firm at any time.
- Foreign accounting firms who audit a U.S. company are subject to registration with the Board. This includes foreign firms that perform some audit work, such as in a foreign subsidiary of a U.S. company that is relied on by the primary auditor.
- The SEC has oversight and enforcement authority over the Board.
- It is "unlawful" for a registered public accounting firm to provide any non-audit service to an issuer contemporaneously with the audit.
- The lead audit or coordinating partner and the reviewing partner must rotate off of the audit every 5 years.
- The accounting firm must report to the audit committee all critical accounting policies and practices to be used; all alternative treatments of financial information within [GAAP] that have been discussed with management, ramifications of the use of such alternative disclosures and treatments, and the treatment preferred by the firm.
- The audit committee of an issuer is directly responsible for the appointment, compensation, and oversight of the work of any registered public accounting firm employed by that issuer.
- Requires each annual report of an issuer to contain an internal control report, which has to state the responsibility of management for establishing and maintaining an adequate internal control structure and procedures for financial reporting; and contain an assessment, as of the end of the issuer's fiscal year, of the effectiveness of the internal control structure and procedures of the issuer for financial reporting.
- It is forbidden to destroy or create documents to impede, obstruct or influence any existing or contemplated federal investigation. Auditors are required to maintain all audits or review work papers for five years.

2.2. AUDIT REGULATORY FRAMEWORK IN THE EUROPEAN UNION

Following the example of the US which adopted Sarbanes-Oxley Act to restore the public confidence in financial reporting and auditing, the Council of the European Union adopted a new directive on the audit of company accounts on April 25, 2006. The directive broadens the scope of application of existing EU legislation (directive 84/253/EEC) by specifying the duties of statutory auditors, their independence, and ethics. It introduces requirements for external quality assurance and public oversight of the auditing profession. The directive's main provisions enforced to protect the public interest and to enhance the quality of audit in the EU are as follows [IAS, 2009]:
- Independent audit committees are required to monitor the financial reporting process and the statutory audit.
- Independence must be clearly defined. Auditor/firm cannot be involved in any way in decision-making of the audited entity.
- All statutory auditors and audit firms are subject to a system of quality assurance and subject to public oversight.
- Statutory audits must be carried out in accordance with international standards on auditing.
- Member states must organize effective systems of investigation and sanctions, which may be civil, administrative, or criminal.
- Member states must designate competent authorities responsible for approval, registration, quality assurance, inspection, and discipline for the purposes stipulated by the directive. They must cooperate with each other.
- Statutory auditor or audit firm can only be dismissed if there is a significant reason why the statutory auditor cannot finalize the audit. The reasons for dismissal or resignation must be disclosed.
- Key audit partner(s) responsible for carrying out a statutory audit rotate(s) from the audit engagement within a maximum period of seven years from the date of appointment and is/are allowed to participate in the audit of the audited entity again after a period of at least two years.
Audited companies must disclose total fees paid to the statutory auditor or audit firm, broken down by fees for audit services, other assurance services, tax services and other non-audit services.

Statutory auditors and audit firms that carry out statutory audit(s) of public-interest entities publish on their websites, within three months of the end of each financial year, annual transparency reports that includes a description of the legal structure and ownership, a description of the governance structure of the audit firm; a description of the internal quality control system of the audit firm and a statement by the administrative or management body on the effectiveness of its functioning, etc.

3. AUDIT REGULATORY FRAMEWORK IN THE REPUBLIC OF CROATIA

The development of the auditing profession in the Republic of Croatia began in 1992 with its first Auditing Act. In 1993 the Croatian Association of Auditors was founded and its role was to translate and adopt IFAC's International Standards on Auditing, and to certify professional auditors. According to the Auditing Act, an audit could be performed only by domestic audit firms, and foreign audit firms could perform an audit only in co-operation with domestic firms. The use of International Standards on Auditing was required by this Act. This Act also required compulsory insurance for audit firms, for possible damage caused to their client, on purpose or due to negligence. The liability was capped at the value of 50,000 DEM.

Some of the matters that this Act did not cover were:
- Quality control of the auditor's performance was not required.
- Set up of an audit committee was not required.
- Public oversight was not required.
- Non-audit services were not prohibited.
- Rotation of key audit partners was not required.

On June 18, 2004, the Republic of Croatia was awarded candidate status for the membership in the EU. This reflected on the accounting and auditing profession in Croatia, because, in order to join the Union, the economic and political conditions, known as the 'Copenhagen criteria', would have to be fulfilled. According to these criteria, a prospective member must [European Union, 2009]:
- Be a stable democracy, respecting human rights, the rule of law, and the protection of minorities. Fulfilling this criterion is key for the start of accession negotiations.
- Have a functioning market economy as well as the capacity to cope with competitive pressure and market forces within the Union.
- Adopt and enforce the common rules, standards and policies that make up the body of EU law.

According to the third criteria stated above, the Republic of Croatia has to consolidate all the accounting and auditing standards with the EU standards. With regard to auditing, Croatia has to comply with the EU’s Eighth Council Directive on Statutory Audit of annual accounts and consolidated accounts. To achieve this task, a new Accounting Act and an Auditing Act were adopted in 2005. New provisions in the Auditing Act were the following:
- Croatian Auditing Chamber is a professional body that performs quality control over the performance of audit firms and certified auditors and reports it to the Department of Finance every six months.
Department of Finance performs public oversight over Croatian Auditing Chamber.
Providing non-audit services to audit clients was prohibited.
Clearer terms for auditor's independence were set.
Statutory auditor or audit firm can only be dismissed if there is a significant reason why the statutory auditor cannot finalize the audit, but the Act doesn't require the reasons for dismissal or resignation to be disclosed. The client or an audit firm or an independent auditor can notify the Croatian Auditing Chamber and Department of Finance if unjustified dismissal of an auditor occurred.
All companies of public interest are required to set up an audit committee with at least one member of the committee with knowledge in accounting and/or auditing. The role and tasks of an audit committee are in line with the requirements of the EU's Eighth directive.
Audit firms have to be insured for possible damages to the third persons, and the minimum liability is set at 300,000 kunas. Minimum liability for banks, pension and investment funds and insurance companies is set at three million kunas.
For further harmonization of the audit regulation in Croatia with the new EU Eighth Directive, a new Law on the changes of the Auditing Act was enforced in November 2008. New provisions of this law are the following:
Auditors from the third countries can provide audit services in the Republic of Croatia, based on the reciprocity between the Republic of Croatia and the third countries.
Department of Finance is no longer performing public oversight over Croatian Auditing Chamber. Instead, public oversight is to be performed by the special body independent of the profession comprising non-practitioners members knowledgeable in the areas relevant to auditing. The public oversight will be performed by the independent Public Oversight Board, and the Board has to publish its report on the findings of the oversight.
Statutory auditor or audit firm can only be dismissed if there is a significant reason why the statutory auditor cannot finalize the audit. The reasons for dismissal or resignation must be disclosed to the Public Oversight Board.
Key audit partners responsible for carrying out a statutory audit rotate from the audit engagement within a maximum period of seven years from the date of appointment and are allowed to participate in the audit of the audited entity again after a period of at least two years.
Audit firm and independent auditor must publish on their websites, within three months of the end of each financial year, annual transparency report consisting of all the elements as stated in the EU's Eighth Directive.
Public Oversight Board cooperates, provides help, transfers information and provides other forms of cooperation with a competent authority of a member state.
Penalties for audit firms and independent auditors, if they do not publish transparency report, do not rotate key audit partners, and do not confirm their independence to the audit committee, range from 20,000 to 100,000 kunas.
Beside the challenge of complying with the EU regulation, audit firms in the Republic of Croatia also have to face a challenge of complying with a Sarbanes-Oxley Act if they audit a company that is a SEC registrant, or a subsidiary of a SEC's registrant. This is clearly stated in the Section 106 of the Sarbanes-Oxley Act of 2002: “Any foreign public accounting firm that prepares or furnishes an audit report with respect to any issuer, shall be subject to this Act and the rules of the Board and the Commission issued under this Act, in the same
manner and to the same extent as a public accounting firm that is organized and operates under the laws of the United States or any State” [SOX Act, 2002].

4. AUDIT REGULATORY FRAMEWORK IN THE REPUBLIC OF SLOVENIA

Soon after the Slovenian independence the first Auditing Act was adopted by the Slovenian Institute of Auditors in 1993, concurrently with the first Slovenian Accounting Standards. The Institute was established to carry out the tasks in the domain of auditing and other professional domains related to auditing. The main governing bodies of the Institute are: the Board, the Audit Council, the Council of Experts and the director of the Institute. Since its establishment the Institute has become a member of International Federation of Accountants (IFAC) and Federation of European Accountants (FEE).

According to the Audit Act the Institute is authorized to (Auditing Act, 1993):
- adopt and publish professional standards (auditing standards, accounting standards, internal audit standards, etc.),
- determine the hierarchy of auditing rules (the first hierarchy was formulated in 2002),
- prescribe the training programs and certification requirements,
- conduct the supervision of audit companies, supervision of certified auditors and certified valuators,
- perform other professional tasks related to the development of the auditing profession.

The first Slovenian Auditing Act regulated just the financial statement auditing of legal entities with the registered office in the Republic of Slovenia. Financial statement auditing was carried out on the basis of International Auditing Standards.

The modifications of the Auditing Act were indispensable to ensure the compatibility of Slovene legislation with EU legislative, particularly the European Eight directive. Of major concern was furthermore also the supervision over the auditing companies. The new Slovene auditing act in force from 2001 introduced significant amendments to the original act. The main part of the new provisions concerned the tasks of the Institute of auditors with the particular emphasis on the supervision of auditing companies.

According to new provisions the auditing services could be provided also by a certified auditor (providing auditing services on an individual basis as occupation) who has obtained the license of the Institute of auditors for the provision of such services. In accordance with prior provisions the service of auditing could be provided just by a company with a registered office in the Republic of Slovenia which has obtained the license of the Institute of auditors (an auditing company). Despite the fact that the new act introduced an auditor as a solo practitioner, he can not provide services for public limited companies, public limited companies whose securities are admitted to trading on a regulated market, consolidated accounts, banks, assurance companies, brokerage companies, asset management companies and legal entities which conduct a financial activity and are subject to a larger extent of auditing.

As an important challenge the new act required just a short-form auditor’s report instead of a long one that was required by the previous act. The short-form report is widely used by other European countries. Notwithstanding the fact that the Companies Act [2001] required that certain annual reports must be examined by an auditor, it did not include any provisions concerning the inclusion of the auditor's report in the annual report that was subject of an audit process.
Hribernik [2006] on the basis of her research states that Slovenia incorporated the majority of European legislation with the Auditing Act in 2001. Major changes of Slovenian legislative according to the entrance in the European Union were not necessary.

In 2002 the Institute of Auditors finally approved the hierarchy of the auditing rules. The hierarchy is divided into four levels. The first level consists of [Hierarchy of the auditing rules, 2002]:

- the Auditing Act,
- interpretations of the auditing act,
- International standards on auditing and IFAC’s code of ethics,
- basic auditing principles,
- Slovene code of professional conduct.

The second level consists of:
- international auditing practice statements and
- positions, explanations of the Auditing Council.

The third level consists of:
- guidelines,
- methodological material of the Institute.

The fourth level consists of:
- professional literature and
- generally accepted auditing actions in foreign practice.

Whereas Slovenia became a Member State in 2004 the regulation No. 1606/2002 places an obligation on European companies whose securities are admitted to trading on a regulated market in the EU to prepare their consolidated accounts, as of 1 January 2005, in conformity with IFRS issued by the International Accounting Standards Board and endorsed by the EU. In accordance with Slovenian Companies act the accounts shall also be compiled according to IFRS by [Companies Act, 2006]:

- banks,
- insurance companies and
- other undertakings if so decided by the assembly of the undertaking, but for the minimum period of five years.

Other companies still draw up the accounts according to Slovene Accounting Standards (revised in 2006). In July 2009 the IASB published the IFRS for Small and Medium sized entities. If the standards will be required within the EU, they will supersede the national standards (including Slovene accounting standards).

According to the Companies Act revised in 2006, an auditor has to examine [Companies Act, 2006]:

- annual reports of large and medium-sized companies and
- the annual reports of small companies whose securities are traded on the regulated market.

According to the Act, banks, insurance companies, stock exchange, companies obliged to draw up a consolidated annual report are also defined as large companies.

In accordance with the adoption of the new directive on the audit of company accounts in 2006 [Eight directive, 2006], Slovenia as a member state should seek to ensure the consistency with the European Union legislation. Many requirements were already adopted by Slovenian law. Slovene Companies Act already requested (if the company is subject to auditing pursuant): the entire amount spent for the auditor and separately the amount spent for [Companies Act, 2006]:

...
the auditing of the annual report,
- other auditing services,
- tax consultancy services, and
- other services not related to auditing.

According to the provisions that were introduced by the Eighth directive in June 2008 the new Slovenian Auditing act became effective. The main novelties brought in Slovenian auditing practice were the supervision over the auditing companies and intensified criteria concerning the qualifications for a statutory auditor. Since July 2008 is subject of regulation by law not only the financial statement auditing, but also assurance engagements and related services.

According to the Eighth directive the new Slovenian Auditing Act introduces also in the Slovene national law the term “statutory audit”. Statutory audit means an audit of annual accounts or consolidated accounts [Eight directive, 2006]. An important change relates also the establishment of the Agency for the audit public oversight. In conformity with the provisions of the Eighth directive the Member states should organize an effective system of public oversight for statutory auditors and audit firms on the basis of home country control. To that end two advisory organizations are currently responsible for public oversight in Slovenia: the Institute of Auditors and the Agency for the audit public oversight.

The points of further concern are related to the audit committees. The Eighth directive requires that each public-interest entity shall have an audit committee. The Slovenian companies act [2006] states that the supervisory board may appoint one or more committees, for example the audit committee who shall review the proposed resolutions of the supervisory board and take care of their implementation, as well as perform other expert tasks. Accruing from the provisions of the Act the board of directors must form an audit committee in a company [Companies Act, 2006]:
- the securities of which are traded on the regulated market; or
- in which the employees exercise their right to co-operation in the company’s bodies in accordance with the law.

5. CHALLENGES FACING THE AUDIT PROFESSION IN CROATIA AND SLOVENIA AND POSSIBLE IMPROVEMENTS OF THE REGULATION

Croatia began its accounting and auditing profession development in 1991. According to the first Accounting Act in Croatia (NN 90/92), International Accounting Standards were adopted as the national accounting standards for all companies in Croatia (listed and non-listed). After 15 years of their implementation, according to new the Accounting Act from 2007 (NN 109/07), IFRS became obligatory only for large companies, listed companies and companies who are preparing itself for initial public offering. Other companies (unlisted - small and medium-sized companies) are using Croatian Financial Reporting Standards. In the time when IASB finished with development of IFRS for small and medium-sized companies (SMS), Croatian standard setters decided to develop their own. Member States are currently facing a new era of financial reporting. The IFRS for small and medium-sized companies will probably harmonize the financial reporting within EU also for smaller companies. In a near future the use of national accounting standards will probably become questionable in terms of EU.
Regarding auditing, Croatia has to comply with the EU’s Eighth Council Directive on Statutory Audit of annual accounts and consolidated accounts. To achieve this task, Croatia changed Auditing Act in 2005 and in 2008.

To our knowledge there is no theoretical framework to make proper and objective assessment of how well the business accounting and auditing practices comply with the set of IFRS and ISA. Our further explanation is only a general idea to start discussion on the eventual creation of the self-assessment questionnaires which shall reveal and expose the gaps in Croatian adoption of auditing standards. Such a study would serve as a solid ground and argument for greater implementation of the International Standards on Auditing.

Further developments are necessary for the audit professions in both Croatia and Slovenia, to enhance the effectiveness of auditor’s work, and to ensure transparent and truthful financial reporting. The most important measures which both countries need to implement as soon as possible are the following:

1. Development of Corporate governance (especially concerning audit committees)
2. Implementation of Forensic auditing
3. Education, certification and continuous life-long learning of auditors
4. Efficient oversight conducted by the independent professional body.
5. Legal framework reform

For the implementation of the forensic auditing, it is recommended to consider 5 possible options:

- Including forensic auditor into the team of auditors during the regular annual audit of financial reports,
- Introduction of mandatory forensic auditing once a year for all companies of public interest,
- Introduction of random forensic auditing for all companies of public interest by which the companies would know that they could be subject to random forensic auditing at any time.
- Performing of forensic auditing only at the request of stakeholders.
- Performing of forensic auditing on the basis of a reported or suspected fraud.

As Slovenia has overcome many changes in the field of auditing, facing the entrance in EU, the entire adoption process of EU legislative might serve as a best practice to pre-accession countries.

6. CONCLUSION

The globalization of capital markets has shown the need for a clearly defined role for auditing as a means to add credibility to the financial information provided by companies seeking finance in international capital markets. In order to define this role clearly, ISAs are increasingly recognized by the business community, users and regulators as setting the benchmarks for audits.

Because the recent corporate scandals were the results of fraudulent behavior, the shareholders and investors want the absolute assurance that the financial statements are free from any fraud. Today, during the financial crisis, they want this assurance even more than ever before. There is a great misconception that the auditor’s role is to find all fraud and error that might occur in financial statements. There is a significant “expectation gap” between what various stakeholders believe auditors do or should do in detecting fraud, and what auditors are actually capable of doing, at the prices that companies are willing to pay.
for audit services. The users of the financial statements want the absolute assurance that financial statements are free from any material misstatement regarding fraud and error. The reality is that an auditor can only express reasonable and not absolute assurance. Because of this, the modern auditing literature considers forensic auditing to be the possible answer to this problem. By introducing the services of fraud auditors (on mandatory or random basis), the risk of fraud will be eliminated or greatly reduced. Forensic audit might also be a powerful tool for fraud prevention, because the potential fraudsters would know that their financial statements would be subject to fraud investigation at some point in the future.

The education of auditors (external, internal and forensic) is a key factor necessary for the survival of the auditing profession and for the stability of the capital markets. According to the Eighth directive passed recently, many European countries (including Slovenia) had to intensify the criteria concerning the qualifications for a statutory auditor. In today's world, auditors have to possess a wide range of knowledge: accounting techniques and standards (IFRS, US GAAP, national standards), auditing techniques and standards (ISAs, or national standards), finance, taxes, information technologies, and more auditing related knowledge. Besides all this, auditors should have all the necessary skills to detect fraud, and they should comply with the code of professional ethics. The kind of expertise that is required from auditors can only be achieved with the highest quality education, strict procedures for certification of auditors, continuous education, and audit quality oversight conducted by the independent professional body. This is the procedure that Croatia and Slovenia should follow to insure the implementation of the legal framework. The EU members have to ensure a continued process of high quality auditing services within all EU by generating an adequate system of supervision and high quality auditing standards.

References