

*Royal Legislative Decree 1/2011 of 1 July wherein the consolidated text of the Law on Auditing was approved.*

I

The purpose of this royal legislative decree is to comply with the terms of the second final provision of Law 12/2010 of 30 June which amends Law 19/1988 of 12 July, on Auditing, Law 24/1988 of 28 July, on the Securities Market and the consolidated text of the Spanish Companies Act approved by Royal Legislative Decree 1564/1989 in order to bring it in line with Community regulations, which authorises the government to prepare, within 12 months of its effective date, a consolidated text of the Law on Auditing, entitling it to regulate, clarify and harmonise any legal texts that need to be reworded.

This royal legislative decree is intended to offer a systematic and unified text containing the regulation applicable to audit by regulating, harmonising and clarifying the consolidated texts as necessary. The consolidation is not limited to merely reproducing the legal texts; rather the structure of the text has been modified and terminological changes have been made in order to clarify the contents.

2

Law 19/1988 of 12 July, on Auditing, incorporated Council Directive 84/253/EEC of 10 April 1984, on the approval of persons responsible for carrying out audits of accounting documents, into the Spanish legal system, thereby regulating, the audit activity for the first time in Spain, given the importance of said activity due to its contribution to the transparency and reliability of audited financial and economic information. Transparency is a consubstantial element of the market economic system referred to in article 38 of the Spanish Constitution. For the first time in Spain, the law regulates the audit activity, due to its public relevance, by rendering a service to the audited firm and by affecting and interesting not only the firm in question but also the third parties who have or may have relationships with it, both the audited firm and the third parties are apprised of the quality of the audited financial-economic information on the basis of which the auditor's opinion is issued. Thus, for the purpose of regulating and establishing sufficient guarantees to ensure that the annual accounts and any other financial-economic information that has been checked by an independent third party are fully acceptable to the interested third parties, the said law defined the activity and established, among others, the conditions to be met by those seeking membership in the Official Register of Auditors in order to practice the profession, the standards regulating the profession, the minimum contents of the audit report on the annual accounts, auditor's incompatibilities and liability, violations and sanctions and the power of the Accounting and Auditing Institute to control the audit activity and to discipline auditors.

Different aspects of the original text of Law 19/1988 have been amended over time by successive laws in an attempt to make it even more precise and to enhance its practical application. Certain aspects of the audit activity are even regulated in laws that did not directly amend the aforementioned Law 19/1988. For example, the thirteenth additional provision of the Law 4/1990 of 29 June, on General State Budgets approved for 1990, included a specific path to registration in the Official Register of Auditors for persons who do not have a university degree but who are eligible for university studies and have 8 years of practical experience, which is more than what is normally required. Moreover, certain particular rules were established for demonstrating the practical experience acquired prior to the effective date of the Law on Auditing, a prerequisite for obtaining approval from the Accounting and Auditing Institute which is required for registration in the Official Register of Auditors.

Article 104 of Law 31/1991 of 30 December, on the General State Budgets approved for 1992, modified the composition of the Consultative Committee of the Accounting and Auditing Institute, regulated in part b) of point 4 of the second additional provision of Law 19/1988, on Auditing.

The third additional provision of Law 13/1992 of 1 June on shareholders' equity and supervision of consolidated financial entities reworded articles 17 and 18 of Law 19/1988, regulating the violations and sanctions. Furthermore, by means of the fourth additional provision of this law, a paragraph was added to the first final provision of Law 19/1988 establishing the obligation for auditors of entities subject to the supervision system provided for in Law 13/1992 to immediately issue their audit reports on the annual accounts once they become aware of the existence of presumed irregularities or situations that could seriously affect the stability, solvency or continuity of the audited entity.

In the sixth additional provision of Law 3/1994 of 14 April, which brought Spanish laws on credit institutions in line with the second banking coordination directive and introduced other changes related to the financial system, a fourth section was added to the first additional provision of the Law on Auditing to include the obligation of the Spanish branch offices of foreign credit institutions that are not obligated to present the annual accounts of their Spanish operations to have the annual accounting records that are made public audited.

The sixth additional provision of Law 2/1995 of 23 March on Limited Liability Companies amended part 4 of article 8 of the Law on Auditing by introducing the possibility of renewing audit contracts annually at the end of the initial contractual term.

Subsequently, in the eighth additional provision of Law 37/1998 of 16 November, which reformed the Law 24/1988 of 28 July, on the Securities Market, the final paragraph of the first additional provision of the Law on Auditing relative to the obligation of the auditors of entities under the supervision of the Bank of Spain, National Securities Market Commission and the Directorate General of Insurance was reworded, obligating auditors to quickly notify these supervisory bodies of any event or decision regarding the audited entity which comes to their attention in the performance of their functions that could have a significant effect on the operations, continuity, stability or solvency of the audited entity or when the auditor's opinion is adverse or a disclaimer of opinion or when they are prevented from issuing their auditor's reports.

The third additional provision of Law 41/1999 of 12 November, on payment and settlements systems, establishes a period of one year to resolve and report the resolution of sanctioning proceedings associated with the violations referred to in Law 19/1988.

Articles 48 to 53 of the Law 44/2002 of 22 November, on Measures for Reform of the Financial System, introduced substantial changes to the wording of Law 19/1988, which affected different aspects: a unified exam for admission to the Official Register of Auditors, the obligation of auditors to receive continuing education courses, the inclusion of specific paths to the Official Register of Auditors for public servants belonging to certain government bodies whose training and functions are related to public sector auditing, the duty of independence and the causes of incompatibilities, the obligation of certain audited entities to rotate their auditors, the auditor's liability, the obligation of custody of audit-related documentation and access to such documentation, violations and sanctions, the powers of the Accounting and Auditing Institute to control audit activities and the creation of a fee charged by the Accounting and Auditing Institute to issue audit reports.

Article 104 of Law 62/2003 of 30 December on fiscal, administrative and order measures, modified the second additional provision of Law 19/1988 on the rules applicable to the Accounting and Auditing Institute with regard to changing the composition and functions of its governing bodies.

In 2007, the Law 16/2007 of 4 July, on the reform and adaptation of commercial accounting laws for international harmonisation based on European Union legislation, in its fifth additional provision, which in turn was modified by the fourth final provision of Law 34/2007, of 15 November, on air quality and protection of the atmosphere, reworded the paragraph one, part 4, article 8 of the Law on Auditing in relation to the terms of auditors' contracts to enable the auditor's contract to be renewed for successive terms up to three years once the initial contractual term has concluded.

However, the most relevant change to the Law on Auditing was the one that took place when Law 12/2010 of 30 June, which amends Law 19/1988 of 12 July, on Auditing, Law 24/1988 of 28 July, on the Securities Market and the consolidated text of the Spanish

Companies Act approved by Royal Legislative Decree 1564/1989 of 22 December in order to bring it in line with Community regulations came into force.

Law 12/2010 incorporated Directive 2006/43/CE of the European Parliament and of the Council, of 17 May 2006, on statutory audits of annual accounts and consolidated accounts, amending Council Directives 78/660/EEC and 83/349/EEC and repealing Council Directive 84/253/EEC. This was an important step towards greater harmonisation of the requirements for practicing the audit activity in the European Union and the principles governing the public supervision of the profession, in view of the fact that this activity performs a function of public interest, as understood by the broad group of institutions and persons who trust the auditor's actions. Therefore, the correct and proper performance of the auditor's functions is a factor that contributes to the proper functioning of financial markets by increasing the integrity and efficacy of financial statements as vehicles for transmitting information. Compared to the repealed Directive which contained basic rules covering the approval, independence and publicity of auditors, the new Directive 2006/43/EC regulated a greater number of aspects in relation to: the approval and registration of auditors and audit firms, including those from other Member States of European Union and third countries; the standards on professional ethics, independence and objectivity; the performance of audits in accordance with international auditing standards that the European Union may adopt; the full liability of the auditor who carries out the audit of consolidated financial statements; quality control by auditors and audit firms; effective systems of investigation and sanctioning; cooperation between the competent authorities in the Member States of the European Union and third countries, etc.

In addition to incorporating the terms of Directive 2006/43/EC into national legislation, Law 12/2010 modifies certain aspects of Law 19/1988 due to changes in commercial laws and to include betterments of technical nature gleaned from experience and practice after the coming into force of Law 19/1988. Most notable among these are the following modifications:

- The minimum contents of the audit report is more in line with the provisions of article 51 bis of Directive 78/660/EEC relative to the annual accounts of certain types of companies and article 37.2 of the Seventh Directive 83/349/EEC on consolidated annual accounts in order to promote comparability in the international economic arena .

- The auditor of the consolidated annual accounts or financial statements assumes full responsibility for his/her actions.

- The system of case law to which the audit activity is subject is specified and comprises three groups of standards: auditing standards, ethical standards and internal quality assurance standards of auditors and audit firms. The International Auditing Standards that may be adopted by the European Union pursuant to the mandate of Directive 2006/43/EC are introduced into the auditing standards.

- Pursuant to the criteria of reciprocity and equivalent requirements included in Directive 2006/43/EC, this law regulates the possibility of persons who are approved in other Members States of the European Union or in the public registers of third countries being approved and registered in the Official Register of Auditors. Furthermore, auditors and audit firms that issue audit reports on the annual accounts or consolidated accounts of companies incorporated outside the European Union whose securities are admitted to trading in Spain must register in the Official Register of Auditors following compliance with the equivalent requirements that are demanded of national auditors.

- Regarding the incorporation of audit firms, in keeping with the terms of the new Directive, this law provides for the possibility that audit firms approved in any of the Member States of the European Union can be partners in such companies, something which was previously not allowed.

- The rules governing incompatibilities are based, on the one hand, on a general principle of independence which requires all auditors to abstain from carrying out their work when their objectivity may be compromised in relation to the financial information to be audited, and on the other hand on a set of specific circumstances, situations or relationships

in which it is deemed that, in the event that they occur, auditors do not enjoy independence from a certain entity, and therefore the only possible solution or safeguard is to not carry out the audit work.

The legal obligation to document and put in place safeguard systems for detecting and responding to threats to the auditor's independence has been included. If these threats are of such importance that they compromise independence, the auditors must abstain from carrying out the audit. In any event, any situation or relationship that could appear as a possible involvement or relationship with the audited entity should be avoided. Likewise, certain situations or services that cause incompatibility for carrying out the audit are amended, and the time period calculation for incompatibility situations is reduced from three to two years.

The amendments included in said situations or services do not mean, in any way, when the amended or discontinued situations occur, that they do not constitute or may not constitute threats to independence, for which the auditor must put a suitable safeguard system in place to assess and, where appropriate, eliminate the threat. Nor do they mean that the auditor can carry out the audit work in the event that these circumstances continue and are of such importance or significance that they compromise their independence with regard to the audited entity. This is also case in the event that situations other than those defined as causes of incompatibility occur, which, due to their nature and the time that they take place, can constitute a threat that compromises, in spite of the safeguards put in place, the auditor's independence.

Moreover, in connection with the rules governing incompatibilities, the law introduces the concept of a network to which an auditor or audit firm belongs, based on the decision-making unit, and on the existence of control relationships and significant influence, in the event that individuals or entities who form part of this network incur any of the incompatibility situations set forth in this Law and in other legal provisions, it will mean that the auditor or audit firm is also incompatible with the respective entity, with the particular conditions provided for in the Law. With regard to extending the scope of persons governed by the aforementioned rules, it also includes, among others, those individuals who are linked by certain family relationships, insofar as it is deemed that these cases present or may present the same threats to independence that can arise in the case of the auditor's spouse, excluding certain situations from the scope of said extension.

Within this context and given the special obligation assigned to the Accounting and Auditing Institute of supervising auditor independence - the fundamental basis for guaranteeing the objectivity with which the audited information must be verified - the Institute is vested with special powers to gather information and conduct investigations or inspections of the persons and entities that are part of the auditor's network.

– Inasmuch as the auditors' liability is concerned, this Law specifically mentions the fact that auditors are only liable for the damages that can be attributed to them, provide that this not prevent the aggrieved party from being fairly compensated, and the period for auditor liability is equivalent to that set for managing members and directors of commercial entities.

– The duty of secrecy extends to anyone who is involved in carrying out audits.

– The Law defines which entities are considered "public interest" entities for the purpose of establishing certain requirements and specific conditions that must be met by the auditors and audit firms who carry out audits of public interest entities' annual accounts, in relation to, among other aspects, the obligation to publish an annual transparency report and of rotation.

– In relation to the control and supervision of the audit activity, the scope and purpose of the control activity of auditing are limited, differentiating between regular and procedural external quality control and the drawing up of recommendations or requirements, the failure to follow of which constitutes a serious violation, and the system of investigations, in which the current technical control system is included, in order to detect and correct the inadequate execution of a specific audit or an auditor work. These control actions continue to participate in the nature of the previous information actions, which are set forth in Article 69.2 of Law

30/1992, of 26 November, on the Legal Regime of Public Administration and Common Administrative Procedure, as evidenced in case law. The Accounting and Auditing Institute is also authorised to publish action plans, the oversight system activity reports and general results achieved in quality control.

The public oversight principles set out in Directive 2006/43/EC require that the authority for international cooperation and the aforementioned quality control be assigned exclusively to the Accounting and Auditing Institute, as a public oversight body, without prejudice to the stated possibility of agreeing with third parties related to the implementation of quality control as long as the requirements set forth in said provision are met, in accordance with the criteria provided for in Directive 2006/43/EC and those implemented by the European Union. These third parties include corporations that represent auditors. The Accounting and Auditing Institute is also authorised to develop the criteria to be used when carrying out quality control.

– Finally, Law 12/2010 of 30 June introduces important changes to the system of violations and sanctions.

In short, the regulation introduced by Law 12/2010 of 30 June, the execution of the control actions entrusted to the Accounting and Auditing Institute is intended to achieve the overall improvement, as a whole, of the quality of audit work, placing these actions above all of those which are legally authorised in order to carry out audits.

Whereas Law 12/2010 amended most of the articles of Law 19/1988, which in turn had been reworded by the aforementioned laws, the Spanish Parliament deemed it necessary to entrust the Government with the drafting of a consolidated text of these laws in order to gather all of the regulations governing the audit activity into a single legal text.

### 3

Consequently, a consolidated text of the Law on Auditing has been drafted which is inserted at the end of this Royal Legislative Decree, the object of which, in compliance with the legal mandate, is to include the amendments of the aforementioned legal texts into a single, systematic text which includes all of the rules and regulations applicable to the audit activity.

The structure of the consolidated text of the Law on Auditing consists of four chapters, five additional provisions, five transitional provisions and six final provisions.

Chapter I, "Auditing", includes 6 articles which establish the scope of application of the law, the minimum contents of the audit report, the regulation of consolidated account audits and the rules governing audits and also, certain concepts are defined.

Chapter II on the requirements for carrying out audits contains 5 articles regulating the requirements for access to and registration in the Official Register of Auditors by auditors and audit firms, including auditors approved in other Member States of the European Union and third countries.

Chapter III on "Performing the audit activity" contains 4 sections divided into 15 articles. The first section establishes the duty of independence by which all auditors and audit firms are bound. The second section regulates the auditor's liability for performing the audit activity and the guarantees to be provided. The third section addresses the duties of custody and secrecy. The fourth section establishes the obligation of auditors and audit firms that audit the annual accounts of public interest entities to publish annual transparency reports.

Chapter IV, on the public supervision of the audit function, contains 5 sections divided in to 18 articles. The first section stipulates that all auditors and audit firms are subject to the public supervision system, which is in turn overseen by the Accounting and Auditing Institute. It also regulates the way in which the audit activity is controlled and the legal system and organisation of the Institute; section two deals with violations and sanctions; section three regulates the supervision of auditors and audit entities approved to carry out audits, in the Member States of the European Union and third countries; section four addresses international cooperation; section five regulates the fees charged by the Accounting and Auditing Institute.

Finally, the provisions included in the consolidated text address the obligation to be audited, public sector auditors, other means of carrying out quality control, the transferability of the administrative liability of extinguished audit firms and the transparency and publicity of the actions of the Accounting and Auditing Institute. The transitional provisions include the provisions that were previously included in Law 12/2010, on the situations and obligations that were new to the aforementioned law. The final provisions primarily regulate the mechanisms for coordination with public bodies with control and inspection powers and also address certain qualifications.

In view of the foregoing and at the proposal of the Minister of the Economy and Finance and the Ministry of Justice, in accordance with the State Council and following the Council of Ministers' deliberations of 1 July 2011,

I HEREBY PROVIDE:

Sole article. *Approval of the consolidated text of the Law on Auditing.*

The consolidated text of the Law on Auditing, which is inserted at the end, is hereby approved.

First additional provision. *References to regulations.*

Any references made in other legal provisions to Law 19/1988 of 12 July, on Auditing, shall be understood to refer to the corresponding provisions of the consolidated text approved herein.

Sole repeal provision. *Repeal of provisions.*

All provisions with an equal or lower rank that oppose this law are hereby repealed and particularly the following:

1. Law 19/1988 of 12 July, on Auditing.
2. Thirteenth additional provision of Law 4/1990 of 29 June, on General State Budgets approved for 1990.
3. Article 104 of Law 31/1991 of 30 December, on General State Budgets approved for 1992.
4. The third and fourth additional provisions of Law 13/1992 of 1 June, on shareholders' equity and supervision of financial entities on a consolidated basis.
5. The sixth additional provision of Law 3/1994 of 14 April which brought Spanish laws on credit institutions in line with the Second Banking Coordination Directive of the European Community 89/646/CEE and introduces other modifications relative to the financial system of the European Community.
6. The eighth additional provision of Law 37/1998 of 16 November, which reformed Law 24/1988 of 28 July, on the regulation of the Securities market.
7. Third additional provision of Law 41/1999 of 12 November on payment and settlements systems with regard to the deadline for resolving and notifying resolutions in disciplinary proceedings associated with the violations mentioned in Law 19/1988 of 12 July, on Auditing.
8. Articles 48 to 53 and the fourteenth additional provision of Law 44/2002 of 22 November, on Measures for Reform of the Financial System.
9. Article 104 of Law 62/2003 of 30 December, on fiscal, administrative and order measures for fiscal year 2004.
10. The fifth additional provision of Law 16/2007 of 4 July, on the reform and adaptation of commercial accounting laws for international harmonisation based on European Union legislation.

11. The fourth final provision of Law 34/2007 of 15 November, on air quality and protection of the atmosphere.

12. Law 12/2010, of 30 June, which amends Law 19/1988 of 12 July, on Auditing, Law 24/1988 of 28 July, on the Securities Market and the consolidated text of the Spanish Companies Act approved by Royal Legislative Decree 1564/1989 of 22 December in order to bring it in line with Community regulations, except the fourth final provision of the modification of t Law 24/1988 of 28 July, on Securities Market.

First final provision. *Legislative competence.*

The consolidated text of the Law on Auditing is enacted by virtue of the exclusive competence of the State pursuant to the terms of article 149.1.6. of the Spanish Constitution.

Second final provision. *Effective date.*

This Royal Legislative Decree and the consolidated text approved herein shall come into force on the day immediately after that of its publication in the Official State Gazette (BOE).

Madrid, 1 July 2011.

JUAN CARLOS R.

Minister for the Presidency,  
RAMÓN JÁUREGUI ATONDO

## CONSOLIDATE TEXT OF THE LAW ON AUDITING

### CONTENTS

- Chapter I. Auditing.
  - Article 1. Scope of application.
  - Article 2. Definitions.
  - Article 3. Audit report
  - Article 4. Requests for and provision of required information.
  - Article 5. Audits of consolidated accounts.
  - Article 6. Regulation of audits.
  
- Chapter II. Requirements for carrying out audits.
  - Article 7. Official Register of Auditors.
  - Article 8. Approval and registration in the Official Register of Auditors.
  - Article 9. Auditors approved in other Member States of the European Union and in third countries.
  - Article 10. Audit firms.
  - Article 11. Withdrawal from the Official Register of Auditors.
  
- Chapter III. Performing the audit activity.
  - Section 1. Independence.
    - Article 12. General principle of independence and obligation to adopt safeguards.
    - Article 13. Causes of incompatibility.
    - Article 14. Time period calculation.
    - Article 15. Subjective extensions to entities related to the audited entity.
    - Article 16. Incompatibilities derived from situations involving close family members of the signing auditor.
    - Article 17. Incompatibilities derived from situations involving persons or entities directly related to the auditor or the audit firm.
    - Article 18. Incompatibilities derived from situations involving other persons or entities in the the auditor's or audit firm's network.
  - Article 19. Hiring and rotation.
  - Article 20. Prohibitions once the audit work has concluded.
  - Article 21. Fees and transparency in the remuneration of auditors and audit firms.
  - Section 2. Liability and guarantee.
    - Article 22. Liability.
    - Article 23. Guarantee.
  - Section 3. Duty of custody and secrecy.
    - Article 24. Duties of conservation and custody.
    - Article 25. Duty of secrecy and access to documentation.
  - Section 4. Obligation to disclose information.
    - Article 26. Annual transparency report.
  
- Chapter IV. Public supervision of the audit activity.
  - Section 1. Public supervision and control of the audit activity.
    - Article 27. Public supervision system.

Article 28. Supervision of the audit function.  
Article 29. The Accounting and Auditing Institute.

Section 2. Violations and sanctions.

Article 30. Administrative disciplinary power.  
Article 31. Liability.  
Article 32. Violations.  
Article 33. Very serious violations.  
Article 34. Serious violations.  
Article 35. Minor violations.  
Article 36. Sanctions.  
Article 37. Determining sanctions and other standards.  
Article 38. Enforceability of resolutions.  
Article 39. Time limit of violations.  
Article 40. Time limit of sanctions.

Section 3. Applicable system to auditors, audit firms and other entities approved in Member States of the European Union and third countries.

Article 41. Auditors, audit firms and other entities approved in Member States of the European Unions and third countries.

Section 4. International cooperation.

Article 42. Duty of collaboration with Member States of the European Union.  
Article 43. Coordination with competent authorities in third countries.

Section 5. Fees of the Accounting and Auditing Institute.

Article 44. Fees of the Accounting and Auditing Institute charged for issuing audit reports.

First additional provision. Mandatory audits.

Second additional provision. Auditors of public sector companies.

Third additional provision. Performance of quality control.

Fourth additional provision. Administrative liability of extinguished audit firms.

Fifth additional provision. Transparency and publicity.

First transitional provision. Rotation of an entity's auditors by reason of size.

Second transitional provision. Cooperation with Member States.

Third transitional provision. University graduates, engineers, mercantile law professors, architects and holders of university diplomas.

Fourth transitional provision. Situations of incompatibility.

Fifth transitional provision. Rules governing the fulfilment of the auditor's obligations regarding consolidated accounts, consolidated accounting documents or other consolidated financial statements.

First final provision. Coordination mechanisms with public bodies or institutions with supervisory or inspection powers.

Second final provision. Functions of the members of the Spanish Institute of Certified Public Accountants prior to the coming into force of Law 19/1988 of 12 July, on Auditing.

Third final provision. Authorisation of the Accounting and Auditing Institute.

Fourth final provision. Authorisation to amend the bylaws of the Accounting and Auditing Institute.

Fifth final provision. Regulatory authorisation.

Sixth final provision. Budget modifications.

## CHAPTER I

### Auditing

#### Article 1. *Scope of application.*

1. This Law aims to regulate both compulsory and voluntary auditing by setting out the conditions and requirements that must be followed in order to carry them out, as well as to regulate the public oversight system and the international cooperation mechanisms in relation to auditing.

2. Auditing will be understood to be the activity of reviewing and checking annual accounts, as well as other financial statements or accounting documents, prepared in accordance with the applicable regulatory framework for financial information, as long as the aim of said activity is to issue a report on the reliability of said documents which can have legal effects against third parties.

3. Auditing of annual accounts will involve checking and making a decision as to whether said accounts show a true and fair view of equity, financial situation and earnings of the audited entity, in accordance with the applicable regulatory framework for financial reporting; it will also include, where appropriate, a check that the management report is in accordance with said accounts.

4. Auditing must be carried out by an auditor or audit firm, by issuing the corresponding report and will be subject to the requirements and formalities provided for in this Law.

#### Article 2. *Definitions.*

For the purposes of this Law, the following definitions will apply:

1. Regulatory framework of financial reporting: all standards, principles and criteria contained in:

- a) European Union regulations on consolidated accounts, in the circumstances provided for the implementation thereof.
- b) The Commercial Code and all other commercial laws.
- c) The General Accounting Plan and the sector-specific adaptations thereof.
- d) The compulsory rules approved by the Accounting and Auditing Institute in the implementation of the General Accounting Plan and the supplementary rules thereof.
- e) All other applicable Spanish accounting regulations.

2. Mandatory audit: an audit of annual accounts or consolidated accounts insofar as required by European Union laws or Spanish national legislation.

3. Auditor: a natural person who is approved to carry out audits by the Accounting and Auditing Institute and is registered in the Official Register of Auditors, or by the competent authorities of a European Union Member State or third country.

4. Audit firm: a legal person, regardless of legal form, that is approved to carry out audits by the Accounting and Auditing Institute, registered in the Official Register of Auditors, or by the competent authorities of a European Union Member State or third country.

5. The following are considered public interest entities:

a) Entities that issue securities that trade on regulated stock markets, credit institutions and insurance companies subject to the supervision and control of the Bank of Spain, the National Securities Market Commission and the Directorate-General of Insurance and Pension Funds and regional bodies with the authority to organise and supervise insurance companies.

b) Other entities of a certain public significance because of the nature of their business, their size or the number of people they employ, as determined in the regulations that

implement this Law.

c) Groups of companies whose members include the types of companies referred to in paragraphs a) and b) above.

#### Article 3 *Audit report.*

1. The audit report for annual accounts is a commercial document that will contain at least the following information:

a) Identification of the audited entity, the annual accounts being audited, the regulatory framework for financial information that was applied in preparing these accounts, the natural or legal persons that carried out the work, and where appropriate, the persons for whom it is intended; as well as the indication that the annual accounts were prepared by the administrative body of the audited entity.

b) A general description of the scope of the audit carried out, with reference to the audit rules under which it was performed and, where appropriate, the procedures provided for in these rules that were not possible to apply as a result of any limitation that was revealed during the audit. It will also provide information on the responsibility of the auditor or audit firm to express an opinion on the aforementioned accounts in their entirety.

c) A technical opinion that will clearly and accurately state the auditor's opinion as to whether the annual accounts provide a true and fair view of the equity, financial situation and earnings of the audited entity, in accordance with the applicable regulatory framework for financial reporting and, in particular, the accounting principles and criteria therein.

The auditor's opinion can be unmodified, qualified, adverse or disclaimer of opinion.

When there are no reservations the opinion will be unmodified.

In the event that reservations exist, all of said reservations should be stated in the report and the auditor's opinion will be qualified, adverse or disclaimer of opinion.

d) An opinion on whether or not the management report is in accordance with the annual accounts corresponding to same financial year, in the event that the aforementioned management report accompanies the annual accounts.

e) Date and signature of the person or persons who carried it out. The date of the audit report will be that on which the auditor or audit firm completed the audit procedures required to form an opinion on the annual accounts.

2. The audit report must be issued by the auditor or audit firm according to the terms of article 6 and the engagement letter signed by the parties. The non-issuance of an audit report or the refusal to continue with an audit contract can only occur due to a just cause or in the event of one of the following circumstances:

a) Existence of threats that could seriously compromise the independence or objectivity of the auditor or audit firm according to the provisions of Section 1 of Chapter III.

When it is absolutely impossible to carry out the work entrusted to the auditor or audit firm due to causes not attributable to them.

In the foregoing circumstances, when dealing with audits, reasonable information must be provided both to the Companies Register pertaining to the address of the audited company and the Accounting and Auditing Institute, of the circumstances surrounding the non-issuance of the report or the refusal to continue with the audit contract, in accordance with the method and time periods prescribed by regulations.

3. The annual accounts audit report must be issued under the responsibility of the person or persons who carried it out, and must be signed by these persons.

4. Under no circumstances may an annual account report be published in part, in short-form, or separately from audited annual accounts.

When the report is public reference may be made to its existence, in which case it should make reference to the type of opinion issued.

5. The annual accounts audit report must be accompanied by all of the documents that make up the audited accounts and, where appropriate, the management report.

6. When the report does not refer to annual accounts, the provisions for said accounts will apply, where appropriate.

*Article 4. Request for and provision of required information.*

Audited firms are obligated to provide all of the information needed for the audit to be carried out; likewise, those who carry out the audit are obligated to request the information they need to issue their audit report.

*Article 5. Audits of consolidated accounts.*

1. This Law will apply to the audits referred to in Article 1 of this Law, including audits of consolidated annual accounts and other consolidated financial statements and consolidated documents.

2. The auditor who carries out the audit of consolidated annual accounts or other consolidated financial statements or consolidated accounting documents assumes full liability for the issued audit report, even when the annual accounts of investee companies have been audited by other auditors.

3. The person or persons issuing the opinion on the consolidated annual accounts or other consolidated financial statements or consolidated accounting documents will be required to provide the necessary information, where appropriate, to the persons who audited the entities that are part of the consolidable group, which will in turn be required to supply as much information as is requested.

4. The auditor of the consolidated annual accounts or other consolidated financial statements or consolidated accounting documents will review and assess the audit work carried out by other auditors, including those in the European Union and third countries, in relation to audits of entities that are part of the consolidable group. Such reviews and assessments must be documented in the working papers.

5. When a significant entity, measured in terms of materiality, which is part of a consolidable group is audited by auditors or audit firms from third countries with which there is no arrangement on the basis of reciprocity, the auditor of the consolidated accounts or consolidated financial statements or consolidated accounting documents will be responsible for applying the procedures prescribed by regulations to enable the Accounting and Auditing Institute to have access to the documentation of the audit work performed by a third country auditor or audit firm, including the relevant working papers for the audit group, enabling to that end a copy of the documentation to be kept or to agree in writing with the third country auditor appropriate and unlimited access so that the group auditor can send it to the Accounting and Auditing Institute, when this is required. If there are any legal or other impediments that prevent the sending of the audit working papers from a third country to the group auditor, the documentation held by this auditor will include the proof of having applied the appropriate procedures for gaining access to the audit documentation and, in the event of impediments other than legal impediments arising from national legislation, the proof describing these impediments.

6. The provisions of this article will also apply to audit firms that carry out audits of consolidated annual accounts or other consolidated financial documents or consolidated accounting documents, as well as to auditors who carry them out on behalf of said audit firms.”

*Article 6. Regulation of audits*

1. Auditing will be carried out in accordance with the requirements of this Law, its implementing regulations, and the auditing standards, ethical standards and internal quality assurance standards of auditors and audit firms.

2. The auditing standards are those contained in this Law, its implementing regulation, the international auditing standards adopted by the European Union and the technical auditing standards, in those aspects that are not regulated by the aforementioned

international auditing standards.

3. The ethical standards include, at least, the principles of its role in public interest, professional competence, due diligence, integrity and objectivity, without prejudice to the provisions of Section I of Chapter III.

4. The technical auditing standards, ethical standards and internal quality assurance standards of auditors and audits firms will be drawn up, adapted and reviewed, in accordance with the general principles and commonly accepted practice in European Union Member States as well as the international auditing standards adopted by the European Union, by the corporations that represent auditors, after the public have been informed within the two-month period and will be valid as of their publication, through a resolution from the Accounting and Auditing Institute in its Official Gazette.

5. In exceptional circumstances, it may be established that part of the international auditing standards adopted by the European Union referred to in this article is not applicable, when this is a result of the legal regulations relating to the audit scope, as long as the requirements and communication procedure provided for in Article 26, sections 2 and 3, of Directive 2006/43/EC of the European Parliament and of the Council of 17 May 2006 on statutory audits of annual accounts and consolidated accounts amending Council Directives 78/660/EEC and 83/349/EEC and repealing Council Directive 84/253/EEC are met.

Additional requirements may be imposed, other than those established in the international auditing standards adopted by the European Union in the terms foreseen in European Union law. These additional requirements can be provided for by a Resolution of the Accounting and Auditing Institute declaring the validity of the sections on the technical audit standards prior to the European Union adopting the international auditing standards in the same area, or by publication of new technical auditing standards limited to the aforementioned additional requirements.

## CHAPTER II

### **Requirements for carrying out audits.**

#### *Article 7. Official Register of Auditors.*

1. All legal or natural persons who meet the requirements described in the following articles and are included in the Official Register of Auditors of the Accounting and Auditing Institute can carry out audits.

2. The Official Register of Auditors will be available to the public and accessible on-line.

3. For auditors, that information will be as follows:

- a) Name, address, registration number and registration status.
- b) If the auditor is registered as a practitioner, it will include the business address, website address and registration number of the audit firm or firms with which they are associated.
- c) All other registrations as an auditor with the competent authorities of other Member States and as a third country auditor, indicating, the competent authorities with which they are registered and, if applicable, the registration numbers.

4. For audit firms, that information will be as follows:

- a) Name, company address, legal form, addresses of each of its operating offices, registration number and website address.
- b) Full name, address and registration number of each of the partners, stating the person or persons who carry out the duties of administration or management.
- c) Full name, address and registration number of the auditors that work for the audit firm, identifying those who are expressly designated to carry out audits and sign audit reports on behalf of the firm and the validity period of said designation.

d) If the firm is linked to the entities referred to in Article 17 or 18, it should provide information of the names and addresses of said entities, or indicate where this information can be publicly obtained.

e) All other registrations as an audit firm with the competent authorities of other Member States and third countries, indicating the competent authorities with which they are registered and, if applicable, the registration number.

5. Third country auditors, audit firms or other audit entities should be listed separately, and at all times be identified as those referred to in Article 9.3 and the final paragraph of Article 10.4 of this Law respectively, making reference to the fact that they are not approved to perform audits in Spain.

6. Registration in the Official Register of Auditors will not provide authority to carry out activities other than those provided for in Article 1, which will require the qualification and professional association conditions set forth in the applicable legislation on each case.

7. Auditors registered in the Official Register of Auditors, except those referred to in Article 9.3 of this Law, must take courses and complete continuing education programmes, which may be given, according to the method and conditions provided for in regulations, by the corporations that represent auditors, authorised teaching entities or other entities.

#### *Article 8. Approval and registration in the Official Register of Auditors.*

1. In order to be registered in the Official Register of Auditors one must:

- a) Be of legal age.
- b) Have Spanish nationality or the nationality of one of the Member States of the European Union, without prejudice to the regulations on the right of establishment.
- c) Not have a criminal record with intentional offences.
- d) Have obtained the corresponding approval from the Accounting and Auditing Institute.

2. The approval referred to above will be granted to those who meet the following conditions:

- a) Hold a university degree.

This requirement will not apply to anyone who meets the rest of the requirements established in this section and has completed studies or obtained degrees entitling them to pursue university studies and has acquired the practical training indicated in paragraph b) of this section over a minimum period of at least eight years working in the financial and accounting sector, particularly in relation to the oversight of annual accounts, consolidated annual accounts and similar financial statements, at least five of which must have been spent working with an auditor or audit firm, practicing the audit activity in any Member State of the European Union.

To compute the amount of practical experience acquired prior to the passage of Law 19/1988 of 12 July, on Auditing such practical experience must be certified by those who, at the time, were practicing members of the Instituto de Censores Jurados de Cuentas, the Registro de Economistas Auditores pertaining to Consejo General de Colegios de Economistas de España and the Registro General de Auditores pertaining to Consejo Superior de Colegios Oficiales de Titulares Mercantiles de España.

- b) Must have attended theoretical educational programmes and acquired practical experience.

Theoretical educational programmes should cover the subjects referred to in the next letter of this section.

Practical training should be for a minimum period of three years working in the financial and accounting sector, and will relate specifically to annual accounts, consolidated accounts or similar financial statements. At least two years of said practical training must be performed

with an auditor or an audit firm, practicing the audit activity in any Member State of the European Union.

c) Pass a professional competence examination organised and endorsed by the state.

The professional competence examination, which is intended to rigorously check the candidate's ability to carry out audits, must cover the following subjects: the regulatory framework for financial information; financial analysis; analytical cost accounting and management accounting; risk management and internal monitoring; auditing and rules of access; applicable regulations to monitoring auditing, auditors and audit firms; international auditing standards; and standards on ethics and independence. The aforementioned examination must also cover, to the extent required to carry out audits, the following subjects: law on companies, other entities and governance; insolvency, tax, civil and commercial law; social security and employment law; information technology and computer systems; business, general and financial economy; mathematics and statistics; and basic principles of the financial management of undertakings.

Persons who have an official university qualification that is valid throughout Spain, which is one of those regulated in Organic Law 6/2001, of 21 December, on Universities, will be excused from the professional competence examination in the subjects they have passed in the studies required to obtain said qualifications.

3. The competence examination will be a one-time exam to be held at the joint proposal of the corporations that represent auditors and audit firms or alternatively by the Accounting and Auditing Institute, with the latter's approval of the announcement which will be published by the Ministry of Economy and Finance. Anyone who passes these examinations will be entitled to membership in the corporations that represent auditors and audit firms in relation to the practice of the audit activity, notwithstanding any specific requirements set out in each corporation's bylaws.

The standards for approving the contents of the programmes, the frequency, the composition of the panel, which must include at least one member from each one of the corporations that represent auditors and audit firms and the length of the practical training required will be established in the regulations.

4. Registration in the Official Register of Auditors will be open to public servants whose training and functions are related to public sector audits or examining and evaluating the financial and equity situations and the performance of financial institutions or insurance companies that have been selected as public servants based on a competitive examination or other examination process which makes it possible to verify the theoretical training and practical experience needed to perform such functions, as long as they meet all of the other registration requirements established in this article.

The requirement relative to theoretical training programmes and professional competence examination established in part 2, paragraphs b) and c) of this article shall be understood to have been met when the candidate has passed the competitive examinations and selection process for access to public sector employment referred to in the preceding paragraph.

Furthermore, the practical training requirements established in paragraph b), part 2 of this article shall be understood to have been met when the candidate can certify that he/she has been auditing the annual accounts, consolidated annual accounts or similar financial statements of financial institutions or insurance companies for at least three years.

5. The presentation of a statement of compliance or prior communication will not provide approval to carry out audits. A request to access the Official Register of Auditors will not be understood as accepted as a result of administrative silence and, therefore, as approval to perform audits."

*Article 9. Auditors approved in other Member States of the European Union and in third countries.*

1. Auditors approved to practice the audit activity in other Member State of the

European Union can register in the Official Register of Auditors, under the terms set forth in regulations.

In order to be approved by the Accounting and Auditing Institute, auditors have to pass a competence test on Spanish regulations applicable to audits, the knowledge of which has not been proven in the Member State in which the auditor is approved.

2. Pursuant to the principle of reciprocity, auditors who are approved to practice the audit activity in third countries and who meet requirements equivalent to those established in article 8.2, paragraphs a), b) and c) as well as the obligation to receive the continuing education referred to in article 7.7 will be eligible for registration in the Official Register of Auditors.

In order to obtain approval from the Accounting and Auditing Institute, they must prove, at least, compliance with the requirements set forth in article 8.1, paragraphs a) and c), pass a competence examination similar to that referred to in the previous paragraph, under the terms set forth in regulations, and have an address or permanent establishment in Spain or designate a representative with an address in Spain.

3. Without prejudice to the provisions of European Union regulations, third-country auditors that issue audit reports on the annual accounts or consolidated accounts of an entity incorporated outwith the European Union and whose securities are admitted to trading in Spain must be registered in the Official Register of Auditors, except when the audited entity only issues debentures, bonds and other negotiable debt securities with a nominal value per unit of at least 50,000 euros or an equivalent amount. This exception will not apply when the entity issues securities that are equivalent to company shares or which, if they are converted or if the conferred rights are exercised, grant entitlement to acquire shares or securities equivalent to shares.

Auditors referred to in this section must meet requirements equivalent to those set forth in sections 8.1, letters a) and c) and 8.2, letters a), b) and c), and designate a representative with an address in Spain.

Registration of these auditors in the Official Register of Auditors does not authorise them to carry out audits in relation to entities domiciled in Spain.

Without prejudice to the provisions of European Union regulations, audit reports issued by third-country auditors who are not registered in the Official Register of Auditors will have no legal effect in Spain.

#### Article 10. *Audit firms.*

1. Audit firms that meet the following requirements can register in the Official Register of Auditors:

a) When the individuals who perform the work and sign the audit reports on the company's behalf are authorised to practice as auditors in Spain.

b) When the majority of voting rights belong to auditors or audit firms authorised to practice the audit activity in any Member State of the European Union.

c) When the majority of members of the governing body are auditors partners or audit firms authorised to practice the audit activity in any Member State of the European Union.

If the governing body has only two members, at least one of the members must meet the conditions established in this clause.

2. The terms of article 8.5 will apply to audit firms.

3. The direction and signing of the audit works carried out by an audit firm shall correspond on each case to one or more auditors partners or auditors who are authorised to practice as such in Spain and who have been appointed by the audit firm to conduct the audit and sign the audit report in its name.

4. The third-country audit firms and other audit entities that issue audit reports on the annual accounts referred to in article 9.3 of this Law must be registered in the Official Register of Auditors. In those cases, the person who signs the report on behalf of the company must meet the requirements established in that article.

In order to be registered in the Official Register of Auditors, these audit firms and other audit entities must meet the following requirements:

a) The auditor who signs the report on the company's behalf and a majority of the members of the governing body must meet requirements that are equivalent to those set out in parts 8.1. paragraphs a) and c) and 8.2. paragraphs a), b) and c).

b) The audit reports referred to herein must be drafted in accordance with the international auditing standards adopted by the European Union and the terms of Section 1, Chapter III or pursuant to the standards and requirements declared equivalent by the European Union.

c) The company must designate a representative with an address in Spain.

d) The company must publish the annual transparency report referred to in Article 26 or a report that meets similar disclosure requirements on its Internet website.

Audit reports issued by audit firms and other audit entities which are not registered will have no legal effect in Spain, without prejudice to the provisions in European Union regulation.

Registration of these audit firms and other audit entities in the Official Register of Auditors does not authorise them to conduct audits.

The audit firms and other audit entities referred to herein will be removed from the Official Register of Auditors if they fail to comply with any of the requirements established in this section, voluntarily or by sanction.

#### Article 11. *Withdrawal from the Official Register of Auditors.*

1. Auditors will withdraw temporarily or permanently from the Official Register of Auditors under the following circumstances:

a) Due to a breach of any of the requirements established in articles 8 and 9. The auditor must report said breach to the Accounting and Auditing Institute.

b) Voluntary withdrawal.

c) For failing to maintain the guarantee discussed in article 23.

d) By sanction.

2. In addition to the circumstances mentioned above, audit firms will be temporarily or permanently removed from the Official Register of Auditors when they breach any of the requirements established in article 10.1.

Audit firms must notify the Accounting and Auditing Institute of any breach of the requirements set forth in this article so that it may be entered in the Official Register of Auditors.

Any breach that lasts more than three months will result in removal from the Register.

The above notwithstanding, before the three months have elapsed the Accounting and Auditing Institute may request that the requirements of this article be met within a certain period of time, after which, if this is not the case, the Auditor will be removed from the Register.

### CHAPTER III.

#### **Performing the audit activity.**

##### *Section 1.<sup>a</sup> Independence*

#### Article 12. *General principle of independence and obligation to adopt safeguards.*

1. Auditors and audit firms must be independent, when carrying out their work, from the audited entities, and must abstain from acting when their independence in relation to the review and verification of financial statements or other accounting documents may be

compromised.

Auditors and audit firms must abstain from taking part in the audited entity's decision-making process under the terms provided for in article 13.

In order to guarantee their independence, auditors and audit firms must establish safeguards that enable threats to the aforementioned independence to be detected, assessed, reduced and, if applicable, eliminated. In any event, the safeguards will be appropriate to the size of the audit activity or audit firm.

These safeguards will be periodically reviewed, applied individually to each audit and documented on working papers for each audit.

Threats to independence can stem from factors such as self-review, self-interest, advocacy, familiarity or trust, or intimidation. If the importance of these factors with regard to the safeguards implemented is such that it compromises their independence, the auditor or audit firm will abstain from carrying out the audit.

2. The Accounting and Auditing Institute is the organisation responsible for monitoring adequate compliance with the duty of independence, as well as assessing in each specific audit the possible lack of independence of an auditor or audit firm.

#### Article 13. *Causes of incompatibility.*

In any event, an auditor or an audit firm will be deemed not to enjoy sufficient independence in the exercise of their duties for a company or entity, in addition to the incompatibility situations provided for in other laws, when the auditor signing the audit report is affected by any of the following circumstances:

a) Holding a management or administration position, having a job or carrying out internal supervision in the audited entity, or having been granted general powers of attorney by the audited entity.

b) Having a direct or indirect financial interest in the audited entity if, in either case, this is significant for any of the parties.

c) The existence of relationships by marriage, consanguinity or affinity to the first degree, or collateral consanguinity to the second degree, including the spouses of persons with whom they have these relationships, with employers, directors or managers of the audited entity's financial and economic department.

d) The record-keeping or preparation of the audited entity's financial statements or other accounting documents.

e) The provision of valuation services to the audited entity that lead to the valuation of significant amounts, measured in terms of materiality, in the financial statements or other accounting documents of said entity for the audited period or financial year, provided that the valuation work involves a significant level of subjectivity.

f) The provision of internal audit services to the audited entity, unless the management body of the audited entity or company is responsible for the overall internal control system, the determination of the scope, risk and frequency of internal audit procedures, the assessment and implementation of the results and recommendations provided by the internal audit.

g) The provision of advocacy services to the audited entity, simultaneously for the same client, unless said services are provided by different legal persons with different boards of directors, and without being able to refer to the resolution of disputes on issues that may have a significant impact, measured in terms of materiality, on the financial statements for the audited period or financial year.

h) The receipt of fees for the provision of audit and non-audit services to the audited entity, provided that these fees represent a significant percentage of the total annual income of the auditor or audit firm, based on the average income of the last three years.

i) The provision of design and implementation of financial information technology systems to a client, used to generate data included in the financial statements of said client, unless the client assumes responsibility for the overall internal control system or the provided

service in accordance with the specifications established by the client, who must also assume responsibility for the system's design, implementation, evaluation and operation.”

2. For the purposes of this article, any reference to financial statements shall be understood to refer to the rest of the documents mentioned in article 1.2, when they are part of the audit.

*Article 14. Time period calculation.*

For the purposes of the provisions of articles 12 and 13, the incompatibility period will run from the beginning of the first year prior to the financial year to which the financial statements or other accounting documents refer to, until the date on which the auditor or audit firm finishes the audit of said statements or documents.

However, in the event of incompatibilities arising from article 13.b), the incompatibility situation must be resolved prior to accepting the appointment as auditor.

The calculation period referred to in this article will apply in the circumstances referred to in Articles 15, 16, 17 and 18, with the particular conditions provided for therein.”

*Article 15. Subjective extensions to entities related to the audited entity.*

For the purposes of articles 12 to 14, the references to the audited entity will cover all other entities with which, at any time since the start of the financial year that the financial statements or other documents refer to up to the date of the audit report, it is directly or indirectly linked by one of the control relationships set forth in Article 42 of the Commercial Code, by the existence of the same decision-making unit due to being controlled the audited entity and other entities, by any means, by one or several natural or legal persons who are acting jointly or are under the same management by agreements or statutory clauses, or by the existence of significant influence, under the terms provided for in Article 47 of the Commercial Code.

*Article 16. Incompatibilities derived from situations involving family members of the signing auditor.*

1. The auditor or audit firm will be deemed not to enjoy sufficient independence in the exercise of their duties for an audited entity, in the event of, in addition to the circumstances provided for in other laws, the circumstances set forth in article 13 on the spouse of the auditor signing the audit report and in those cases in which the auditor has relationships by consanguinity or affinity up to the first degree, or relationships by collateral consanguinity up to the second degree, including the spouses of those with whom they have these latter relationships.

2. For the purposes of the previous section, the following particular conditions will be taken into account:

a) The provisions of article 15, for the purposes of deeming an entity to be linked to the audited entity, will be generally applicable.

b) The performance of jobs has to affect the preparation of significant information, measured in terms of materiality, contained in the audited entity's financial statements or other accounting documents.

c) The following rules shall apply in those cases where the person occupies a management position or any of the employment or supervisory positions referred to in article 13.a) and in the situations discussed in paragraphs b), e), f), g) and i) of article 13:

1°. Article 15 will not apply in the event that it is an entity over which the audited entity holds control or significant influence and that entity is not, in terms of materiality, significant for the audited entity.

2°. The calculation period for incompatibilities will start from the beginning of the financial

year to which the audited financial statements or other accounting documents refer to, until the date on which the corresponding audit work ends.

d) The circumstances indicated in article 13.c) shall not apply to the persons referred to in part 1 of this article.

*Article 17. Incompatibilities derived from situations involving persons or entities directly related to the auditor or audit firm.*

1. An auditor or an audit firm will be deemed not to enjoy sufficient independence in the exercise of their duties for an audited entity when, in addition to the circumstances provided for in other laws, the circumstances set forth in article 13 occur with the following persons and entities:

a) The partners of the audit firm and the auditors or audit firms with which they have a direct or indirect relationship. For the purposes of determining the existence of a direct or indirect relationship with auditors or audit firms, the criteria contained in article 15 will apply.

b) Persons with the capacity to influence the final result of the audit, including the partners, whether or not they are auditors, who are responsible for supervising or managing the audit work and are able to have a direct influence over its evaluation and final result.

2. For the purposes of the previous section, the following particular conditions will be taken into account:

a) In the event that the persons referred to in paragraph a) above are affected by the circumstance provided for in article 13) c), the auditor or audit firm will only be deemed not to enjoy sufficient independence in the exercise of their duties when, due to the structure and size of the audit firm there may be a relationship with possible effects or influence on the result of the audit work.

b) The provisions of article 15, for the purposes of deeming an entity to be linked to the audited entity, will be generally applicable.

*Article 18. Incompatibilities derived from situations involving other persons or entities in the auditor's or audit firm's network.*

1. An auditor or an audit firm will be deemed not to enjoy sufficient independence in the exercise of their duties for an audited entity when, in addition to the circumstances provided for in other laws, the circumstances set forth in article 13 occur with the following persons and entities, excluding the persons or entities referred to in the previous article, with which the auditor signing the audit report or the audit firm on whose behalf the audit is being carried out form part of the same network.

A network is understood as a structure to which an auditor or audit firm belongs and whose objectives, in addition to cooperation, clearly include sharing profits or costs; or that shares common ownership, control or management; shared quality control policies and procedures; a common business strategy; use of a common trade name; and sharing a significant part of the network's professional resources.

In any event, the entities referred to in Article 42 of the Commercial Code or the entities that are part of the same decision-making unit due to being controlled, by any means, by one or several natural or legal persons who are acting jointly or are under the same management by agreements or statutory clauses, or which are linked by the existence of significant influence under the terms provided for in Article 47 of the Commercial Code, will be deemed to form part of the same network of linked entities.

2. For the purposes of the previous section, the following particular conditions will be taken into account:

a) Holding a management position or having a job provided for in article 3 a) has to affect or be related to the preparation of significant information contained in the audited entity's financial statements or other accounting documents.

b) The occurrence of the circumstances provided for in paragraphs b) and c) of article 13 will be taken into account for those persons who, in the related-party entities, hold the position of partner, director, secretary of the administrative body or general power of attorney, and the auditor or audit firm will only be deemed not to enjoy sufficient independence in the exercise of their duties when, due to the structure and overall size of the audit firm and the entities linked to it, there may be a relationship with possible effects or influence on the result of the audit work

c) The provisions of article 15, for the purposes of deeming an entity to be related to the audited entity, will be generally applicable. However, in the event that they hold a management position, have a job or carry out internal supervision provided for in article 13.a), and in the circumstances set forth in letters b), e), f), g) and i) of article 13, it will not apply in the event that it is an entity over which the audited entity holds control or significant influence and that entity is not, in terms of materiality, significant for the audited entity.

#### Article 19. *Hiring and rotation.*

1. Auditors and audit firms will be hired for a specific initial time period, which may not be less than three years or longer than nine counting from the date on which the first financial year to audit begins, and can be hired for maximum successive three-year terms once the initial term has come to an end. If at the end of the initial term of the contract or the extension thereof, neither the auditor or audit firm nor the audited entity state their intention to the contrary, the contract will be tacitly extended for a three-year term.

During the initial term, or before the end of each of the jobs they were hired for after the initial term has come to an end, the contract cannot be terminated without a just cause. Differences of opinion on the accounting treatment or audit procedures are not a just cause. In this case, the auditors and the audited company must inform the Accounting and Auditing Institute of the termination of the audit contract.

2. In the case of public-interest entities, or companies whose net turnover is over 50,000,000 euros, once seven years of the initial contract have elapsed, the rotation of the auditor signing the audit report will be compulsory, and under all circumstances a period of two years must pass before said person can return to audit the corresponding entity.

This rotation will be compulsory when in the seventh year or, failing that, in the subsequent years, the audited entity is classed as a public-interest entity or its net turnover is over 50,000,000 euros irrespective of the fact that, during the passing of the aforementioned period, the audited entity has not been for any length of time in any of the circumstances described in this paragraph.

3. However, when the audits are not compulsory, the limitations provided for in the foregoing sections of this article will not apply.

#### Article 20. *Prohibitions once the audit work has concluded.*

1. The prohibitions contained in other laws notwithstanding, for two years after the end of the corresponding audit work, the auditors signing the audit report and the audit firms on whose behalf the audit is being carried out cannot form part of the administrative or managing body of the audited entity, of the entities of the group to which the audited entity belongs as defined in Article 42 of the Commercial Code, or of entities controlled by any means by one or more natural or legal persons who are acting jointly or are under the same management through agreements or statutory clauses, or hold a job, or have a direct or indirect financial interest in said entities if, in any of the cases, it is significant for any of the parties.

The prohibition referred to in the previous paragraph applies to the following persons:

a) The partners, whether or not they are auditors, of an audit firm who are responsible for supervising or managing the audit work and are able to have a direct influence over its evaluation and final result.

b) The partners of the audit firm and the auditors appointed to carry out audits on their behalf who have not been involved or been able to influence the audit work, unless they cease to have any link or interest with the audit firm before forming part of the aforementioned bodies, having a job in the audited entity or having a financial interest and provided that their objectivity cannot be compromised by the existence of possible reciprocal influences between said partners and the signing auditor or audit firm.

2. The breach of the prohibition will carry with it the incompatibility of the auditor signing the report and the audit firms on whose behalf the audit was carried out, as well as auditors and audit firms directly or indirectly linked to the auditors and audit firms referred to in this article, to carry out the audit work of the entity or the companies that form part of the group under the terms of Article 42 of the Commercial Code, as of the moment in which said prohibition is breached and for the two subsequent years.

For the purposes of determining the existence of a relationship with auditors or audit firms on whose behalf the audit was carried out, and with the parties referred to in this article, the criteria contained in article 15 will apply.

3. The provisions of this article will not apply when the financial interest stems from causes that happened unexpectedly afterwards that are not attributable to the auditor, or is acquired under normal market conditions by the auditor, the partner of the audit firm or the auditor appointed to carry out audits on its behalf, provided that in these situations they no longer have any link or type of interest with the audit firm.

#### *Article 21. Fees and transparency in the remuneration of auditors and audit firms.*

1. The fees for audit services will be established before the auditor or audit firm begins its work and will cover the entire period during which the services are to be performed. These fees may not be influenced or determined by any additional services provided to the audited company, and cannot be based on any type of contingency or condition other than a change in the original circumstances which served as the basis for establishing the fees. Auditors or audit firms may not receive any other remuneration or benefit for the performance of their functions.

2. Auditors and audit firms must notify the Accounting and Auditing Institute each year of the hours worked and fees charged to each audited firm, distinguishing between audit work and other services rendered, along with any other information required by the Accounting and Auditing Institute to perform its functions.

### *Section 2. Liability and guarantee*

#### *Article 22. Liability.*

1. Auditors and audit firms will be liable for the damages caused by a breach of their obligations under the general rules of the Civil Code, with the particularities established in this article.

2. The liability of the auditors and audit firms will be proportionate to their direct liability for the economic damages caused to the audited entity and to third parties by their professional conduct.

To this end, a third party means any natural or legal person, public or private, who proves that they acted or stopped acting based on an audit report, with this being an essential and appropriate element for forming their agreement, motivating their action or making their decision.

Auditors will be personally and individually liable, excluding the damages caused by the audited company itself or by third parties.

3. When an audit is conducted by an auditor on behalf of an audit firm, both the auditor who signs the report and the firm will be jointly and severally liable, up to the limits set out in the previous section.

4. The contractual liability of the auditor and the audit firm becomes statute-barred four years after the date of the audit report.

#### Article 23. *Guarantee.*

Notwithstanding the liability regulated in the preceding article, auditors and audit firms will provide guarantees in the form of cash, public debt securities, bank bonds or liability insurance in the amount and in the manner determined by the Ministry of Economy and Finance to cover the damages caused by their professional conduct. The amount will be proportionate to the volume of business. The guarantee will be established for the first year of activity in the regulations.

### *Section 3. Duties of custody and secrecy*

#### Article 24. *Duty of conservation and custody.*

Auditors and audit firms will keep all documentation for each audit conducted on file for five years following the date of the audit report, including the auditor's working papers, which constitutes the evidence and supporting documentation for the conclusions reached in the report.

#### Article 25. *Duty of secrecy and access to documentation.*

1. The auditor who signs the report, the audit firm and its partners, the auditors designated to conduct audits in the audit firm's name and anyone else who participates in the performance of an audit will be obliged to keep the information to which they have access in the performance of their duties secret, refraining from using the information for purposes other than the audit, notwithstanding the disclosure obligations referred to in article 262 of the Criminal Procedures Act.

2. Notwithstanding the contents of the clauses of the audit contract, the documentation on each audit may be accessed by the following parties, who will be bound by the obligations established in the preceding section:

a) The Accounting and Auditing Institute, both in the performance of its legally-established functions of supervising and disciplining the audit activity and in the course of the international cooperation referred to in articles 42 and 43.

b) Those designated by a court order.

c) Those authorised by Law.

d) The Bank of Spain, the National Securities Market Commission, the Directorate General of Insurance and Pension Funds and the competent regional authorities with the responsibility for supervising the insurance sector, for the sole purpose of exercising their authority relative to the entities subject to their supervision and control, in especially serious cases, as provided for in the first final provision and only when they are unable to obtain the specific documentation they require from the said entities. The bodies legally entrusted with the internal and external control of the economic-financial management of the public sector in relation to the audits of the public entities falling under the scope of their jurisdiction. These bodies may request information from the auditor or audit firm on a particular matter in relation to the audit of the public entity's accounts and clarification of the contents of the working papers.

e) The corporations that represent auditors for the sole purpose of verifying that the auditors have observed internal practices and procedures in the performance of their auditing duties.

f) Auditors and audit firms, not only under the circumstances referred to in article 5 but also in the event of the substitution of an auditor or audit firm. In the event of a substitution, the predecessor auditor or audit firm will provide the successor auditor or audit firm with all of the information related to the audited entity.

g) The competent authorities in Member States of the European Union and third countries, to the extent that this is provided for in articles 42 and 43, respectively.

#### *Section 4. Obligation to disclose information*

##### *Article 26. Annual transparency report.*

1. Auditors and audit firms that audit the accounts of public interest entities and the third-country audit firms and other audit entities referred to in article 10.4 must publish an annual transparency report on their Internet websites within three months of the end of each fiscal year, which must include the following information:

- a) For audit firms, a description of the legal status and owners of the company.
- b) When the auditor or audit firm is related to the entities or persons referred to in articles 17 and 18, a description of those entities or persons and the statutory clauses or agreements regulating the relationship.
- c) A description of the governing bodies of the audit firm.
- d) A description of the auditor's or audit firm's internal assurance system and a declaration by the board of directors or governing body on the effectiveness of its operations, indicating when the most recent quality control process referred to in article 28.1 took place.
- e) A list of the public-interest entities whose accounts they audited in the last year.
- f) Information on the procedures or protocols followed by the auditor or the audit firm to guarantee their independence, including internal reviews conducted to ensure compliance with the obligation to remain independent.
- g) Information on the policy concerning continuing education of auditors.
- h) Information on the total volume of business with a breakdown of the revenues from audit activity and that from other services.
- i) Information on what shareholder remuneration is based on.

2. The transparency report will be signed by the auditor or by the person(s) representing the audit firm or the other audit entity.

## CHAPTER IV

### **Public supervision of the audit activity.**

#### *Section 1. Public supervision and control of the audit activity*

##### *Article 27. Public supervision system.*

1. All auditors and audit firms are bound, in the performance of the activities referred to in article 1, to the system of public, objective and independent supervision, as established in this Chapter.

2. The public oversight system will be overseen by the Accounting and Auditing Institute.

3. In particular, the public oversight system is responsible for:

a) Approval and registration of auditors and audit firms in the Official Register of Auditors.

b) The adoption of ethical standards and internal quality assurance standards for the audit activity, technical auditing standards according to the terms of this law and supervision of compliance with those standards.

- c) Continuing education of auditors.
- d) Quality control, investigation systems and disciplinary system.

4. In addition to its legally assigned functions, the Accounting and Auditing Institute is responsible for overseeing the audit activity, for exercising disciplinary powers over auditors and audit firms and for international cooperation in relation to the audit activity.

The Accounting and Auditing Institute is also responsible for the Official Register of Auditors.

5. Appeals may be filed with the Ministry of Economy and Finance against the resolutions of the Accounting and Auditing Institute in the performance of its legally-entrusted duties. The Ministry's decision signals the end of the administrative channel."

#### Article 28. *Supervision of the audit activity.*

1. Controlling the audit activity will be accomplished by conducting investigations into the actions of auditors and audit firms and inspections of auditors and audit firms, consisting primarily of technical control and quality control actions.

Technical control consists of investigating certain audit works or aspects of the audit activity in order to determine the events or circumstances which could constitute a non-conformity of the audit activity or the audit work with the terms of this law, its regulations and the rules governing the audit activity.

Quality control consists of periodically inspecting or reviewing the work of auditors or audit firms in order to improve the quality of the audit work, primarily by means of the formulation of requests for improvement. Quality control will include verifying the internal assurance systems of auditors and audit firms and reviewing the procedures documented in the audit files in order to evaluate the efficiency of the assurance systems.

2. The Accounting and Auditing Institute may request from auditors, audit firms and the entities referred to in articles 17 and 18 any and all information it deems necessary to perform the entrusted supervisory functions. The Accounting and Auditing Institute may conduct the investigations and inspections it deems necessary to obtain such information and confirm its veracity. The individual and legal entities referred to in this section are obligated to provide the Accounting and Auditing Institute with any and all books, records and documents it requests, regardless of the medium, including computer programs and magnetic, optical or any other type of file.

At the discretion of the Accounting and Auditing Institute, the supervisory activities of the audit activity may be carried out:

- a) At any office or location of the auditor or audit firm or any of the entities referred to in articles 17 and 18.
- b) On the premises of the Accounting and Auditing Institute.

When the activities are carried out at the locations indicated in paragraph a) above, they will be carried out during regular business hours, although other times and dates may be arranged by the parties by mutual agreement.

#### Article 29. *The Accounting and Auditing Institute.*

1. The actions of the Accounting and Auditing Institute, an independent body attached to the Ministry of Economy and Finance, are governed by the general laws and provisions applicable to it, particularly the terms of this law and the provisions for these types of public bodies contained in Law 6/1997 of 14 April, on the Organisation and Functioning of the National Administration.

2. The governing bodies of the Accounting and Auditing Institute are: The Chairman, Audit Committee and the Accounting Board.

a) The Chairman, acting as the Director General, is proposed by the Ministry of Economy and Finance and appointed by the Government and is the legal representative of the Accounting and Auditing Institute, exercising the powers vested in him/her by this law and determined in the Institute's bylaws.

b) The Audit Committee is the advisory body of the Accounting and Auditing Institute. It is chaired by the Chairman of the Institute and composed of a maximum of thirteen members designated by the Ministry of Economy and Finance, broken down as follows: three representatives from the Ministry of Economy and Finance, one each from the National Securities Market Commission, the Directorate General of Insurance and Pension Funds and the Office of the State's Inspector General; one representative from the National Audit Office; four auditor's representatives; one representative from the Bank of Spain; one member with a legal or fiscal background or a state's attorney or Mercantile Registrar; an investment analyst; and one renowned expert in the field of accounting and auditing.

c) Once the Accounting Consultancy Committee has been heard, the Accounting Board is the competent body for assessing the suitability and adaptation of whatsoever regulatory proposal or interpretation of general interest regarding accounting within the Conceptual Framework of Accounting regulated by the Commercial Code. Accordingly, it notifies the competent bodies and organisations before approving accounting standards, as well as their interpretations, issuing the corresponding non-binding report. The Accounting Board is chaired by the Chairman of the Institute, who casts the deciding vote, and along with him by a representative from each one of the other centres, bodies and institutions responsible for regulating accounting matters within the financial system: Bank of Spain, National Securities Market Commission and the Directorate General of Insurance and Pension Funds. A civil servant from the Accounting and Auditing Institute acts as the Secretary of the Board and attends meetings with the right to be heard but not vote.

Also sitting on the Accounting Board and attending with the right to be heard but not vote is a representative of the Ministry of Economy and Finance designated by the head of the Ministry.

The Accounting Consultancy Committee is the advisory body of the Accounting Board. The Committee is composed of reputable accounting experts in the fields of economics and finance who represent both the public sector and the different private sectors involved in the preparation, use and distribution of the information. There should be representatives from: the Ministry of Justice; the Ministry of Economy and Finance through the Accounting and Auditing Institute; the Directorate General of Insurance and Pension Funds; the National Securities Market Commission; the National Statistics Institute; the Office of the State's Inspector General; the Directorate General of Taxation; the Bank of Spain; Registro de Economistas Auditores; Registro General de Auditores; a representative from the associations or organisations that represent the issuers of economic information and a representative of the users of accounting information; associations that issue accounting principles and criteria; a professional auditor to be proposed by the Instituto de Censores Jurados de Cuentas and a representative from the University..

The Chairman may appoint up to five renowned professionals in the field of accounting.

In addition, the Chairman may, depending on the complexity of the issue, invite an accounting expert to attend the meeting.

The Accounting Consultancy Committee may be asked to deliberate on any regulatory project, proposal or interpretation in relation to accounting.

Generally speaking, the power to make proposals lies, in the manner and under the conditions established in the regulations, with the Accounting and Auditing Institute, notwithstanding those relative to the financial sector which are the responsibility of the Bank of Spain, the National Securities Market Commission and the Directorate General of Insurance and Pension Funds and without prejudice to the possibility of making joint proposals.

The composition of the Committee, the way in which members are appointed and the actions of the Committee will be determined in the regulations.

3. Attendance at the meetings of the Audit Committee and the Accounting Consultative Committee will be remunerated.

## *Section 2. Violations and sanctions*

### *Article 30. Administrative disciplinary power.*

1. The Accounting and Auditing Institute has the power to sanction auditors and audit firms as well as the persons and entities referred to in articles 17 and 18 and non-auditors who are subject to the prohibitions established in articles 20 and 25 with regard to the violations considered in this law.

2. The sanctioning powers referred to above will be exercised in accordance with the terms of Title IX of Law 30/1992 of 26 November, on Public Administrations and Common Administrative Procedures, this law and its regulations.

3. The deadline for resolving and notifying resolutions in the disciplinary proceedings associated with the violations established in this law is one year, which may be extended according to the terms of articles 42.6 and 49 of Law 30/1992 of 26 November on Public Administrations and Common Administrative Procedures.

4. Their civil or criminal liability will be callable as provided for under the law.

### *Article 31. Liability.*

1. The following persons may be considered liable for the violations established in this law:

- a) Auditors and audit firms.
- b) For violations committed by audit firms in connection with a particular audit work, both the audit firm and the auditor who signs the audit report on its behalf, whether or not the auditor is a partner, may be considered liable.
- c) The persons and entities referred to in articles 17 and 18.
- d) Non-auditors subject to the prohibitions established in articles 20 and 25.

2. A breach deriving from a reasonably justified legal or technical discrepancy will not be considered a breach of auditing rules. To this end, and in order to verify the reasonableness of the auditor's interpretation of the technical auditing standards, the auditor must document his/her interpretations to demonstrate their reasonableness.

3. A violation committed in relation to a single event may only give rise to one sanction against the auditor who signs the audit report on behalf of the audit firm and only one sanction against the audit firm on whose behalf the audit report was signed.

### *Article 32. Violations.*

The violations committed by the persons referred to in article 31.1 are classified as very serious, serious and minor.

### *Article 33. Very serious violations.*

Very serious violations include:

a) Issuing an audit report in which the opinion is not consistent with the results obtained by the auditor, provided there is particularly serious or inexcusable negligence or intentionality involved.

b) A breach of the terms of articles 12.1, 13, 15, 16, 17 or 18 with regard to the duty of independence, provided there is particularly serious and inexcusable negligence or fraud involved.

c) The refusal or reluctance of the auditor or audit firm to abide by the supervisory or disciplinary powers of the Accounting and Auditing Institute or the failure to provide the Institute with all requested information or documentation in the performance of its legally assigned supervisory and disciplinary functions of the auditing activity, as provided for in article 28.

d) A violation of the secrecy obligation established in article 25.

e) Using the information obtained in the performance of their duties for their own benefit or that of third parties.

f) A violation of the prohibition imposed under article 37.3.

g) A breach of the custody obligation established in article 24, except in situations of force majeure beyond the control of the auditor or audit firm.

#### Article 34. *Serious violations.*

Serious violations include:

a) A breach of the obligation to conduct an audit that has been accepted or ordered by a court or by the Mercantile Register for reasons attributable to the auditor or the audit firm, even in those cases where the circumstances required in article 3.2 herein for not issuing audit reports are not met or when the auditor or audit firm has withdrawn from the audit contract; issuing an audit report which, in view of the issue date, does not serve the purpose for which the audit was originally requested, for reasons attributable to the auditor or the audit firm.

b) A failure to abide by auditing standards that could have a significant effect on the result of the work and, by extension, on the report.

c) A breach of the terms of articles 12.1, 13, 15, 16, 17 or 18 with regard to the duty of independence, provided there is no particularly serious and inexcusable negligence or intentionality involved, or a breach of the terms of articles 19, 20 or 21.

d) The failure to provide the Accounting and Auditing Institute with the legally or statutorily required periodic or circumstantial information within three months of the stipulated deadline for doing so or providing information that is substantially incorrect or incomplete.

e) Accepting audit work that exceeds the auditor's annual hourly capacity, as established in the auditing standards.

f) A violation of the terms of the first final provision.

g) Issuing a report and indentifying oneself as the auditor of work other than that regulated in article 1 or different to the other types of work which auditors are legally allowed to perform, when such reports could mistakenly be construed as audit reports.

h) Working as an auditor without being registered in the Official Register of Auditors or without having provided the pertinent guarantee.

i) A breach of the terms of article 12.1 in relation to the safeguards applied when such measures are insufficient or non-existent.

j) The failure to comply in a timely manner with the quality control requirements set out in article 28.1.

k) A breach of the obligation to publish an annual transparency report or the publication of a report containing substantially incorrect or incomplete information, as provided for in article 26.

l) The refusal or reluctance of the non-auditors referred to in articles 17 and 18 to abide by the supervisory or disciplinary powers of the Accounting and Auditing Institute or the failure to provide the Institute with all requested information or documentation in the performance of its legally assigned functions, as provided for in article 28.2.

ll) The non-existence or substantial failure of the auditors or accounting firms to apply internal quality control systems.

m) The failure to notify a breach of any of the requirements imposed on auditors or audit firms to be eligible for registration in the Official Register of Auditors and continuing to practice the auditing profession.

n) A breach of the terms of article 7.7 regarding continuing education.

ñ) Signing an audit report on behalf of an audit firm when the signing auditor was not

specifically designated by the firm to do so.

o) A breach of the obligation to provide the successor auditor, in those cases where the auditor is being replaced, or the auditor or audit firm of a group, in those cases where the consolidated annual accounts are being audited, with access to the documentation related to the audited entity or the consolidated group, respectively.

#### Article 35. *Minor violations.*

Minor violations include:

a) Any actions or omissions not mentioned in the preceding sections that constitute a breach of auditing standards.

b) The failure to forward the legal or statutorily required information of a periodic or circumstantial nature by the established deadlines, provided that no more than three months have elapsed since the reporting deadline.

#### Article 36. *Sanctions.*

1. When a very serious violation is committed by an auditor individually, one of the following sanctions will be imposed:

a) Withdrawal of the authorisation and permanent removal from the Official Register of Auditors.

b) Suspension of the authorisation and temporary withdrawal from the Official Register of Auditors for a period ranging between two years and one day to five years.

c) A fine for an amount of six to nine times the amount invoiced for the audit work in connection with which the violation was committed, although the fine may not be less than 18,001 euros or greater than 36,000 euros. The maximum limit will not apply to those cases in which the violation was committed in relation to the audit of a public-interest entity's accounts.

When the violation does not refer to any one audit in particular, the fine imposed on the auditor will range between a minimum of 18,001 euros and a maximum of 36,000 euros.

2. When a serious violation is committed by an auditor individually, one of the following sanctions will be imposed:

a) Suspension of the authorisation and temporary withdrawal from the Official Register of Auditors for up to two years.

b) A fine for two to five times the amount invoiced for the audit work in connection with which the violation was committed, although the fine may not be less than 6,001 euros or greater than 12,000 euros.

When the violation does not refer to any one audit in particular, the fine imposed on the auditor will range between a minimum of 6,001 euros and a maximum of 12,000 euros.

3. When a minor violation is committed by an auditor individually, one of the following sanctions will be imposed:

a) A fine up to 6,000 euros.

b) Private reprimand.

4. When an audit firm commits a very serious violation, one of the following sanctions will be imposed:

a) Withdrawal of the authorisation and permanent removal from the Official Register of Auditors.

b) A fine of three to six percent of the audit fees invoiced in the year prior to the imposition of the sanction but which may not be less than 24,000 euros.

5. One of the following sanctions will be imposed on the auditor who signs an audit report on behalf of an audit firm that commits a very serious violation:

- a) Withdrawal of the authorisation and permanent removal from the Official Register of Auditors.
- b) Suspension of the authorisation and temporary withdrawal from the Official Register of Auditors for a period ranging between two years and one day to five years.
- c) A minimum fine of 12,001 euros and a maximum of 24,000 euros.

6. The sanction for the commission of a serious violation by an audit firm will consist of a fine equalling up to three percent of the audit fees invoiced in the year prior to the imposition of the sanction but which may not be less than 12,000 euros.

The sanction for an audit firm that commits one of the serious violations referred to in article 34.m) will be the suspension or withdrawal of the authorisation and removal from the Official Register of Auditors or a fine of up to three percent of the audit fees invoiced in the year prior to the imposition of the sanction.

7. One of the following sanctions will be imposed on the auditor who signs an audit report on behalf of an audit firm that commits a serious violation:

- a) Suspension of the authorisation and temporary withdrawal from the Official Register of Auditors for up to two years.
  - b) A minimum fine of 3,000 euros and a maximum of 12,000 euros.
  - c)
8. Audit firms that commit minor violations will be fined up to 6,000 euros.

9. A partner or auditor who conducts an audit on behalf of an audit firm who is responsible for the commission of a minor violation by the audit firm will be subject to a private reprimand.

#### *Article 37. Determining sanctions and other standards.*

1. The sanctions applicable in each case for the commission of violations will be determined on the basis of the following criteria:

- a) The type and importance of the violation.
- b) The seriousness of the harm that was or could be caused.
- c) The existence of intent.
- d) The importance of the audited entity, measured in terms of total assets, annual turnover and number of employees.
- e) The unfavourable consequences for the national economy.
- f) The violator's prior conduct.
- g) Whether or not the violator took the initiative to remedy the violation or minimise its effects.
- h) Whether or not the audited entity is a public-interest entity.

2. In the case of the very serious violations referred to in article 33.d), violations that are committed by non-auditors will be subject to a minimum fine of 18,001 euros and a maximum of 36,000 euros.

For the commission by non-auditors of the violations foreseen in article 34.c), breaches of the prohibition established in article 20 will be subject to the fine established in article 36.7.b. In this case, the audit firm will not be considered co-responsible for the breach, notwithstanding the prohibition against conducting the audit referred to in article 20.

Serious violations of the kind mentioned in article 34 l) committed by non-auditors will be

subject to a minimum fine of 6,000 euros and a maximum of 18,000 euros.

3. When a sanction is imposed for a serious or very serious violation in connection with the audit of a certain entity's accounts, the sanction will include the prohibition against the auditor or audit firm auditing that entity's accounts for the next three years following the date of the administrative confirmation of the sanction.

*Article 38. Enforceability of resolutions.*

1. The resolutions ordering the imposition of any of the sanctions enumerated in this section may only be enforced once they have been confirmed in the administrative channel. The conclusions of the resolutions regarding serious or very serious violations will be published and registered, respectively, in the "Gazette of the Accounting and Auditing Institute" and the Official Register of Auditors. With the exception of private reprimands, minor violations will be registered in the Official Register of Auditors. In cases of temporary or permanent withdrawal from the Official Register of Auditors, auditors and audit firms will take the necessary measures to safeguard the documentation relative to the audits performed which are known to be the object of the third party civil liability lawsuits.

*Article 39. Time limit of violations.*

1. Minor violations expire after one year; serious violations after two years and very serious violations after three years.

2. The time limit is interrupted when disciplinary proceedings are initiated with the affected party's knowledge and resumes if the case is dormant for more than six months for a reason not attributable to the auditor or audit firm which is the object of the proceedings.

*Article 40. Time limit of sanctions.*

1. The sanctions imposed for minor violations expire after one year; for serious violations after two years and for very serious violations after three years.

2. The time limit begins the day after the date of the final resolution in which the sanction is imposed.

*Section 3. Applicable system to auditors, audit firms and other entities approved in Member States of the European Union and third countries.*

*Article 41. Auditors, audit firms and other entities approved in Member States of the European Unions and third countries.*

The following are subject to the supervisory and disciplinary authority vested in the Accounting and Auditing Institute established in this Chapter:

a) Auditors and audit firms authorised to practice the auditing profession in a member state of the European Union and registered in the Official Register of Auditors in relation to the audits performed on the accounts of companies domiciled in Spain, notwithstanding the terms of any regulatory agreements signed with other member states of the European Union.

b) Auditors originally authorised to practice the auditing profession in third countries who are registered in the Official Register of Auditors and authorised to practice the auditing profession in Spain.

c) Auditors, audit firms and other auditing entities authorised to practice the auditing profession in third countries which issue audit reports on the annual accounts or consolidated annual accounts of entities of the kind referred to in articles 9.3 and 10.4, pursuant to the exemptions stipulated in the regulations, based on the declaration and evaluation of equivalence of the European Union Commission.

#### *Section 4. International cooperation*

##### *Article 42. Duty of collaboration with Member States of the European Union.*

1. The Accounting and Auditing Institute will cooperate with the authorities of the Member States of the European Union vested with powers of authorisation, registration, quality control, investigation and discipline of the audit function. To this end, they may exchange information as necessary, conduct investigations at the request of other Member States of the European Union, allow their personnel to accompany personnel from the Accounting and Auditing Institute during the investigation and request member states to conduct investigations under the same conditions.

When an auditor or audit firm ceases to be registered in the Official Register of Auditors, the Accounting and Auditing Institute will notify the authorities in the Member States referred to above where the auditor or audit firm was authorised to practice, along with the reasons for the withdrawal.

2. The exchange of information referred to above will take place as quickly and diligently as possible. If this is not possible, the requesting authorities must be notified of the reasons why it is not possible.

Both the competent authorities in the other member states and the Accounting and Auditing Institute must abide by the duty of secrecy referred to in article 25 in respect of the information to which they have access in the performance of their duties. This information may only be used in the performance of the duties referred to in this Law within the context of the administrative procedures related to those duties and in court proceedings and may only be disclosed as required by other laws.

3. The terms of the previous clauses notwithstanding, the Accounting and Auditing Institute may refuse to provide information to the competent authorities of other Member States or to conduct the investigations requested by these authorities when providing such information or conducting such investigations could harm the sovereignty, security or public order or when judicial proceedings have already been initiated by Spanish authorities or when such authorities have already handed down firm sentences in those proceedings dealing with the same events and against the same auditors or audit firms.

4. When the Accounting and Auditing Institute reaches the conclusion that activities which are contrary to the national laws resulting from the transposition of Directive 2006/43/EC of the European Parliament and of the Council of 17 May 2006 on statutory audits of annual accounts and consolidated accounts are being carried out or have been carried out in another Member State, it will notify the competent authorities in the said Member State.

Furthermore, when the Accounting and Auditing Institute is notified by the competent authorities in another Member State of possible actions in Spain that are contrary to this Law, it will take the appropriate measures and inform the authorities who reported the actions of the results of its investigations and, to the extent possible, any significant interim progress.

##### *Article 43. Coordination with competent authorities in third countries.*

1. Based on the principle of reciprocity, the Accounting and Auditing Institute may enter into agreements for the exchange of information with the authorities of third countries which have been declared by the European Union Commission to have jurisdiction over the authorisation, registration, quality control, investigation and disciplinary system regulated herein. Said information-sharing agreements will ensure that the competent authorities in third countries justify their requests, that the persons currently or previously employed by the competent authorities who receive the information are bound by the obligations of professional secrecy and that the said competent authorities from third countries are only able to use the information in the performance of the public supervision, quality control, investigation and disciplinary functions equivalent to those set forth in this law.

In particular, and pursuant to the terms agreed with the competent authorities in third countries, the Accounting and Auditing Institute may, when the request is duly justified by the competent authorities in a third country, release to them the accounting records and other documents in the possession of the auditors or audit firms relative to the audits of companies domiciled in Spain that have issued securities in the third country or companies that are part of a group that publishes annual accounts in the said third country. The Accounting and Auditing Institute may transfer personal data to third countries pursuant to the terms of Law 15/1999 of 13 December on the Protection of Personal Data.

2. The terms of the previous section notwithstanding, the Accounting and Auditing Institute may refuse to provide information to the competent authorities in third countries when providing such information could harm the sovereignty, security or public order or when judicial proceedings have already been initiated by Spanish authorities or when such authorities have already handed down firm sentences in those proceedings dealing with the same events and against the same auditors or audit firms.

3. Under exceptional circumstances, the Accounting and Auditing Institute may allow the information to be sent directly by the auditors or audit firms registered in the Official Register of Auditors to the competent authorities in a third country when there is an information exchange agreement in place with those authorities, when there is an investigation underway in the third country, when the request has been duly justified to the Accounting and Auditing Institute and when providing the information will not obstruct the supervisory actions of the Accounting and Auditing Institute which are binding upon the auditors and audit firms.

4. The information disclosed under the terms of this articles will be subject to the duty of secrecy referred to in article 25. Notwithstanding the terms of European Union Law, said information may only be used to perform the supervisory functions regulated in this law and equivalent functions assigned to the authorities referred to above.

#### *Section 5. Fees of the Accounting and Auditing Institute*

##### *Article 44. Fees of the Auditing and Accounting Institute charged for issuing audit reports.*

1. A fee is created for issuing audit reports which will be governed by this law and by all other regulatory sources referred to in article 9 of Law 8/1989 of 13 April, on Public Prices and Fees in order to cover the costs incurred by the Accounting and Auditing Institute referred to in article 27.4.

2. The exercise of the powers vested in the Accounting and Auditing Institute and referred to in article 27.4 is a chargeable event inasmuch as the issuing of audit reports is concerned.

3. Practicing auditors and audit firms that are registered in the Official Register of Auditors of the Accounting and Auditing Institute are subject to the payment of this fee for the audit reports they issue.

4. This is a flat fee of 91.90 euros per audit report issued. The fee will be 183.80 euros if the honoraria charged to issue the audit report are more than 30,000 euros.

5. This fee accrues on the last day of each natural quarter for all the audit reports issued during the quarter.

6. The fee referred to herein is managed and collected in the voluntary payment period by the Accounting and Auditing Institute. Under the law, collection after the voluntary period has elapsed is handled by the National Tax Administration.

7. Rules will be established for the settlement and payment of the fee, which may include taxpayers being obligated to file a voluntary settlement and make the payment.

8. The revenues earned from the fee referred to in this article are considered ICAC's budgetary income and are used to finance the cost of overseeing and supervising the auditing profession.

9. The flat rate fee referred to in section 4 of this article may be modified in the General State Budgets of each year.

First additional provision. *Mandatory audits.*

1. Notwithstanding the terms of other provisions, entities who meet any of the following conditions, regardless of their legal status, must have their annual accounts audited as provided for in part 2 of article 1:

a) Entities that issue securities traded on regulated markets or multilateral trading systems.

b) Entities that issue debentures in public offerings.

c) Entities that regularly act as financial mediators; credit institutions, investment service companies, governing entities of regulated secondary markets, governing entities of multilateral trading systems, Systems Society (Sociedad de Sistemas), central counterparty entities, stock market companies, governing entities of investment guarantee funds and other financial entities, including hedge funds, securitisation funds and their managers registered in the corresponding registers of the Bank of Spain and the National Securities Market Commission.

d) Entities whose business objective includes any of the activities bound by the Consolidated Text of the Private Insurance Act approved by Legislative Royal Decree 6/2004 of 29 October, within the limits established therein, and pension funds and their managers.

e) Entities that receive grants, assistance, benefits or services or that supply the state and other public bodies, within the limits established by the government by royal decree.

f) Other entities that exceed the limits established by the government by royal decree. The aforementioned limits will relate to, at least, the turnover, the total sum of the balance sheet assets and the average annual number of employees, and all or each of them shall be applied as permitted by the legal nature of each company or entity.

2. The terms of this additional provision do not apply to Spanish public sector entities at the national, regional or local level, notwithstanding the terms of the laws regulating such public sector entities. The terms of this additional provision will apply to commercial companies that are part of the public sector at the national, regional or local level.

3. Spanish branch offices of foreign credit institutions that are not required to file annual accounts for their operations in Spain must undergo an audit of the financial-economic information they publish annually and the information they report to the Bank of Spain in accordance with the applicable accounting regulatory framework.

Second additional provision. *Auditors of public sector companies.*

This law does not apply to the review and verification of annual accounts, financial statements or other accounting documents or the audit reports issued by bodies of the public administration in the performance of their functions, which will continue to be governed by specific laws.

Third additional provision. *Performance of quality control.*

1. The Accounting and Auditing Institute may entrust the quality control function to the corporations that represent auditors, acting under the supervision of the Institute.

Furthermore, the Accounting and Auditing Institute will use an objective procedure to select other third parties that may perform the quality control function. These third parties must meet the following requirements:

a) They must be non-practicing auditors who do not work for an audit firm.

b) They must be independent from the auditors who are bound by the quality control rules and unaffected by any possible influence on the part of those auditors or other conflicts of interest.

c) They must be in possession of adequate professional training and experience in the auditing and finance fields, with specific quality control training.

Persons with specific knowledge in any specialised, audit-related fields or sectors may also participate in the execution of the quality control function, as long as they meet the requirements established in paragraph b) of this section.

2. For the purposes of the previous provision, those who participate in the quality control function may have access to the auditors' or audit firms' documentation, subject to the secrecy obligation established in article 25.

3. Notwithstanding the contents of the previous section, the quality control function will be supervised and managed by the employees of the Accounting and Auditing Institute.

Fourth additional provision. *Administrative liability of extinguished audit firms.*

1. The fines imposed for the commission of the violations classified in the Law on Auditing on audit firms that have been dissolved and liquidated, where the law limits the liability of the partners, shareholders or co-owners, will be imposed on the latter and they will be jointly obliged up to the limit of their respective settlement shares.

Where the law does not limit the liability of partners, shareholders or co-owners, the fines imposed for the commission of the violations classified in the Law on Auditing on audit firms that have been dissolved and liquidated will be imposed on the partners, shareholder or co-owners, who will be jointly obligated up to the limit of their respective settlement shares.

Furthermore, sanctions of withdrawal or incompatibility imposed for violations committed by audit firms that have been dissolved or extinguished will only be transferred to the companies or entities in which they participate and provided that they have the same partners or investors as in the dissolved or extinguished companies.

2. When an audit firm is dissolved but not liquidated, the fines imposed for the commission of violations classified in this law will be transferred to the beneficiaries or successors of the business.

Furthermore, sanctions of withdrawal or incompatibility imposed for violations committed by audit firms that have been dissolved or extinguished without liquidation will only be transferred to the audit firms resulting from these operations when the partners or investors are the same as the ones who were involved in the dissolved or extinguished companies without liquidation.

The terms of this provision will apply to global transfers of the assets and liabilities of mercantile companies.

3. The terms of the foregoing sections will apply to cases of veiled or apparent dissolution. Veiled dissolution or the appearance of dissolution of a legal entity is considered to exist when the economic activity continues and the clients, suppliers and employees or a relevant part thereof continue to be the same as before. In these cases, the sanctions are transferred to the individual or legal entity which is essentially identical to the former one, as mentioned in the previous paragraph.

4. If the disciplinary proceedings regarding administrative liability for the commission of the violations foreseen in this law have not commenced when the legal status of the audit firm is extinguished, the sanctions will be imposed on the successors referred to in this article by taking actions against any one of them. The same will hold true when no one has been declared liable by the time the legal status of the company is extinguished.

Fifth additional provision. *Transparency and publicity.*

The Accounting and Auditing Institute must publish an annual report containing, at the very least, the action plans or programmes implemented by the Institute, a report on its annual activities and the general results and conclusions regarding the quality control system.

First transitional provision. *Rotation of an entity's auditors by reason of size.*

The number of years elapsed up to the effective date of Law 22/2010 of 30 June which amends Law 19/1988 of 12 July, on Auditing, Law 24/1988 of 28 July, on the Securities Market and the consolidated text of the Spanish Companies Act approved by Royal Legislative Decree is understood as included in the calculation of the seven-year period referred to in article 19.2. Rotation is mandatory if the audited entity is a public interest entity at the end of that period or at any time thereafter, regardless of whether or not it was a public interest entity prior to that time.

Second transitional provision. *Cooperation with Member States.*

Until such time as the regulatory agreements are signed by the member states of the European Union or the cooperation mechanisms with such member states are implemented as provided for in article 36 of Directive 2006/43/EC of the European Parliament and of the Council of 17 May 2006 on statutory audits of annual accounts and consolidated accounts, amending Council Directives 78/660/EEC and 83/349/EEC and repealing Council Directive 84/253/EEC, in addition to the requirements set out in article 9, auditors and audit firms authorised in any member state will be required to designate a legal representative with an address in Spain in order to be entered in the Official Register of Auditors.

Third transitional provision. *University graduates, engineers, mercantile law professors, architects and holders of university diplomas.*

Those who are university graduates, engineers, mercantile law professors, architects and holders of university diplomas on the effective date of Law 12/2010 of 30 June which modified Audit Law 19/1988 of 12 July will be exempt from the professional competence examination in those subject areas which they have successfully completed to obtain their degrees, as established in the Resolution of the Accounting and Auditing Institute.

Fourth transitional provision. *Situations of incompatibility.*

1. The situations of incompatibility referred to in articles 13 to 18, inclusive, which modify the system prior to Law 12/2010 of 30 June, which in turn amended Audit Law 19/1988 of 12 July and which existed prior to the effective date of the said law will not be considered a lack of independence on the part of auditors and audit firms in relation to the audits commenced prior to that date for which the necessary audit report has not yet been issued.

2. Furthermore, regarding the obligation to observe the principle of independence, for two years after the effective date of Law 12/2010 of 30 June which amended Audit Law 19/1988 of 12 July, situations of incompatibility which modified the situation prior to the law which began and ended prior to that date will not be taken into account.

Fifth transitional provision. *Rules governing the fulfilment of the auditor's obligations regarding consolidated accounts, consolidated accounting documents or other consolidated financial statements.*

Auditors and audit firms that audit the consolidated annual accounts, financial statements or other consolidated accounting documents, or the auditors acting on the former's behalf will be liable for meeting the obligations imposed by article 5 as of the first fiscal year that begins after the passage of Law 12/2010 of 30 June which amended Audit Law 19/1988 of 12 July.

The persons obligated to provide the information referred to in article 5.3 must provide it starting the first fiscal year that begins on or after the effective date of Law 12/2010 of 30 June.

The failure to comply with the obligations laid out in said article will not be sanctionable during the fiscal year in which Law 12/2010 of 30 June takes effect.

First final provision. *Coordination mechanisms with public bodies or institutions with supervisory or inspection powers.*

When provisions with the rank of law attribute supervisory or inspection powers to public bodies or institutions over entities that must have their accounts audited, the Government will, by Royal Decree, establish the systems, standards and procedures that make it possible to coordinate those powers, gathering from auditors or audit firms any and all information as may be necessary for the performance of the assigned functions.

The auditors of the annual accounts of the entities supervised and controlled by the Bank of Spain, the National Securities Market Commission and the Directorate-General of Insurance and Pension Funds and the regional bodies with the authority to supervise and organise insurance companies must quickly notify these public bodies or institutions in writing of any event or decision regarding the audited entity or institution that has come to their attention in the course of performing their functions which could:

- a) Constitute a serious violation of the contents of the legal, regulatory or administrative provisions establishing the conditions of the authorisation or specifically regulating the exercise of their activities.
- b) Jeopardise the continuity of the entity's operations or seriously affect its stability or solvency.
- c) Involve a qualified opinion, adverse opinion or disclaimer of opinion or prevent the audit report from being issued.

The above obligation notwithstanding, the audited entity must forward a copy of the audit report to the competent supervisory authorities mentioned above. If the auditor does not receive reliable proof that the report has been forwarded to the authorities within one week of the delivery date of the report, the auditor must send the report to the authorities directly.

The communication obligation extends to the auditors of the entities controlled by any of the entities or institutions referred to in the first paragraph, as this term is defined in article 4 of the Securities Market Act 24/1988.

Moreover, the auditors of controlled entities that are subject to supervision, in addition to reporting to the competent supervising authorities as established in the first paragraph, must also report to the auditors of the controlling company.

The good faith reporting of these events or decisions to the competent supervisory authorities will not constitute a breach of the obligation of secrecy established in article 25 or that which may be contractually incumbent upon the auditors and will not imply any type of liability on their part.

Second final provision. *Functions of the members of the Spanish Institute of Certified Public Accountants prior to the coming into force of Audit Law 19/1988 of 12 July, on Auditing.*

The functions assigned to the members of the Instituto de Censores Jurados de Cuentas de España under the law and other general provisions must be understood, starting on the effective date of Audit Law 19/1988 of 12 July, to be likewise assigned to the auditors and audit firms in relation to the performance of the audit function.

Third final provision. *Authorisation of the Accounting and Auditing Institute.*

The Accounting and Auditing Institute is hereby authorised to pass a resolution developing the standards relative to the scope, execution and enforcement of the quality control system pursuant to the terms of Directive 2006/43/EC of the European Parliament and of the Council of 17 May 2006 on statutory audits of annual accounts and consolidated

annual accounts, amending Council Directives 78/660/EEC and 83/349/EEC and repealing Council Directive 84/253/EEC.”

Fourth final provision. *Authorisation to amend the bylaws of the Accounting and Auditing Institute.*

At the joint request of the Minister for the Economy and Finance and the Minister for Territorial Policy and Public Administration, the bylaws of the Accounting and Auditing Institute may be amended by the Government by royal decree, as needed.

Fifth final provision. *Regulatory authorisation.*

1. The Government is authorised to establish the standards needed to implement the terms of this Law on the recommendation of the Ministry of Economy and Finance.

2. The Ministry of Economy and Finance is authorised to issue ministerial orders to modify the contents of article 8.2 in order to adapt them to European Union law on the recommendation of the Accounting and Auditing Institute.

Sixth final provision. *Budget modifications.*

The Ministry of Economy and Finance will make the pertinent budget adjustments to activate the credits required to comply with the terms of this laws.