

Civil Responsibility for the Work of the Auditor in the Public Shareholding Company

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Abstract

The study seeks to uncover the legal liability associated with the auditor's role in public shareholding companies, with a focus on shareholder rights. Shareholders typically exhibit limited interest in company affairs beyond matters directly impacting their share of profits. The research adopts various approaches, including the inductive approach, involving the extrapolation of provisions from Jordanian corporate law and French law related to the research subject. Additionally, the analytical approach entails a thorough examination of legal texts about the research topic, while the comparative approach involves contrasting the legal frameworks of Jordanian and French laws. The findings revealed a lack of experience among shareholders in monitoring the Board of Directors activities and auditing the accounts presented for approval during General Assembly meetings. Consequently, the legislation mandates the appointment of a qualified auditor by the general assembly to oversee the company's financial management. This includes ensuring compliance with legal provisions, alignment with the company's objectives, and adherence to its articles of association.

Keywords: Accounts Auditor, Public Shareholding Company, Rights, and Liabilities.

Introduction

The vital role of auditors in overseeing joint-stock companies, marked by intricate operations and complex interdependencies, requires the presence of a qualified and experienced individual (Alkelani et al., 2020). This individual should possess the competence to supervise management activities within the organizational framework, ensuring the welfare of shareholders and safeguarding their interests (Rosso & García-Salirrosas, 2023). The responsibility for monitoring a company's management and ensuring the proper organization of its accounts falls on the general assembly (Macintosh & Quattrone, 2010). However, as the assembly typically convenes only once a year, a significant number of shareholders may not attend, being primarily focused on personal interests (Alrubaie, 2021).

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Furthermore, a notable portion of shareholders lacks the expertise to monitor the Board of Directors activities, audit presented accounts for General Assembly approval, and participate in decision-making processes proposed by the Board (Pirson & Turnbull, 2011). Consequently, the legislation mandates the General Assembly to appoint a qualified auditor to oversee the company's financial management. This involves evaluating compliance with legal standards and regulations, as well as alignment with the company's objectives and articles of association (Jarrah et al., 2022). In the current landscape, there is a growing need for auditors to shoulder responsibility in offering a well-founded opinion on the transparent, accurate, and fair representation of the financial position, patrimony, and results of the audited entity (Marcos & Santa María, 2023; Abu Orabi et al., 2023). The Jordanian legislator underscores the importance of the auditing profession, particularly in the selection of auditors for public shareholding businesses (Maia et al., 2020). The legislation also outlines a specific timeframe during which the appointed auditor must carry out tasks mandated by law, intending to shield auditors from potential influence by the company's board of directors and thus preserve their impartiality and independence (Pascu & Istrate, 2012; Roy & Saha, 2018).

This paper aims to investigate key issues within the domain of Public Joint Stock Companies. These issues include, firstly, an exploration of the legal regulations governing the role of auditors in such companies. Secondly, the study delves into the complexities surrounding the selection and termination processes of auditors within the context of public shareholding companies. Finally, the research addresses the delineation of rights and obligations vested in auditors operating within the framework of public shareholding entities. Through a systematic exploration of these dimensions, the study contributes to a comprehensive understanding of the regulatory, procedural, and operational facets shaping the auditor's role in public shareholding companies.

In the intricate landscape of corporate governance, the role of auditors in publicly traded companies is a pivotal aspect that demands scrutiny (Beattie et al., 2013). This paper delves into the legislative framework that delineates auditors' responsibilities within this specific context. The investigation aims to unravel the nuances of auditor selection and termination, as well as the associated rights and obligations amid evolving legislative landscapes and dynamic industry trends. By formulating precise research questions, this study endeavors to deepen understanding of the legal dimensions governing auditors in publicly traded enterprises. Its objective is to shed light on practices influencing transparency, accountability, and the delicate balance among stakeholders. This inquiry specifically delves into the complexities of auditorship within the realm of public

shareholding, aiming to uncover valuable insights relevant to practitioners, policymakers, and researchers engaged in the domains of corporate governance and auditing procedures.

Research Questions

The primary inquiry guiding this study revolves around the legal regulation governing the responsibilities of auditors in public shareholding companies. Subsequently, the investigation branches into the following specific questions:

- What procedures govern the selection of auditors in public shareholding companies?
- What mechanisms are employed to terminate the contract of auditors in public shareholding companies?
- What are the rights and obligations vested in auditors within the framework of public shareholding companies?

Methodology

This research employed a multi-faceted methodological approach to enhance the depth and comprehensiveness of the study. The following approaches were systematically implemented:

a) Inductive Approach:

The inductive approach was instrumental in extrapolating and synthesizing key provisions from both Jordanian corporate law and French law pertinent to the subject under investigation. This involved a systematic examination of legal frameworks, principles, and precedents, allowing for the development of broader insights and generalizations.

b) Analytical Approach:

The analytical approach was employed to scrutinize and interpret the legal texts directly relevant to the research inquiry. Through a meticulous analysis of these texts, the study aimed to extract nuanced meanings, identify legal intricacies, and comprehend the intricacies of the regulatory environment governing the subject matter.

c) Comparative Approach:

A comparative approach was integral to this study, involving a thorough examination and comparison of the legal provisions within Jordanian and French laws. By juxtaposing the legal frameworks of these jurisdictions, the research sought to identify similarities, differences, and potential influences, contributing

to a comprehensive understanding of the regulatory landscape concerning the research topic.

By integrating these methodological approaches, this study aimed to triangulate findings, ensure robustness in the analysis and offer a well-rounded exploration of the legal aspects associated with the subject matter in both Jordanian and French contexts.

Literature Review

In the intricate realm of corporate governance, characterized by a myriad of economic, financial, and administrative complexities, the role of auditors within public shareholding enterprises assumes paramount significance (Wiroonratch & Tripipat, 2023; Rajabalizadeh, 2023). The legal framework underpinning the appointment and responsibilities of auditors in these entities is delineated by the Jordanian Firms Law (No. 22 of 1997). Rija (2018) posits that this legislation bestows authority upon the General Assembly to select auditors, subject to certain limitations in cases where entities other than the General Assembly are involved in the selection process.

Under the stipulations of Article 192(A) of the Jordanian Companies Law, the general assembly is mandated to designate one or more auditors for a renewable fiscal year within the context of the appointment process. In instances where the auditor selection process remains unresolved within the specified timeframe, the board of directors is vested with the authority to make the appointment. Diverging from the approach adopted by the French legislature, which permits any shareholder to request an auditor's appointment in the absence of one, this practice underscores the importance of external control and scrutiny (Jarrah et al., 2022).

Article 92 of the Jordanian Firms Law (Hamdallah, 1998) allocates responsibility to the founder's body for appointing the initial auditor during the incorporation phase, a pivotal step in the establishment of public shareholding firms. This foundational appointment lays the groundwork for subsequent auditor selections orchestrated by the general assembly.

The role of the judiciary in auditor nomination assumes significant importance, particularly in France, where any shareholder can seek a court-appointed auditor under specific circumstances. Emphasizing the criticality of independent oversight, this judicial intervention ensures the uninterrupted continuation of auditing activities (Turki, 2017).

Concerns have been raised about the auditor's ability to provide a thorough opinion on financial statements due to the restricted one-year term

stipulated by Article 192(A) of Jordanian legislation. In stark contrast, the French legal system mandates auditors to serve for six years, a provision aimed at ensuring both stability and independence (Al Zobi & Jarah, 2023). The possibility of terminating auditors' services through resignation, considering the timing and reasons, underscores the imperative for auditors to adhere to ethical standards, ensuring that resignations do not detrimentally impact the organization. According to Ali (1991), the general assembly holds the authority to remove auditors; however, constraints may be imposed based on legitimate causes.

To implement additional safeguards, the French legislature mandates obtaining authorization from the judiciary before terminating an auditor. This strategic approach ensures a fair and just procedure, preventing the general assembly from dismissing employees without prior notice (Ali, 1991).

Global trends, exemplified by the periodic rotation of auditors in the United States, aim to eliminate potential conflicts of interest and encourage fresh perspectives on internal controls (Al-Aqili, 2004). This practice aligns with global endeavors to enhance audit quality and maintain the integrity of financial reporting in public shareholding enterprises.

The intricate interplay of legal frameworks, appointment procedures, and the oversight mechanisms governing auditors in public shareholding companies underscores the multifaceted nature of corporate governance. The comparative analysis of Jordanian and French legal provisions illuminates nuances that shape auditor roles and responsibilities, laying the foundation for a robust understanding of global trends aimed at fortifying audit quality and financial reporting integrity.

Responsibilities and Rights of the Auditor

Auditors and a company's board of directors can form a specific contractual agreement outlining their respective obligations (Gaa, 2009; Abu Huson et al., 2023). Within their professional sphere, auditors are bound to comply with established industry standards. This involves delivering an impartial assessment of financial accounts and ensuring the accuracy of accounting records (Al-Qudah et al., 2022). Abu Hamid (2004) underscores that meeting these standards demands an exceptional level of focus and expertise dedicated to their professional responsibilities.

Under the framework of the Jordanian Companies Law, auditors shoulder a broad spectrum of duties. These encompass overseeing corporate activities, scrutinizing financial and administrative systems, and certifying adherence to legal and procedural criteria. Al-Takrouri (2003) highlights the legislation's significant emphasis on the importance of honesty in financial reporting to ensure

compliance with the law. This emphasis is evident in the mandate for compliance with generally accepted auditing standards.

Given the responsibility to safeguard company information, auditors must prioritize maintaining professional confidentiality. Alnumani (2023) notes that legal requirements mandated by Jordanian legislation and other jurisdictions emphasize the expectation of confidentiality from auditors. This practice ensures the protection of sensitive information.

Although legislators are responsible for outlining the comprehensive duties of auditors, international auditing standards can supplement any potential gaps in rights and obligations. For instance, Vynogradova (2011) points out specific instances where international standards provide additional rights, such as the ability to seek assistance from professionals and the opportunity to discuss dismissal decisions before the general assembly. Both these rights underscore the importance of employee rights within the auditing profession.

Moreover, this aspect of contractual agreements between auditors and the board of directors isn't just a mere formality. It establishes a structured framework that delineates the precise expectations and responsibilities of each party, fostering clear communication and mutual understanding.

The dedication to professional standards by auditors goes beyond routine tasks. It demands a vigilant eye and a depth of knowledge crucial for ensuring the accuracy and reliability of financial information. Abu Hamid's assertion about the exceptional level of attention required underscores the critical nature of these responsibilities.

In parallel, the multifaceted role assigned to auditors under the Jordanian Companies Law isn't solely about monitoring financial records. It encompasses a broader mandate, demanding oversight of administrative systems and a stringent verification process to ensure alignment with legal requisites. Al-Takrouri's emphasis on honesty in financial reporting mirrors the legislative intent to uphold ethical and legal compliance within corporate financial disclosures.

Regarding confidentiality, Alnumani's assertion about legal expectations align with the essential nature of maintaining secrecy. Auditors play a pivotal role in safeguarding sensitive company information, thereby ensuring the integrity and security of proprietary data.

The supplementation of international auditing standards serves as a safety net, addressing any potential gaps in legal frameworks. Vynogradova's insights shed light on these supplementary rights, underscoring the need for auditors to seek expertise and have a platform to address crucial decisions regarding their tenure.

In essence, these contractual agreements, adherence to professional standards, legislative mandates, and international standards collectively shape the professional landscape for auditors, defining their roles, responsibilities, and the overarching commitment to transparency and accountability within corporate governance structures.

Assuming Civil Responsibility for the Auditor's Work

The accountability of auditors in publicly traded companies is intricately linked to their civil responsibility, hinging upon strict adherence to professional standards and legislative mandates (Schoeman, 2021). Central to this responsibility is the auditor's imperative to deliver an unbiased opinion regarding financial statements. As highlighted by Al-Takrouri (2003), any disregard for professional ethics can lead to legal consequences, underscoring the critical need for continuous diligence throughout the auditing process.

Within the framework of the Jordanian Companies Law, auditors are tasked with scrutinizing the company's administrative and financial systems to ensure their adequacy and authorization. Al-Aqili (2004) frames this oversight as an integral part of civil responsibility, aimed at safeguarding the financial interests of shareholders and other stakeholders.

Moreover, the acknowledgment by legislators of the auditor's role as an agent for all shareholders is reinforced by the recognition of their capacity to oversee company operations. As articulated by Jarah et al. (2023), auditors bear the obligation to fulfill their civil responsibility by ensuring accurate financial representation. Their ability to analyze financial systems, assess business assets, and exercise the right to do so equips them to execute this responsibility effectively.

This interconnection between the role of auditors and their civil responsibility doesn't merely rest on a legal framework. It signifies a deeper commitment to ensuring transparency, reliability, and fairness within corporate governance structures.

The burden of civil responsibility on auditors isn't just a procedural obligation. It's a cornerstone of their professional integrity, demanding unwavering adherence to ethical standards and legal regulations. Al-Takrouri's emphasis on the repercussions of neglecting professional ethics underscores the high stakes involved in maintaining ethical standards throughout the auditing process. Furthermore, Al-Aqili's framing of the auditor's duty to protect the financial interests of shareholders echoes the profound impact of auditors' actions on the broader spectrum of stakeholders. It signifies their pivotal role in

safeguarding the interests of not just shareholders, but various entities vested in the company's financial stability.

Jarah et al.'s assertion about auditors being agents for all shareholders emphasizes their pivotal role in upholding accurate financial representation. Beyond just regulatory oversight, auditors serve as guardians of financial integrity, utilizing their expertise to ensure that financial information accurately reflects the company's standing. This convergence of legal obligations, ethical standards, and professional duties elevates the role of auditors beyond mere oversight. It underscores their pivotal role in upholding transparency, trust, and credibility in financial reporting, thereby contributing significantly to the integrity and reliability of corporate operations.

Discussion

The existing body of research concerning the civil responsibility of auditors in publicly traded companies substantially enhances theoretical frameworks in corporate governance, auditing procedures, and legal studies. A meticulous examination of Jordan's legislative landscape, coupled with comparative analyses involving the French systems, establishes a robust theoretical foundation. In the realm of corporate governance theories, the literature emphasizes the crucial role of auditors as essential guardians responsible for ensuring transparency and accountability, as assured by Schoeman (2021). The exploration of processes related to auditor appointment, term limits, and dismissal procedures aligns with established theories such as agency theory, agency costs, and stewardship theory. This analysis aids in comprehending the delicate balance required to uphold both shareholder interests and the necessity for auditors to maintain independence corresponding to the work by Roy & Saha (2018).

Implications of legal theory enhance our understanding of corporate regulation, accountability, and responsibility, shedding light on the impact of legislation on professional conduct and prompting important inquiries into fairness, justice, and auditor rights within Jordan's legal framework. The study of international comparative law deepens our insight into the transfer of legal ideas across different systems, illustrating how legal concepts can be adapted to cultural and institutional contexts.

Stakeholder theory emphasizes the intertwined connections between auditors and various stakeholders, advocating for a careful balance in addressing conflicting interests. Practical implications derived from this research hold significant relevance for auditing processes, corporate governance, and regulatory frameworks in publicly traded corporations. Recommendations include implementing policy changes and legislative reforms based on factors such as the duration of auditor appointments, the absence of a mechanism for discussing

dismissals, and a comparative analysis with systems in other countries. This suggests the potential for enhancing the Jordanian Companies Law and adopting internationally recognized best practices.

The research underscores that auditing methods highlight the importance of professional discretion, adherence to ethical norms, and the independent function of auditors. Corporate boards are advised to incorporate theoretical frameworks, such as agency theory and stewardship theory, into their decision-making processes concerning the selection and oversight of auditors. Practical recommendations stem from considerations of long-term stability, independence, and the historical performance of auditors. Regulatory authorities overseeing publicly traded corporations can leverage theoretical knowledge based on legal positivism and stakeholder theory to evaluate and enhance existing policies. Practical considerations encompass the need to ensure fairness in dismissal protocols, foster transparency in auditor selection, and harmonize rules with globally recognized standards.

Integrating Islamic legal principles into the discourse on the civil liability of auditors in publicly traded firms provides a valuable viewpoint that corresponds with Jordan's cultural and legal framework. Islamic legal ideas, derived from Sharia law, prioritize ethical behavior, openness, and responsibility in economic and business dealings. The ideas of fairness (Adl) and justice (Qist) hold great importance in Islamic jurisprudence, advocating for fair and just dealings while prohibiting fraudulent acts. By incorporating Islamic legal ideas into the analysis of auditor obligations, the conversation achieves a more comprehensive comprehension of the ethical framework in which auditors function. In addition, the concepts of Islamic finance, such as Mudarabah (risk-sharing) and the prohibition of Riba (usury), enhance the discussion on corporate governance by highlighting the importance of responsible financial management and opposing the pursuit of excessive risks. This comprehensive approach acknowledges the significance of cultural and religious factors in influencing regulatory frameworks, guaranteeing that the responsibilities of auditors are not only in line with global standards but also uphold the principles enshrined in Islamic legal principles.

Conclusion

This study investigates the legislative regulations governing the responsibilities of auditors in publicly traded corporations, with a specific focus on shareholder interests in such corporate entities. The findings underscore several noteworthy outcomes and recommendations. The one-year timeframe mandated by Jordanian legislation for auditor professional engagement is deemed insufficient. This limited duration hinders auditors from thoroughly assessing the

complexities required to form an informed technical judgment on the company's financial statements. It also obliges auditors to carefully balance the competing demands of meeting the expectations of the Board of Directors and subsequently proposing an extension of their tenure to the General Authority.

Moreover, the research acknowledges the provision for auditors in publicly traded firms to voluntarily resign from their position. This privilege can be exercised in instances of urgent circumstances that pose a threat to their professional reputation or personal issues, such as health-related obstacles. The study also underscores the significance of the ordinary general assembly in exercising its inherent authority to appoint and terminate auditors in publicly traded firms, establishing a direct link between the power to appoint and dismiss. Lastly, the research emphasizes the fundamental responsibility of auditors to verify the accuracy of recorded accounting information and to provide an impartial technical assessment of the significance of the company's financial statements and its financial status. These findings offer valuable insights into the dynamics of auditor roles, tenure, and responsibilities in public shareholding companies, potentially leading to regulatory refinements and the adoption of best practices that enhance the interests of shareholders and corporate governance.

Study's limitations and future research directions

This research on the legal regulation of auditors in publicly traded corporations is underpinned by critical factors influencing the scope and outcomes of the investigation. The primary focus of the study is the analysis of the Jordanian legislative framework governing auditors, aiming to elucidate how specific details within legal provisions significantly impact the roles, responsibilities, and tenure of auditors. Additionally, conducting a comparative examination of auditing practices in Jordan and France enriches the study by offering valuable insights into the potential for legal transplants and the adaptability of international best practices.

Moreover, the analysis concentrates on the rights of shareholders, particularly concerning the appointment and removal of auditors. It underscores the paramount importance of understanding how shareholders can wield influence over decisions related to auditors. Lastly, the study delves into the time constraints imposed on auditor tenure, emphasizing the potential impact on their ability to conduct thorough evaluations and provide informed technical judgments.

Looking ahead, the paper outlines several potential areas for further investigation. These include studying the long-term effects of auditor tenure on financial reporting quality and corporate governance, conducting comparative analyses across different jurisdictions, examining stakeholder perspectives,

analyzing the repercussions of auditor resignations, exploring technological advancements in auditing practices, and assessing the effectiveness of potential regulatory reforms. This comprehensive framework aims to deepen our understanding of the legal aspects pertaining to auditors' responsibilities in publicly traded firms, providing a strategic roadmap for scholars, policymakers, and practitioners engaged in this field.

Recommendations

Drawing from the data and insights derived from this examination of the legal regulation of auditors in publicly traded companies, several recommendations emerge to fortify the existing framework and address potential areas for enhancement. Firstly, the Jordanian legislator should consider incorporating a provision akin to the one present in the Egyptian Companies Law. This provision would grant auditors the authority to discuss matters related to their dismissal before the Ordinary General Assembly. Such a procedural addition aligns with the principles of fairness, transparency, and proper legal protocol, allowing auditors to articulate their perspectives and contribute to a more informed decision-making process.

Additionally, the researcher suggests that the Jordanian legislator adopt more comprehensive legal provisions elucidating the specific methods and conditions for terminating an auditor's contract in publicly traded businesses. Clear and inclusive legal guidance can mitigate ambiguity, reduce the likelihood of conflicts, and foster a more conducive environment for auditor termination procedures.

Furthermore, it is recommended that the legislator considers introducing mechanisms for alternative dispute resolution in cases where auditors and firms encounter disagreements, to enhance efficiency and ensure a fair resolution. Regular evaluations and revisions of the regulatory framework are also necessary to ensure its relevance and alignment with evolving industry norms and best practices.

Lastly, it is crucial for stakeholders, including regulatory bodies and professional associations, to collaborate in providing ongoing training and professional development opportunities for auditors. This will ensure that auditors stay abreast of emerging challenges, technologies, and ethical considerations in the dynamic landscape of publicly traded companies. These proposals aim to strengthen the legal framework governing auditors, foster a culture of accountability and transparency, and enhance the effectiveness of corporate governance in publicly traded firms in Jordan.

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