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## **REGULATIONS OF THE MARKET OF AUDITOR SERVICES IN POLAND - A GUIDING LIGHT OR A WARNING AGAINST MISTAKES?**

**Abstract.** The aim of the article is to determine current market forms of audit services in Poland and of the merits and demerits of accepted solutions, as well as attempt to determine the further evolution of this market.

**Keywords:** market of audit services, monopoly, imperfect competition, entry barriers

**JEL Classification:** M 41, F 12, L 12.

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## **РЕГУЛЮВАННЯ РИНКУ ПОСЛУГ АУДИТУ У ПОЛЬЩІ - КЕРІВНИЦТВО ДО ДІЇ АБО ПОПЕРЕДЖЕННЯ ПОМИЛОК?**

**Анотація.** Метою статті є визначення поточних ринкових форм аудиторських послуг в Польщі, достоїнств і недоліків прийнятих рішень, а також спроба визначити подальшу еволюцію цього ринку.

**Ключові слова:** ринок аудиторських послуг, монополія, недосконала конкуренція, вхідні бар'єри.

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## **РЕГУЛИРОВАНИЕ РЫНКА УСЛУГ АУДИТА В ПОЛЬШЕ – РУКОВОДСТВО К ДЕЙСТВИЮ ИЛИ УПРЕЖДЕНИЕ ОШИБОК?**

**Аннотация:** Целью статьи является определение текущих рыночных форм аудиторских услуг в Польше, достоинств и недостатков принятых решений, а также попытка определить дальнейшую эволюцию этого рынка.

**Ключевые слова:** рынок аудиторских услуг, монополия, несовершенная конкуренция, входные барьеры.

The history of the profession of a statutory auditor is in Poland exceptionally long, although traditions associated with it existed earlier in other European countries (e.g. Great Britain, France) and in the United States of North America.

**The aim of the article is to determine current market forms of audit services in Poland and of the merits and demerits of accepted solutions, as well as attempt to determine the further evolution of this market.**

**Main theses** of the work are a statement that the evolution of the market of audit services is proceeding towards the monopolistic competition or the pure competition, and solutions accepted in Poland, in spite of defects, can be a model for solutions in other countries. Particularly they can be useful for states, which - similarly to Poland - underwent the intense economic transformation from the economy centrally steered to the market economy.

Through auditorium services those services are understood, to which exclusively a statutory auditor is entitled, it means an examination (search) of financial statements.

Current regulation in Poland defines who the statutory auditor is, in what way he can pursue a profession as well as which financial statements compulsorily are subject to an examination (table 1). Title the "statutory auditor" in Poland is protected legally. Apart from people listed in the table also those who entitlements of this type got in other state of the European Union can be an expert (or other state on the reciprocity principle) after passing the Polish economic law examination in Polish language.

*Table 1*

*The person of the statutory auditor, the practising a profession and the compulsory nature of auditing reports in Poland*

<p><b>The person of the statutory auditor</b></p>	<p><b>A statutory auditor is a natural person entered in the register of statutory auditors who:</b></p> <ul style="list-style-type: none"> <li>a) uses the height of public laws as well as has a full capacity to act in law,</li> <li>b) has an unblemished opinion and with their current proceedings gives the deposit of the correct practising a profession of the statutory auditor,</li> <li>c) was not convicted with valid judgement for the deliberately committed crime or the fiscal offence,</li> <li>d) obtained a university degree in the Republic of Poland or foreign higher education regarded in the Republic of Poland equal and has a good command of Polish in the speech and the letter;</li> <li>e) underwent the annual practice in accounting in the state of the European Union and the least two-year application under direction of the statutory auditor,</li> <li>f) sat examinations with the positive result for candidates for the statutory auditor and the oral final oral examination checking the knowledge acquired in the course of the application,</li> <li>g) took an oath in front of the chairman of the self-government body of statutory auditors (NCSA).</li> </ul>
<p><b>The practising a profession of the statutory auditor</b></p>	<p><b>The profession can be carried out by:</b></p> <ul style="list-style-type: none"> <li>a) natural persons leading an activity in their own name and on their own account;</li> <li>b) partners of the entity entitled to study financial statements,</li> <li>c) people staying in the employment with the entity entitled to study financial statements,</li> <li>d) people not staying in the employment and not-conducting activities in their own name and on their own account, under the condition of the civil law agreement with the entity entitled to examine of financial statements</li> </ul>
<p><b>Financial statements being subject to a compulsory examination</b></p>	<p>Annual consolidated financial statements of capital groups and annual financial reports - continuing activity are subject <b>to examining and announcing:</b></p> <ul style="list-style-type: none"> <li>a) banks,</li> <li>b) insurance companies and plants of the reinsurance;</li> <li>c) units operating based on regulations of the securities trading and provisions on investment funds;</li> <li>d) units operating based on provisions on the organization and functioning of pension funds;</li> <li>e) joint-stock companies, except for companies being for the balance sheet day in the organization;</li> <li>f) remaining individuals, which in the preceding financial year, which they drew up a financial statement, fulfilled at least two of the following conditions: <ul style="list-style-type: none"> <li>- the year average employment expressed in full-time jobs amounted to at least 50 persons,</li> <li>- the sum of assets of balance at the end of the financial year constituted the equivalent in Polish currency of the at least 2,500,000 euro,</li> <li>- the net revenue from the sale of goods and products and financial transactions in the financial year constituted equivalent in Polish currency of the at least 5,000,000 euro.</li> </ul> </li> </ul>

*Source: own study pursuant to the Act from 29.09.1994 for accountings, D. U. from 2009 yr of No. 152, pos. 1223, Art. 64 and the Act from 7.05.2009 about statutory auditors and their self-government, entities authorised for studying financial statements and about the public supervision, Journal of Laws from 2009 No. 77, pos. 649, Art. 3, Art. 5.*

The first regulations concerning activity of statutory auditors appeared in Poland already after the First World War, so traditions of the financial search reach 1928 and belong to one from the oldest in Europe (Law on joint-stock companies<sup>1</sup> on which the Commercial Code<sup>2</sup> was based). The solutions included in the Code were carefully prepared and developed. A fact that they relied on them after the political transformation attests to it (among others the regulation demanding from joint-stock companies the annual survey is still applying).

**The country regulated basic areas of the market of audit services:**

- a) supply of services: procedure of appointing statutory auditors, their entitlements (particularly a duty of giving explanation to the person carrying out a search and the punishability of giving false information), a way of rewarding for the work;
- b) demand for services: the compulsory obligation of putting the report of founder members of the joint-stock company through an examination, the duty of the annual survey of balance, the profit and loss account and the report of the management board of every joint-stock company.

**In Poland in the interwar period so legal grounds of functioning of the market of audit services arose.**

With the first post-war legal document, resolving issues of the financial search, there was a regulation of the council of ministers from 26 October 1954 on the organization of both the scope of action of inspection authorities and the financial search<sup>3</sup>. Amendments to provisions resulted from ideological and system assumptions. Regulation adapted for socialist philosophy destroyed the market of audit services, but the supply and demand were steered centrally. A special pressure on the compliance with the plan was put (norm, budget) and making it (or exceeding), not referring to the quality, usefulnesses, costliness whether of profitability of a kind of an activity. Apart from the field of the examination so important areas were left to the operations of the unit. The lack of inspections of the economic rationality of made decisions resulted in the natural and logical tendency of maximizing the expenditure and costs (particularly if budget of pays was based on costliness of production). With reference to the above individuals didn't have motivation for the economical and sensible management with stores. Additionally the control exercised through the state and pursuant to provisions created by them negated the principle of independence of the examining person (automatically they were able to impose their solutions). However it should be emphasized that Poland stood out relating to states from the so-called Communist bloc.

In the period of the planned economy, **the profession of the chartered accountant**, similar to the profession of the statutory auditor, existed **only in Poland**. It was established under the more precisely constructed resolution No. 187 of the Council of Ministers from 12 May 1959 on the audit of State organisational bodies<sup>4</sup>. A market of audit services didn't still exist, however the resolution in comparing with the described earlier regulation on the organization and the scope action of inspection authorities, applied more rational solutions:

- a) the examination included essential areas of the activity of the company - reliability, economy (rather than only a compliance with the plan or budget),
- b) issue of the supply of services (professional title "chartered accountant", specified qualifications) was regulated.

Next legal document regulating the area of the financial search was a regulation regarding the verification of annual balances of enterprises and of other state organisational bodies<sup>5</sup>. It was the most extensive regulation of the issue of the search of financial statements from the described period, carefully drawn up by specialists in accounting. Its resemblance confirms the quality of

<sup>1</sup> Regulation of the President of the Republic from 22 March 1928, Journal of Laws from 1928 No. of 39 pos. 383.

<sup>2</sup> Regulation of the President of the Republic from 27 June 1934, Journal of Laws from 1934 No. of 57 pos. 503.

<sup>3</sup> Journal of Laws from 1954 No. of 50 pos. 255.

<sup>4</sup> MP from 1959 No. of 58 pos. 278.

<sup>5</sup> Regulation of the council of ministers from 26 July 1982, D. U. Nr of 25 pos. 180.

the regulation in kinds and survey methods for terminations at present applied in kinds and survey methods. Of course meaning changes took place, since the search is understood much more widely than the verification. Financial search, finances and accounting are dependent on changes happening in organization, management, new technologies and products.

Along with political and economic changes in Poland new regulations concerning statutory auditors and services provided by them were essential. The retreat of the state consisted in creating legal norms enabling functioning of the market of audit services. Current solutions assume the existence of the market of audit services and concentrate on streamlining his functioning.

### **The country resigned from the monopoly for the market mechanism.**

The first legal document associated with normalizing an activity of statutory auditors appeared still before the Accounting Act<sup>6</sup> what is providing about the demand for services of the statutory auditor. A fact that it stayed normalised with the act is picking the rank of the profession up. It was an act from 19 October 1991 about examining and announcing financial statements and statutory auditors and their self-government<sup>7</sup>. In Poland a market of audit services and a self-government of statutory auditors started coming into existence - National Chamber of Statutory Auditors (NCSA). The amended act on statutory auditors<sup>8</sup> precisely regulates acquiring the rights to the profession and conditions of making it and duties of statutory auditors, also it determines a scope of their liabilities for provided services (table 1). Norms of the practising a profession and the code of ethics regulate specific answers and rules of conducting in specific profession situations. In accordance with the act they are drawn up by the self-government body of statutory auditors (**so the state delegates the right to constitute provisions**).

The act already from 1991 initiated the uprising of the market of audit services. Next legal norms **fixed market mechanisms**. Services are provided pursuant to agreements voluntarily<sup>9</sup> entered into by equal contracting parties (everyone has determined rights and duties). The country and its organs don't have the right to influence statutory auditors, to throw the selection of individuals for them for examining whether to control scope, methods, time of taking it; auditorium entities are treated identically and equally. So the country were withdrawn to the position determined by provisions - for creating both the observance of the law of civil liberties and the competition; the role of the state brings itself about for organising existing regulations and adapting them for occurring economic changes.

The state interference is at present possible exactly by creating (changing) norms having influence an activity of experts and auditorium companies. Such regulations are acts of the finance minister and norms, applying among others: of banks, brokerage, insurance activity, pension funds, financial instruments, a prospectus. Accounting Acts<sup>10</sup> (about statutory auditors their self-government, entities authorised for studying financial statements and about the public supervision also directly influence functioning of the market of audit services<sup>11</sup>), and indirectly all provisions concerning the conducting business activities (e.g. Value-Added Tax Acts and about the corporate income tax). Every their change has an influence aside of the demand or the supply of the market of audit services.

It is hard explicitly to determine **the current type of the market structure of audit services** in Poland. At first it was certainly **a monopoly** - national, administered, which the state

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<sup>6</sup> Opus cit.

<sup>7</sup> Journal of Laws from 1991 No. of 111 pos. 480.

<sup>8</sup> Act 7 May 2009 about statutory auditors and their self-government, entities authorised for studying financial statements and about the public supervision, opus cit.

<sup>9</sup> Some services are compulsory - e.g. individuals have a duty of auditing their reports; however imposing by the state agency such a duty causes no restrictions as for choice by the unit of the auditor, the time of the examination and the remuneration for the examination.

<sup>10</sup> Opus cit.

<sup>11</sup> Opus cit.

determined the demand for examinations in (compulsory appointing individuals), supply of services (approving persons entitled to examine) and price (setting rates).

The act on statutory auditors was a crucial moment (1991) for the coming into existence of the market enforcing , it caused a sudden increase of the number of entities offering services among others. Consequences of enforcing the Accounting Act were equally important (1994), it described entities obligated for auditing reports. The state stopped however interfering in the way of setting the charge (it is established as a result of negotiations between the auditor and the studied subject). Approving persons entitled to examine also stopped being included in competence of state government authorities; a National Chamber of Statutory Auditors was authorised for it. However the market of audit services does **not meet the conditions of the pure competition** (particularly homogeneities of the product), decisions of market entities affect the charge. **Appearing of barriers limiting the market penetration** is a characteristic feature of the researched market.

Entry barriers limit and hamper going up of new entities on the market of audit services. They are costs that should be carried in order to take the competition on the given market<sup>12</sup>. In Poland above all **artificial barriers** limit the market penetration of audit services, so as:

- a) reducing the number of people pursuing a profession through the duty of applications,
- b) allowing for the practising a profession after passing additional examinations,
- c) the legal barrier.

In order to obtain the professional title "statutory auditor" and entry in the register of statutory auditors, one should fulfil the number of conditions (table 1). From the point of view the limited access for the profession most important from them is an obligation of undergoing the three-year-old practice in Poland, the least two-year application under direction of the statutory auditor in it, sitting examinations with the positive result to the statutory auditor before an examination board appointed by NCSA.

Whereas other self-government body of statutory auditors establishes the range of examinations among others for candidates for statutory auditors and applicable standards of the practising a profession. Certainly it provides a high skill level of candidates and observing right ethical norms in the practising - and therefore professionalism in the service delivery. However it can be also serving tool to "defences of businesses" of occupational group. Toughening criteria of examinations contributes to increase the ability of candidates, however nobody is able to achieve very expertise knowledge from every demanded subjects<sup>13</sup>. Proposals of the return to the specialization in the profession of the statutory auditor have already appeared in the trade and subjective diversity of recipients of services. So the process of getting suitable entitlements is time-consuming and requires accomplishing numerous formal requirements (consent of the committee to approve the practice, next an application, report on the graduation examination).

At least an entity entitled to study financial statements can be a property of the any person, however only statutory auditors have entitlements to the service delivery of the examination. Therefore subjects must employ statutory auditors and provide the majority of votes imposed for them by law in supervisory boards and the management board. This is **another statutory restriction** in establishing entities of this type and the next example of **artificial barriers of the market penetration** of audit services. In relation to diversifying the type of services offered and

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<sup>12</sup> Barriers of a similar nature exist in the oligopoly, differing in the difficulty of defeating them - from relatively simple to impossible; T. Kamińska, B. Kubska-Maciejowicz, J. Ludańska - Trynka: "Decision Making Theory by Market Entities", publishing company of the Gdańsk University, Gdańsk 2004, p. 112.

<sup>13</sup> Subjects of examinations: 1) the Theory and accounting rules, 2) Economics and the internal control, 3) Law - civil law, labour law and of social insurance, company law, law on the bankruptcy proceedings and repair, law governing the business activity, 4) Fiscal law 1 (in it among others value added tax, excise, customs law), 5) Finances (in it among others financial markets, evaluation, business finance, of banks and insurance institutions, public finance) 6) Financial accounting (in it according to MSR), 7) Fiscal law 2 (including the agricultural, forest corporate income tax) 8) The bill of charges and the management accounting, 9) Financial statements and their analysis, 10) Financial search.

the height of barriers protecting the market penetration, the competition on the market of audit services should be considered depending on the greatness of the auditorium entity.

**Basic service, studying financial statements, has no substitutes.** However in case of other services supplied by statutory auditors (e.g. tax consulting, conducting books of account or trainings in accounting) a monopolistic competition turns up. Many companies exist on the market, providing services. These entities have a limited impact to their price (it depends mainly on the position, "brand" of entity providing services; the price cannot however be too high – in that case customers can give services up for the other operator). Restrictions hampering the market penetration appear. They are associated with getting suitable entitlements (education, professional experience).

**Depending on the type of the service and a market segment of audit services its structure is developing between the oligopoly and the monopolistic competition.** The **monopolistic competition** appears in case of services supplied by statutory auditors and of other operators having substitutes in the form of services (irrespective of the greatness of the entity using the given service and providing services). On the market of some of these services entry barriers appear (e.g. requirement of the proper education for the service of keeping accounts), however even in case of their appearing they are much weaker than on the market of real services (auditing reports). The structure of the market of audit services depends on the greatness of entities (auditorium and examined). The local section is the closest to **the monopolistic competition**, an international section is **an oligopoly**, between them a national section is developing. In every case entry barriers appear, however they are the stronger, the greater geographical reach has a subject.

**Predicted directions of the development of auditorium companies in Poland** are a concentration of subjects and extending the offer of services. Services not being studying of financial statements constitute more and more greater participation in total revenues. A problem of the independence and impartialities of the auditor is connected with it (the controversial join of the post of the auditor and the adviser can cause the conflict of interest). Additionally conflicts inside auditorium companies can undergo sharpening. However, joining of international companies **won't be led to the formation of the monopoly** (on the power of regulations protecting markets from monopolistic practice).

Apart from auditing reports, auditorium entities provide also other services, for the performance of which essential entitlements of the auditor aren't necessary, whether other of a similar nature. To set the probable direction of the evolution of these services it is possible as **the indirect form among the monopolistic competition and the pure competition**. Such an evaluation is justified by a fact that many individuals offering services exist and market entry barriers do not appear; however offered services are not a homogeneous product.

*Table 2*

*Regulations of the market of audit services in Poland - advantages and disadvantages*

<b>Disadvantages</b>	Strong entry barriers, existence of the professional corporation limiting the access to the profession of the expert, provisions not always in accordance with the specificity of functioning of the profession (lack of taking into account a greatness of the auditorium entity in provisions what hampers an activity of small entities is hampering)
<b>Advantages</b>	Long tradition of the profession of the statutory auditor in Poland, possibility of drawing on experience, high rank of the profession - the expert is a person of the public confidence, self-government body turned for keeping high qualifications of experts.

*Source: own study*

The specificity of states of our region causes, that the copying of solutions applied in Western Europe is not until the end possible and intentional. Creating own regulations, often more restrictive, lets better adapt them to functioning of former socialist states. An exchange of experiences is also used for it between these states. Domestic Poland the Chamber of Statutory Auditors signed 17 co-operations of agreement (state as on the 2011r. May), what the majority is regarding exactly former socialist countries from (Ukraine, Lithuania, Slovakia, the Czech Republic, Hungary, Romania, Bulgaria, Serbia). **With Ukraine two agreements were signed:** first in November 2009r. with **Affiliating Statutory Auditors of Ukraine (AAU)**. It was an agreement of co-operation, for which a purpose is the development and a promotion of the profession of the statutory auditor, promoting agreeable norms from International Standards on Auditing as well as the swapping of professional experiences in the field of ethics, educations as well as qualities of the practising a profession. As part of the agreement on 15 March 2011 there was a bilateral meeting in Kiev, during which they changed, among others with information and experience of the profession in the development of accountants and statutory auditors and professional organisations in both countries, system of the compulsory in-service training of statutory auditors, forming prices for activities of the financial search, functioning of the public surveillance system above statutory auditors in Poland and of implementing MSRF in the Ukraine<sup>14</sup>. The second agreement was entered into with the **Ukrainian Federation of Professional Accountants and Statutory Auditors (UFPA)** and had similar goals - the development and the promotion of the profession, exchange of experiences of the practising a profession in ethics, education, quality of practising a profession.

To sum up, the market of audit services functioning in Poland still does not have educated as well as stabilized subjective structure. Depending on the territorial reach its structure fluctuates between the oligopoly and the monopolistic competition. On the market it is possible to single sections out about the diversified degree of competition, from the oligopoly (international enterprises) to the structure similar to the monopolistic competition (local subjects). However it should be emphasized that this market is constantly shaky and still it is a subject to transformations, and therefore the interaction with states about similar experience is very valuable, and Polish solutions can be a good model both for imitating, as well as in the destination of avoiding their defects.

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