



QUESTIONS AND ANSWERS RELATED TO AUDIT
COMMITTEES IN PUBLIC INTEREST ENTITIES

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1. INTRODUCTION

The purpose of this document is to make available to the public questions and answers that help to understand the interpretative criteria that the CNMV has issued regarding the obligation of public interest entities to have an Audit Committee established in the third additional provision of Law 22/2015, of 20 July on Auditing.

The questions and answers set out below are for guidance only. Its application requires the valuation of the specific circumstances of each entity.

Main abbreviations

Auditors' Directive	Directive 2006/43/EC of the European Parliament and of the Council of 17 May 2004 on the statutory audit of financial statements and consolidated accounts amending Directives 78/660/EEC and 83/349/EEC and repealing Council Directive 84/253/EEC
LAC	Law 22/2015, of 20 July, on Auditing
LOSS	Law 10/2014, of 26 June, on the regulation, supervision and solvency of credit institutions.
LSC	Royal Legislative Decree 1/2010, of 2 July, approving the revised text of the Capital Company Act.
RAC	Royal Decree 1527/2011, of 31 October, approving the Regulation that develops the revised text of the Law on Accounts Auditing, approved by Royal Legislative Decree 1/2011, of 1 July

2. AUDIT COMMITTEE LEGAL SCOPE OF THE OBLIGATION AND COMPOSITION OF THE BODY

2.1. Scope of the obligation to have an Audit Committee

Pursuant to the third additional provision of the LAC public interest entities are required to set up an Audit Committee with some exceptions.

Which entities are considered public interest entities?

Public interest entities are those listed in section 5 of article 3 of the LAC, developed in this point by article 15 of the RAC. They state:

Public interest entities

- Credit institutions, insurance companies and entities issuing securities listed on the official secondary securities markets (minimum scope established under European legislation).
- Entities issuing securities listed on the alternative stock market of the expanding business segment.
- Banking institutions, payment institutions and electronic money institutions.
- Investment services companies and collective investment institutions that, for two consecutive years, at their corresponding closing date, have at least 5,000 clients in the first case, or 5,000 unitholders or shareholders in the second case and the management companies that administer these institutions.
- Pension funds that, for two consecutive years, at their corresponding closing date, have at least 10,000 unitholders or shareholders and the management companies that administer these institutions.
- Entities that for two consecutive years have:
 - o net turnover of more than 2,000,000,000 €; and
 - o a mean workforce of over 4,000 employees.
- Company groups where the parent company is one of the entities above.

From the list above, the first two categories correspond to public interest entities defined in Article 3.5.a) of the LAC; the following categories are public interest entities included in Article 15 of the RAC, to which Article 3.5.b) of the LAC refers; and the last category is that provided for in Article 3.5 (c) of the same Law.

Which entities are exempt from the obligation to have an Audit Committee?

Exceptions to the obligation to have an Audit Committee?

- Entities whose sole activity consists in acting as issuer of securities guaranteed by assets, as defined in Article 2, point 5 of Regulation (EC) No. 809/2004 (e.g. securitisation funds).
- Public interest entities provided for in article 3.5 b) of Law 22/2015, Law on Auditing, which are small and medium, provided that their functions are assumed by the administration body.
- Public interest entities provided for in article 3.5 b) of Law 22/2015, Law on Auditing, to which the community regulations allow exemption from this requirement as

determined by law. The thirteenth additional provision of Royal Decree 1517/2011, dated 31 October, establishes that the entities to which this exception applies are collective investment institutions and pension funds.

- According to article 42 of the Code of Commerce, entities dependent on other public interest entities, provided that:
 - o they are wholly owned by the parent entity;
 - o their administration is not entrusted to a board of directors; and
 - o the Audit Committee of the parent entity assumes the functions of said committee for its subsidiaries and any other functions that may be attributed to it.

2.2. Composition of the Audit Committee

Article 529 quaterdecies of the LSC regulates the composition of the Audit Committee.

General rule

The Audit Committee consists wholly of non-executive directors, of which:

- the majority must be independent directors; and
- at least one will be appointed for his/her knowledge of accounting, auditing or both.

In addition, the Audit Committee as a whole must have sufficient knowledge of the sector of activity to which the entity belongs.

The number of members forming the Audit Committee will be established by the company's articles of association or by the regulations of the board of directors with its chair appointed every four years from the independent directors; he/she may be re-elected one year after leaving the position.

The CNMV was consulted on the possibility of setting up Audit Committees composed of two non-executive directors, one of whom would be an independent director and would serve as chair of the Audit Committee with a casting vote. The CNMV understands that, considering the collegiate nature of the Audit Committees and the literalness of paragraph 1 of article 529 quaterdecies of the LSC, Audit Committees must have at least three members with most of them being independent.

However, the CNMV has taken into account the specific circumstances in certain cases and has accepted the possibility of only two members in some very specific cases.

In any case, a proposal for regulatory modification has been submitted to the Ministry of Economy, Industry and Competitiveness in order to reduce the cases where public interest entities are obliged to set up Audit Committees when dealing with small entities or those with special characteristics, which would solve most of the situations that have given rise to doubts in this regard.

Exceptions

Paragraph 4 of the third additional provision of the LAC exempts from the requirement for independent directors to form part of the Audit Committee for public interest entities included in Article 3.5 b) of the LAC, provided that they meet the following requirements:

- They have the obligation to have an Audit Committee;
- That the members of the Audit Committee be, in turn, its administrative body; and

- That specific regulation does not require the presence of independent directors within the administrative body.

3. QUESTIONS AND ANSWERS

3.1. Composition of the Audit Committee

Scope of application of Article 529 quaterdecies of the LSC

The question arises whether the obligation to have an Audit Committee with the composition and functions set forth in Article 529 quaterdecies of the LSC only applies to public interest entities that are listed public limited companies (because this article is included in Title XIV of the LSC, dedicated to this type of companies) or conversely, if it should also apply to public interest entities that are not listed companies.

CNMV Response

As inferred from paragraph 1 of the third additional provision of the LAC, the obligation to have an Audit Committee with the composition and functions referred to in Article 529 quaterdecies of the LSC is generally applicable to all public interest entities regardless of whether or not they are listed. Only those entities in any of the cases provided for in section 3 of the third additional provision of the LAC, which considers the cases expressly excluded from said general rule, would be exempt from this obligation. Paragraph 4 of the aforementioned additional provision establishes the requirements that must be met in order for public interest entities not exempt from the obligation to set up an Audit Committee to be exempt from the obligation to have a majority of independent directors in said Committees.

Finally, in those entities that have a body with functions equivalent to those of the Audit Committee, which has been established and operates in accordance with its applicable regulations, this body may assume the functions of the Audit Committee, as established in paragraph 2 of the aforementioned third additional provision of the LAC.

3.2. Body substituting the Audit Committee

Regarding the possibility of applying the provisions of paragraph 2) of the third additional provision of the LAC, which allows the functions of the Audit Committee to be assumed by another body, provided that it has attributed functions equivalent to those legally assigned to Audit Committees and has been established and operates in accordance with its applicable regulations, different types of consultations have been proposed.

General interpretation.

3.2.1 CNMV Response

The application of paragraph 2) of the third additional provision of the LAC requires cumulative compliance with the following requirements:

- specific regulatory provision that considers the constitution of a body with functions equivalent to those of the Audit Committee;
- that said body with equivalent functions has been established and operates in accordance with its applicable specific regulations; and
- both the Audit Committee and the body with equivalent functions must be a body of the entity itself and not an external body, unless the entity is included in the case referred to in paragraph 3 (d) of the third additional provision of the LAC.

Possibility of assigning the functions of the Audit Committee to a delegated board committee, formed voluntarily, with a majority of independent and relevant expertise.

3.2.2 CNMV Response

The delegated board committee that intends to assume the functions of the Audit Committee must have functions equivalent to those of this body and must also be established and operate in accordance with its specific regulations.

Possibility of assigning the functions of the Audit Committee of an insurance company to a joint committee created under Solvency II regulations.

3.2.3 CNMV Response

In the case of entities in the insurance sector, the provision contained in the reference section is not applicable, as its specific legislation does not provide for the creation within the board of directors of a committee performing functions equivalent to those of the Audit Committee. In the governance system for insurance companies, the legislator has limited itself to providing for the need for insurance and reinsurance companies to be organized internally at management level, so that they have separate functions of risk management, compliance verification, internal and actuarial audit, at the head of which there must be a titleholder, without there being any provision for the existence of any supervisory body responsible for the audit of accounts and for the control and monitoring of the auditor and valuation of his/her activity and appointment.

Specific reference regulations: Articles 65 to 67 of Law 20/2015, of 14 July, on the

management, supervision and solvency of insurance and reinsurance entities; Articles 44 to 47 of Royal Decree 1060/2015, of 20 November, on the management, supervision and solvency of insurers and reinsurers; Order ECC/2841/2015 of 28 December, establishing the simplified method of calculating the Solvency Capital Requirement for death insurance; and Order ECC/2545/2015, of 23 December, which regulates the franchise to be applied by the Insurance Compensation Consortium in matters of extraordinary risk insurance.

Possibility for mutual insurance companies to be able to assign the functions of the Audit Committee to a body (supervisory committee) provided for in the legislation as voluntary and whose functions are significantly more limited than those set out in paragraph 4 of Article 529 quaterdecies of the LSC.

3.2.4 CNMV Response

As currently configured, the supervisory committee of mutual insurance companies cannot be considered as a substitute body of the Audit Committee for the purposes of paragraph (2) of the third additional provision of the LAC, since that body does not have composition and functions equivalent to those provided for in Article 529 quaterdecies of the LSC.

Specific reference legislation: Article 43 of the Mutual Insurance Companies Regulations.

Possibility of assigning the functions of the Audit Committee of a subsidiary entity required to have this body to the Audit Committee of its parent company.

3.2.5 CNMV Response

The possibility of applying the provision in paragraph 2) of the third additional provision of the LAC has been proposed with regard to subsidiaries whose administrative body expressly agrees to entrust the functions of the Audit Committee to the Audit Committee of its parent company, using this as a body with equivalent functions of the corresponding subsidiary (and thereby complying with paragraph 2) of the third additional provision of the LAC).

The answer to this question, given the terms of the reference section must be negative. It is understood that the body with equivalent functions must be from within the entity itself and not an external body. Only entities that comply with the provisions of paragraph 3 (d) of the third additional provision of the LAC would be exempt from this requirement.

In addition, the body with equivalent functions must be established and operate in accordance with its applicable specific regulations. While the sectoral rules of the requesting entity do not provide that these entities must or may be a body that can be considered equivalent to the Audit Committee, it is not possible to apply the provisions of said paragraph 2) since it is not enough that the constitution of that body is not opposed to the sectoral law, but should be expressly provided for therein.

3.3. Joint Audit Committee in credit institutions

The possibility of setting up a Joint Audit and Risk Committee is proposed in small credit institutions (volume of assets less than € 10 million) which could be composed of non-

independent members with experience and skills and one independent director acting as chair with a casting vote.

3.3.1 CNMV Response

Credit institutions with a total individual asset volume less than €10 million at the close date of one of the two immediately preceding years have the power to set up either a mixed audit committee or a risk committee as a separate body to the Audit Committee.

In the event of selecting to set up a joint committee, it must:

- assume the functions of the risk committee and the Audit Committee; and
- Cumulatively comply with the composition requirements set forth in Article 529 quaterdecies of the LSC and paragraph 3 of Rule 27 of Bank of Spain Circular 2/2016, of 2 February, i.e. it must consist of non-executive directors appointed by the board of directors, most of whom and in any case at least the chair must be independent directors. Its members must also have the necessary knowledge, skills and experience to carry out their duties (audit and risk at the same time).

Otherwise the entity must establish a separate Audit Committee under the terms and with the exceptions provided for in the third additional provision of the LAC.

Specific reference regulations: paragraph 3 of Article 38 of the LOSS, and paragraphs 2) and 3) of rule 27 of Bank of Spain Circular 2/2016, of 2 February.

3.4. Exceptions to the obligation to have an Audit Committee

3.4.1. Exception b) of paragraph 3 of the third additional provision of the LAC.

Scope of the expression *"he/she (the Chair) cannot exercise the functions that are legally or statutorily related to him/her in his/her role as such"*.

3.4.1.1 CNMV Response

The reference must be interpreted as meaning that, when the case provided for in this section is fulfilled, if the chair of the administrative body has executive functions, he/she cannot perform the functions that correspond to him/her as chair when the administrative body deals with matters specific to the Audit Committee.

Scope of the exception for SGIICs [Management Companies for Collective Investment Institutions] and SGFPs [Pension Fund Management Companies] that have the status of SMEs to have an Audit Committee.

It is considered whether SGIICs and SGFPs which are public interest entities included in paragraph 1 (b) and (c) of Article 15 respectively of the RAC and which are considered to be SMEs may be exempt from the obligation to establish an Audit Committee.

3.4.1.2 CNMV Response

SGIICs and SGFPs that are public interest entities for managing other public interest entities but which are small or medium-sized enterprises will not be required to establish an Audit Committee if their board of directors assumes the functions of the Audit Committee. If the chair of the board has executive functions, he/she cannot perform the functions that legally correspond to him/her as chair when the administrative body deals with matters specific to the Audit Committee.

3.4.2 Exception c) of paragraph 3 of the third additional provision of the LAC.

Scope of paragraph 3 c) of the third additional provision of the LAC and possibility for the board of directors to assume the functions of the Audit Committee of a public interest entity with a net turnover above €200,000,000 and/or an average workforce of more than 1,000 employees, respectively (i.e. entities provided for in Article 15.1.e) of the RAC).

The question arises as to whether the exception provided for in paragraph 3 (c) of the third additional provision of the LAC can be applied, so that the functions of the Audit Committee can be performed by members of the board of directors acting jointly, despite all directors being executives, provided that the person acting as chair cannot act as such when deciding on matters relating to the Audit Committee.

It is argued that the Audit Directive allows public interest entities without market capitalization (or less than €100 million) with small boards of directors to collectively perform the functions of the Audit Committee, provided that the chair of the Board of Directors cannot act as such in the exercise of the functions of the Audit Committee.

CNMV Response

Paragraph 3 c) of the third additional provision exempts public interest entities listed in Article 3.5 b) of the LAC from the obligation to have an Audit Committee provided that they meet two requirements:

- that this is provided for in Community legislation; and
- it is so determined by regulation.

In relation to this last requirement, the Audit Directive allows Member States to incorporate the possibility of not requiring Audit Committees for entities of small market capitalization. However this has not been the option of the Spanish legislator: the thirteenth additional provision of RAC which regulates this matter only excludes IICs and FPs from the obligation to have an Audit Committee.

Therefore, if the entity is not included in the assumptions of the thirteenth additional provision of the RAC itself or in another specific provision that allows it to apply the provisions of paragraph 3 (c) of the third additional provision of the LAC, public interest entities established in Article 15.1 e) of the RAC, although not publicly traded, are required to set up an Audit Committee in accordance with Article 529 quaterdecies of the LSC, although they may be exempt from having independents if they meet the requirements of paragraph 4 of the third additional provision of the LAC.

Specific reference legislation: Article 39.2 of the Audit Directive; paragraph 3 (c) of the third additional provision, in conjunction with Article 15.1 (e) and the thirteenth additional provision of the RAC.

3.4.3 Exception d) of paragraph 3 of the third additional provision

It is considered that in a group formed by several public interest entities, whether the obligation to have an Audit Committee is required in respect of each subsidiary or only in relation to the parent company or head of the group, also a public interest entity.

It is also considered whether it is possible to apply exception d) to those public interest entity subsidiaries that are not wholly owned by the parent entity.

CNMV Response

As a general rule, each public interest entity included in a group of public interest entities must establish an Audit Committee, with the composition and functions provided for in Article 529 quaterdecies of the LSC, except in cases where the provision in paragraphs 2 or 3 of the third additional provision of the LAC is applicable.

Thus the exemption referred to in paragraph 3 (d) of the third additional provision which raises the second question must have a negative answer. Its application requires the concurrence of the following cumulative requirements:

- that the dependent entities are wholly owned by the parent entity;
- the administration of the dependent entities is not entrusted to a board of directors; and
- that, regarding the dependents referred to in this section, the AC of the parent entity also assumes the functions of said committee and any others that may be attributed to it.

The public interest entities referred to in this section will publish on their website the reasons why they consider that it is not appropriate to have an Audit Committee or an administrative or supervisory body in charge of carrying out the functions of the Audit Committee.

3.5.Exceptions to the requirement of independence in the composition of the Audit Committee

Scope of the requirement for independence with respect to audit committees in non-SME subsidiaries when the parent company is a public interest entity.

The possible exception of the requirement of a majority of independents in the Audit Committee of group subsidiaries which are public interest entities where paragraph 5 b) and c) of Article 3 of the LAC concur.

3.5.1 CNMV Response

The exception set forth in paragraph 4 of the third additional provision of the LAC shall apply if cumulatively:

- these are public interest entities provided for in paragraph 5 b) of Article 3 of the LAC and are required to set up an Audit Committee;
- that specific regulations do not require the presence of independent directors within the administrative body; and
- the members of the Audit Committee are, in turn, its administrative body.

Scope of the requirement for independence with respect to audit committees in hybrid payment institutions (payment institution and financial credit institution).

The validity of an Audit Committee made up of at least 3 non-executive directors who are not independent is considered. The possibility is considered of applying the exception provided for in section 4 of the third additional provision of the LAC and therefore maintaining an Audit Committee formed entirely by non-independent members on the premise that the specific regulations applicable to payment institutions do not require independent members in their administrative body.

3.5.2. CNMV Response

The exception set forth in paragraph 4 of the third additional provision of the LAC shall apply if:

- these are public interest entities provided for in paragraph 5 b) of Article 3 of the LAC and are required to set up an Audit Committee;
- specific regulations do not require the presence of independent directors within the administrative body; and
- the members of the Audit Committee are, in turn, its administrative body.

In the specific case considered, the entity must have an Audit Committee due to its status as a payment institution (and therefore public interest entity) with the composition and functions indicated in Article 529 quaterdecies of the LSC (pursuant to paragraph 1 of the third additional provision of the LAC), without its specific regulations applicable as said payment entity requires the presence of independent members in its administrative body.

The regulations that apply to it as a financial credit institution do however require the entity to have a minimum of one third of independent directors on its risk committee (and in its committee of appointments and remunerations) that also form part of the administrative body.

Therefore, the joint application of both requirements would result in the entities that are in turn payment institutions and financial credit institutions not being eligible for the exception provided for in paragraph 4 of the third additional provision. These entities must have independent members in the Audit Committee, as their specific regulations require (as a financial credit institution) that the entity has independent members in its risk committee and in its appointments and remuneration committee; in addition, the minimum number of independent members of the Audit Committee is the majority, by application of the aforementioned paragraph 1 of the third additional provision of the LAC.

Specific reference regulations: paragraph 1 of Article 7 of Law 5/2015, of 27 April, on the promotion of business financing in connection with paragraph 3 of Article 38 of the LOSS and paragraphs 2) and 3) of rule 27 of Bank of Spain Circular 2/2016, of 2 February; and paragraph 1) of the third additional provision of the LAC, in connection with Article 529 quaterdecies of the LSC.

Scope of the requirement for independence regarding management companies of collective investment institutions and pension fund management companies (SGIIC and SGFP) which are public interest entities (not SMEs).

It is considered mandatory that SGIIC and SGFP that are public interest entities but not small and medium enterprises must have a majority of independents in their Audit Committees.

3.5.3 CNMV Response

SGIICs and SGFPs that are not SMEs but are public interest entities as a result of managing public interest entities are not required to have a majority of independents in their Audit Committee if the following two requirements are cumulatively met:

- its members are in turn members of the administrative body; and
- specific regulations do not require the presence of independent directors within the administrative body.

The Audit Committee thus constituted must comply with the other requirements of composition and functions provided for in Article 529 quaterdecies of the LSC.

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his exemption shall not apply to those SGIICs which, as public interest entities, are required to have independent directors in accordance with the provisions of Article 24 of Commission Delegated Regulation (EU) 2016/438 of 17 December 2015.

Article 24 of Commission Delegated Regulation (EU) 2016/438 of 17 December 2015 complements Directive 2009/65/EC of the European Parliament and of the Council with regard to the obligations of the depositaries.

According to this Article: *"1. Where there is a group link between them, the management or investment company and the depositary shall ensure that: (a) where the management bodies of the management company and the depositary manage the supervisory functions in their respective companies, at least one third of the management members or persons (the smaller of these two figures) are independent; b) where the management bodies of the management company and the depositary do not carry out the supervisory functions in their respective companies, at least one third of the members or two persons (with the lowest of these two figures) from the body responsible for such functions in the management company and the depositary are independent."*

Section 2 of this article establishes an independent concept for these purposes.

4. REGULATORY FRAMEWORK FOR AUDIT COMMITTEES

4.1. Community legislation

- Regulation (EU) No. 537/2014 of the European Parliament and of the Council of 16 April on specific requirements for statutory audit of public interest entities and repealing Commission Decision 2005/909/EC.
- Directive 2006/43/EC of the European Parliament and of the Council of 17 May 2004 on the statutory audit of financial statements and consolidated accounts amending Directives 78/660/EEC and 83/349/EEC and repealing Council Directive 84/253/EEC.

4.2. Spanish legislation

- Law 22/2015, of 20 July, regarding Auditing.

Third additional provision. Audit Committees for public interest entities.

“1. Public interest entities, whose legislation does not require it, must have an Audit Committee with the composition and functions referred to in Article 529 quaterdecies of the Revised Text of the Capital Companies Act, approved by Royal Legislative Decree 1/2010, of 2 July.

2. In the entities referred to in paragraph 1 that have a body with functions equivalent to those of the Audit Committee, which has been established and operates in accordance with its applicable regulations, the functions of the Audit Committee shall be assumed by the aforementioned body and these entities must publish the body responsible for these functions and their composition on their website.

In savings banks the functions of the Audit Committee may be assumed by the Control Committee.

3. Notwithstanding the provisions of paragraph 1, the following shall not be required to have an Audit Committee:

- a) Public interest entities whose sole activity consists in acting as issuer of securities guaranteed by assets, as defined in Article 2, point 5 of Commission Regulation (EC) No. 809/2004.
- b) Public interest entities provided for in article 3.5 b) which are small and medium, provided that their functions are assumed by the administration body. When the administration body performs the functions of the Audit Committee and its Chair has attributed executive functions, he/she (the Chair) cannot exercise the functions that are legally or statutorily related to him/her in his/her role as such.
- c) Public interest entities provided for in article 3.5 b) to which the community regulations allow exemption from this requirement as determined by law.
- d) Public interest entities that are, according to article 42 of the Code of Commerce, entities dependent on other public interest entities, provided that the following requirements are met:

1. That the dependent entities are wholly owned by the parent entity.
2. That the administration of the dependent entities is not entrusted to a board of directors.

3. That regarding the dependents referred to in this section, the Audit Committee of the parent entity also assumes the functions of said committee and any others that may be attributed to it.

The public interest entities referred to in this section will publish on their website the reasons why they consider that it is not appropriate to have an Audit Committee or an administrative or supervisory body in charge of carrying out the functions of the Audit Committee.

4. Entities that meet the following requirements shall be exempt from compliance with the requirement of independence required of the Audit Committee by paragraphs 1 and 2 of article 529f quaterdecies of the Revised Text of the Capital Companies Act, approved by Royal Legislative Decree 1/2010, of 2 July:

a) Public interest entities set forth in article 3.5.b) that have an obligation to have an Audit Committee.

b) That the members of the Audit Committee are, in turn, its administrative body.

c) That specific regulations do not require the presence of independent directors within the administrative body.

5. The public interest entities referred to in paragraphs 2 to 4 above shall report the circumstances therein to the national supervisory authorities of those entities. Said notification will be made within one month from the date of adoption of the corresponding corporate agreement.

6. The duties established in the functions set forth in article 529 quaterdecies, paragraph 4, d) to g) of the Revised Text of the Capital Companies Act shall be without prejudice to the powers attributed to the Institute of Accounting and Auditing in regulating the audit of accounts in relation to the observance of the duty of independence.

7. The supervision of compliance with the provisions of this additional provision corresponds to the National Securities Market Commission, in accordance with the provisions of Title VIII of Law 24/1988, of 28 July, on the Securities Market. This power is understood without prejudice to that held by the Institute of Accounting and Auditing in matters of supervision of the accounts auditing activity.

As soon as possible, the National Securities Market Commission shall provide the Institute for Accounting and Auditing with information corresponding to the sanctions imposed, if any, which have become final through administrative proceedings against the members of the Audit Committee to which this additional provision refers which will subsequently be forwarded to the Committee of European Auditing Oversight Bodies.”

Article 3. Definitions. Paragraphs 5, 9 and 10.

“5. Public interest entities shall be:

a) Issuers of securities admitted to trading on official secondary securities markets, credit institutions and insurance companies subject to the supervision and control regime attributed to the Bank of Spain, the National Securities Market Commission and the General Directorate for Insurance and Pension Funds, and the autonomous agencies with management and supervisory powers of insurance companies, respectively, as well as the issuers of securities admitted to trading in the alternative market of the expanding business segment.

b) Entities specified in the regulation in view of their significant public importance due to the nature of their activity, their size or their number of employees.

c) Company groups where the parent company is one of the entities included in the aforementioned points a) and b).

(...)

9. Small entities: entities that, for two consecutive financial years at the closing date, meet at least two of the following:

- a) The total of their assets does not exceed four million Euros.
- b) The total annual turnover does not exceed eight million Euros.
- c) The average number of employees for the year does not exceed 50.

Entities will lose this consideration if they fail to meet two of the circumstances referred to in this section for two consecutive years.

Entities will have this consideration if at the end of the first financial year since incorporation, transformation or merger they meet at least two of the three circumstances listed in this section.

10. Medium entities: entities that, for two consecutive financial years at the closing date, meet at least two of the following without being considered small entities:

- a) The total of their assets does not exceed twenty million Euros.
- b) The total annual turnover does not exceed forty million Euros.
- c) The average number of employees for the year does not exceed 250.

Entities will lose this consideration if they fail to meet two of the circumstances referred to in this section for two consecutive years.

Entities will have this consideration if at the end of the first financial year since incorporation, transformation or merger they meet at least two of the three circumstances listed in this section.”

- **Royal Legislative Decree 1/2010, of 2 July, approving the revised text of the Capital Companies Act.**

Article 529 quaterdecies. Audit Committee.

“1. The audit committee will be composed exclusively of non-executive directors appointed by the board of directors, most of whom, at least shall be independent directors and one of them shall have been assigned on the basis of his/her knowledge and experience in the field of accounting and/or auditing or both.

Overall, the Committee members shall have technical knowledge relevant to the sector of activity to which the audited entity belongs.

2. The Chair of the Audit Committee shall be appointed from one of the independent directors that form it, shall be replaced every four years and may be re-elected after one year after leaving the position.

3. The company Articles of Association or the Regulations of the Board of Directors, in accordance with the content therein, shall establish the number of members and regulate the operation of the committee, favouring independence in the exercise of their functions.

4. Notwithstanding other functions attributed to it by the Articles of Association or in accordance with them, the Board of Directors' Regulations, the audit committee shall have at least the following functions:

a) Inform the shareholders at the Annual General Meeting of any questions raised in relation to matters for which the Committee is responsible and, in particular, of the result of the

audit, explaining how it has contributed to the integrity of the financial information and the function that the Committee discharged in this process.

b) Supervise the effectiveness of the internal control of the company, internal audit and risk management systems, and discuss the significant weaknesses of the internal control system detected during the audit process with the auditor, without jeopardising its independence. For such purposes and, where applicable, recommendations or proposals may be presented to the governing body and the corresponding monitoring time frame thereof.

c) Supervise the process of preparing and presenting the mandatory financial information and putting forward recommendations or proposals to the governing body aimed at safeguarding its integrity.

d) Propose to the Board of Directors the selection, appointment, re-election and replacement of the auditor, being responsible for the selection process, pursuant to Article 16, sections 2, 3 and 5, and Article 17.5 of Regulation (EU) No. 537/2014, of 16 April, and the engagement conditions thereof, and regularly obtain information about the audit plan and its execution, in addition to preserving the auditor's independence in the exercise of its functions.

e) Establish the relevant relationship with the external auditor in order to receive information on any matters that might jeopardise its independence, for examination by the Committee, and any other matters related to the financial audit process and, where applicable, the authorisation of services other than the prohibited services, under the terms envisaged in Article 5, Section 4, and Article 6.2.b) of Regulation (EU) No. 537/2014, of 16 April, and in Section 3 of Chapter IV of Title I of Law 22/2015, of 20 July, on Financial Auditing, on the independence regime, in addition to any other communications envisaged in financial audit legislation and auditing standards. In any case, each year the auditors will be required to provide written confirmation of their independence with respect to the entity or entities directly or indirectly related thereto, as well as detailed and individualised information on the additional services of any kind provided to these entities and the corresponding fees received from these entities by the external auditor or by the persons or entities related thereto pursuant to the legislation governing financial audit activities.

f) Issuance on a yearly basis, prior to issuing the audit report, of a report expressing an opinion on whether the independence of the auditors or audit companies is compromised. This report shall contain, in all cases, the evaluation of the provision of each and every one of the additional services to which the preceding letter makes reference, considered individually and globally, other than the legal audit and in relation to the independence regime or to the legislation governing financial audit activities.

g) Previously inform the Board of Directors of all the subject matter envisaged in the Law, Articles of Association and Board Regulations and, in particular, of:

1. The financial information that the Company must periodically disclose;
2. The creation or acquisition of ownership interests in special purpose entities or domiciled in countries or territories considered tax havens and
3. Transactions with related parties.

The Audit Committee shall not perform the functions provided for herein when they are statutorily attributed to another committee and it is composed only of non-executive directors and of at least two independent directors, one of whom must be the chair.

5. The provisions of points d), e) and f) of the previous section shall be understood without prejudice to the regulations governing the auditing of accounts."

- **Royal Decree 1517/2011, of 31 October, approving the Regulation that develops the revised text of the Law on Accounts Auditing, approved by Royal Legislative Decree 1/2011, of 1 July**

Article 15. Entities of general interest

“1. For the exclusive purposes of the provisions of the regulations governing the activity of auditing accounts, the following shall be considered public interest entities:

- a) Credit institutions, insurance companies and issuers of securities admitted to trading on official secondary securities markets or in the alternative stock market of the expanding business segment.
- b) Investment services companies and collective investment institutions that, for two consecutive years, at their corresponding closing date, have at least 5,000 clients in the first case, or 5,000 shareholders in the second case and the management companies that administer these institutions.
- c) Pension funds that, for two consecutive years, at their corresponding closing date, have at least 10,000 shareholders and the management companies that administer these institutions.
- d) Banking foundations, payment institutions and electronic money institutions.
- e) Entities other than those mentioned in the preceding paragraphs where net turnover and average workforce for two consecutive years, at their corresponding closing dates, exceeds 2,000,000,000 Euros and 4,000 employees, respectively.
- f) Company groups where the parent company is one of the entities considered above.

2. The entities mentioned in paragraph 1.b), c) and e) will lose the consideration as public interest entities if they fail to meet the requirements established in those sections for two consecutive years, at their corresponding closing dates.

The entities provided for in this section shall have the status of public interest entities if they meet the requirements at the close of the financial year of incorporation, transformation or merger and the immediately following year. However, in the event that one of the entities involved in the merger or that the entity transformed was considered a public interest entity in the year prior to said transaction, the resulting entities will not lose that status if they meet the requirements set out in those paragraphs at the close of that first financial year.”

Thirteenth additional provision. Audit Committee of public interest.

“In accordance with paragraph 3.c) of the third additional provision of Law 22/2015, of 20 July, Auditing Accounts, collective investment and pension fund institutions referred to in Article 15.1.b) and (c) shall not be required to have an Audit Committee.”