



**UNIVERSITAT
JAUME I**

THE FINANCIAL AUDIT IN THE BANKING INSTITUTIONS

DEGREE FINAL PROJECT

DEGREE IN FINANCE AND ACCOUNTING

UNIVERSITAT JAUME I – 2014/2015

Author: Elena López Vives

Tutor: Amparo Marco Gual

ABSTRACT:

In this paper the financial audit and its role in banks will be studied. The audit has undergone a significant evolution due to the complexity of the economic situation, the opening of subsidiaries worldwide, as well as the large size of the companies and the introduction of new technologies. Therefore, the audit is of paramount importance for society in general. However, after the economic and financial public scandals, the audit profession is partly declining. Because of that, the objective of this Bachelor's Degree thesis is to analyze the evolution of the financial audit and its connection with other relevant concepts. For this, all the concepts related to the audit will be examined, a study of the events that took place in Bankia, CAM and Banco de Valencia and the role played by the audit in them will be analyzed, and, finally, we will discuss why these events took place and which actions can be undertaken.

KEYWORDS:

- Financial audit
- Banking institutions
- Fraud

INDEX

1. INTRODUCTION	4
2. PRECEDENTS.....	6
2.1. THE AUDIT ACT AND THE REGULATIONS. LEGAL DEVELOPMENT OF THE AUDIT IN SPAIN6	
2.1.1. Concept of audit.....	6
2.1.2. Obligation to audit the annual accounts.....	8
2.1.3. Purpose of conducting an audit of financial statements	11
2.1.4. Fundamental principles of the audit	12
2.1.5. Historical evolution	14
2.2. TECHNICAL STANDARDS ON AUDITING	16
2.2.1. Concept and content.....	16
2.2.3. Training standards for auditors.....	18
2.2.3.1. Instituto de Contabilidad y Auditoría de Cuentas (ICAC)	18
2.2.3.2. Registro Oficial de Cuentas (ROAC).....	20
2.3. THE AUDIT REPORT	22
2.3.1. Concept and content.....	22
2.3.2. Audit opinion.....	24
4.3. RESPONSIBILITY OF THE AUDITOR TOWARDS FRAUD	26
3. ANALYSIS BANKING INSTITUTIONS	30
3.1. BANKIA	32
3.2. CAM.....	35
3.3. BANCO DE VALENCIA.....	37
4. AUDIT OPINION AND AUDIT REPORT	39
4.1. BANKIA	39
4.2. CAM.....	41
4.3. BANCO DE VALENCIA.....	42
5. AUDIT'S LAW	43
6. CONCLUSION AND RECOMMENDATIONS.....	45
7. BIBLIOGRAPHY.....	47

1. INTRODUCTION

According to the Instituto de Contabilidad y Auditoría de Cuentas¹ (ICAC, 1991), the audit activity is regulated in the revised text of the Law on Auditing, approved by Royal Decree 1/2011, of 1 July, and its Article 1.2 defines that activity as that which "involves the review and verification of financial statements and other financial statements, or accounting documents, prepared under the financial information framework in force, and whenever this activity is aimed at issuing a report on the reliability of these documents that may have any effect against third parties". The same article, in paragraph 4, states that "the audit will necessarily be carried out by an auditor or an audit firm, through the issuance of a pertinent report and subject to the requirements and formalities set out in the current law.

The financial audit is vital for large-scale entities, as it serves to inform associates, the management and other stakeholders on the economic and financial situation in which they are, and to serve as a basis for decision making. Without the practice of auditing, the management cannot be totally sure whether the reported economic data are true and reliable. Audit is what defines, quite reasonably, the actual situation of the company.

In Spain, to engage in the audit profession, one should be administratively qualified as auditor, and is understood to have such a qualification that is registered with the Registro Oficial de Auditores de Cuentas (ROAC)² and the Instituto de Contabilidad y Auditoría de Cuentas (ICAC).

Technical Standards on Auditing (TSA) collect the indications the auditor has to follow, and which should be his or her behavior in the development of audit activity. Also, they constitute the principles and requirements that the auditor must necessarily follow for the purpose of achieving an optimal level of quality in their work.

The aim of this dissertation is to analyze the most recent financial scandals, among which can be highlighted entities such as Bankia, CAM and Banco de Valencia, that, through their boards have been involved in corruption and fraud cases. The Spanish financial system has been damaged and had to make use of the European aid through the request of a loan of 100,000 million euros for it to be restructured. Prior to this analysis, we proceed to examine in detail all the theoretical concepts related to financial audit to better understand what their impact on institutions and the society is.

¹ Institute of Accounting and Auditing

² Official Register of Auditors

For this, this paper has been divided into several sections. In the first section we will study thoroughly the Audit Act and the Regulations; this section includes the concept and objective of the audit, the obligation to audit the annual accounts, the fundamental principles and its historical development. Also, the Technical Standards on Auditing will be explained as well as the training standards for auditors, the audit report and the auditor's responsibility for fraud. In the second section, the analysis of the events in Bankia, CAM and Banco de Valencia will be analyzed, as well as their respective audit reports and, finally, the auditor's opinion towards this topic will be discussed.

Finally, the draft of the new Audit Act will be quoted and the overall conclusions and recommendations on measures that should be taken by the new law will be pointed out.

2. PRECEDENTS

2.1. THE AUDIT ACT AND THE REGULATIONS. LEGAL DEVELOPMENT OF THE AUDIT IN SPAIN

2.1.1. Concept of audit

The concept of audit is expressed differently depending on who defines it. However, it appears that the key ideas remain the same in all definitions.

Artículo 1.1 de la Ley de Auditoría de Cuentas (LAC)³ provides that the financial audit is the activity consisting of the review and verification of accounting documents on condition that it intends to broadcast a report that may have effects on third parties.

In addition, it states that it will consist on verifying and determining whether those accounts give a true and fair view of the wealth and financial situation of the company or audited entity, as well as the results of its operations and the means obtained and applied in the period under review, according with the Commercial Code and other applicable legislation. It will also comprise the verification of consistency of the management report regarding those accounts.

Furthermore, the Regulations of implementation of Law 19/1988, define it in Article 1.1 as “the activity carried out by a qualified and independent person, consisting of analyzing, using appropriate review and verification techniques, the economic and financial information deducted from accounting documents under exam, and which aims to issuing a report to highlight their responsible opinion on the reliability of that information, so such information can be understood and evaluated by third parties”.

It is noted that the definitions referred above include several key terms and phrases that are explained below:

- To conduct an audit there must be verifiable information and some rules (criteria) by which the auditor can evaluate it. In turn, the information may take different forms. Auditors routinely perform quantifiable information audits, which include the financial statements of the company and individual statements of tax revenues.
- The criteria for evaluating information also varies according to the information to be audited.

³ Financial Auditing Act

- When the information is unbiased, an establishment of criteria is more difficult. Usually, auditors and institutions to be audited endorse an agreement regarding the criteria before the audit starts.
- The evidence is any type of data used by the auditor to determine whether the information being audited has been declared in accordance with the established criteria.
- To meet the purpose of the audit, those who carry it out must obtain sufficient quality and volume of evidence. Auditors should determine the types and quantity of evidence needed and assess whether the information corresponds to the established criteria. This is a critical part of every audit.
- It is necessary that the auditor is qualified to understand the criteria in use and is competent enough to know the types and amount of evidence that he or she must accumulate in order to reach the proper conclusion after the evidence has been examined. The auditor should also have an independent mindset. The competence of the individual performing the audit is of little value if he or she is not impartial in the accumulation and evaluation of evidence.

2.1.2. Obligation to audit the annual accounts

The first additional provision of Law 19/1988, of 12 July, records that companies or entities which meet either of the following circumstances, whatever their legal nature is, should be subject to audit:

- That their securities are listed in any official exchanges.
- That they issue debentures in takeover bids.
- That they are regularly engaged in financial intermediation, including corporations who serve as commissioners without taking positions and Agents and Exchange and, in any case, companies or financial institutions that must be registered in the corresponding registers of the Ministry of Finance and Banco de España. Among them, all the reciprocal guarantee corporations (RGC), classified as financial institutions by the Law that regulates them, are subject to compulsory audit (Law 1/1994).
- The branches in Spain of foreign credit institutions which do not have to file annual accounts of their activity in Spain must submit to audit the accounting information to be made public on an annual basis as well as that to be submitted confidentially to the Banco de España.
- That they have as social aim any activity subject to the Law 33/1984, of 2 August, on the Regulation of Private Insurance, within the limits established by regulation.

According to this law, insurers that are in the following circumstances should be subject to annual audit:

1. That they operate in life assurance.
2. That they operate in surety, credit and in all assurances in which the liability risk is covered.
3. That those entities that the General Insurance wish to request an audit report due to their subjection to some of the precautionary measures provided in Article 42.2 of Law 33/1984, of 2 August, on the Regulation of Private Insurance (repealed by Law 30/1995, repealed in turn by Royal Decree 6/2004), or to being in liquidation.

The entities subject to precautionary measures provided by Law 33/1984 were renamed by the Law 30/1995 "companies under special control measures", term currently in force in the Royal Decree 6/2004. In particular, they are the following (Article 39, Royal Decree 6/2004):

- a) Entities with a deficit of 5 % in calculating each of the technical provisions considered individually, except for the technical provision of benefits, which will be 15 %. Also, deficit of more than 10 % in the coverage of technical provisions.
- b) Failure of the solvency margin. Failing to achieve the minimum guarantee fund.
- c) Accumulated losses exceeding 25 % of its capital stock or mutual fund disbursed.
- d) Financial or liquidity difficulties, which led to delay or default on payments.
- e) Failure to carry out the social order or stoppage of the corporate bodies, so that their functioning is impossible.
- f) Factual situations deducted from checks made by the management, which threaten their solvency, the interests of the insured or the fulfillment of the obligations as well as the inadequacy of its accounting to the Accounting Plan of the insurance entities or irregular accounting or management in terms that significantly prevent or hinder the knowledge of the true financial condition of the insurer.
- g) Other entities or persons whose purpose is any activity subject to the Law 33/1984, of 2 August (now the Royal Legislative Decree 6/2004).

Are freed of this obligation the entities or persons that attend at least two of the circumstances provided in Article 181.1 of the TRLSA⁴ (possibility of making an abridged balance sheet).

- That receives grants, funding or perform work, services or supply goods to the State and other public bodies within the limits set by the regulation in force, which is currently set at 600,000 euros. Financial statements regarding that determinate tax year will be required to be submitted to audit they are received, and in subsequent ones in which investments related to such subsidies or grants are executed or materialized.
- That for two consecutive years, they have exceeded the limits for two of the following three parameters: revenues, total assets and average annual number of employees.

The limits for these parameters in accordance with Article 263 of the TRLSC⁵, the wording of which has been amended by Law 14/2013, are:

The limits currently set for these parameters are:

⁴ Texto Refundido de la Ley de Sociedades Anónimas (Consolidated Companies Law)

⁵ Texto Refundido de la Ley de Sociedades de Capital (Capital Firms Consolidated Act)

Table 1. Auditing obligation limits

Total assets	2,850,000
Turnover	5,700,000
Number of employees	50

Source: Own

- That shareholders who represent at least 5 % of the share capital of the company have requested it.
- That the competent court has requested it.

2.1.3. Purpose of conducting an audit of financial statements

Under Law 19/1988, the audit aims to issue a report about the reliability of audited financial documents, not just limited to checking that the amounts in its accounting records match those offered in the balance sheet and the income statement, as the review and verification techniques applied allow, with a high degree of certainty and without the need to redo the whole accounting process, to give a responsible opinion on the accounting as a whole and also on other circumstances that affect the life of the company but were not included in this process.

It should be noted that studies carried out by different authors define the purpose of the audit in different ways. However, it is seen that the key idea is coincident in all definitions.

Madariaga (2004) states in his book that the audit is to investigate the accuracy, completeness and certainty of financial statements, records and other administrative and accounting documents presented by the management, as well as to suggest improvements as appropriate. The main objective of the audit is to inform associates, the management and other stakeholders of the real financial situation as a basis for decision-making. Audits in business are very important because without carrying out an audit the management does not have complete certainty whether registered economic data are real and reliable, or they are not. It is the audit which defines, quite reasonably, the real situation of the company.

Moreover, Mira (2006) argues that this is a process carried out in accordance with some standards, which involves an examination and verification of the financial statements of a company carried out by qualified experts who give their opinion on the reliability of the financial information contained therein. And, next, they communicate their view through an audit report or opinion.

After analyzing the various definitions mentioned above, we can say that the purpose of the audit is to issue a report to state a technical opinion on whether the financial statements show, in all significant issues, a fair image of the estates and the financial position of the audited company, as well as the results of operations in the period under review, cash flows and changes in net worth, according to principles and generally accepted accounting standards and the applicable accounting regulatory framework.

2.1.4. Fundamental principles of the audit

According to Blanco (2003), in order to achieve the objectives of the accounting profession, professional auditors must master a number of fundamental principles. Those are professional technical rules derived from reason and experience, and which guide the actions of the auditor.

Within the work of Vela-Montesinos (1991), Begoña Giner Inchausti holds collaboration on accounting principles, distinguishing a broad and restricted sense of them. Thus, broadly speaking, she believes that all accounting standards have received this designation, and, therefore, the notion of accounting principle is closely related to the regulation or standardization. And from a more restricted point of view, it is understood that the accounting principles are statements or basic tenet that intend to structure and explain the accounting practice.

In short, the author believes that the accounting policies have made easy the evolution of the audit focused on fraud detection and checking the accuracy of the information, to a more responsible audit in which the expert's opinion on the reliability of the information is requested.

Next, the fundamental principles of the audit are analyzed, based on the authors cited above.

Integrity. The auditor must be honest and trustworthy when performing professional services. Integrity must be understood as the respectable righteousness in professional practice, which forces him or her to be honest and sincere when carrying out his or her work and while issuing his or her report. Consequently, each and every one of the functions carried out by him or her must be led by an impeccable professional honesty.

Independence. Independence implies a mental attitude that allows the auditor to act freely about him or her professional judgment, in order to what he or she must to be free of any bias that limits his or her impartiality to carry out an objective consideration of the facts, as well as in formulating their conclusions.

Objectivity. Objectivity means maintaining fairness in all functions of the auditor. To do this, he or she must have full independence in his or her relations with the audited entity. The auditor must be fair and not allow any kind of influence or prejudice.

To be and seem independent, the auditor should neither have interests outside those professionals, nor be subject to influences willing to commit both the objective solution

of the problems to which he or she may be referred, and the freedom to express his or her professional opinion.

It is required that the auditor of the entity is not a part of it, because the fact of being part of the entity and auditing it would imply a lack of objectivity in terms of reporting.

The test must be impartial and without personal or political influences. At all times the auditor's judgment must prevail, which will be supported by his or her professional capacity and full knowledge of the facts reflected in his or her report.

In short, it is commonly understood that the audit must be carried out with integrity, independence and objectivity. The accounting policies have facilitated the evolution of the audit focused on fraud detection and on checking the accuracy of the information, carrying out a more responsible audit in which the expert's opinion on the reliability of the information is requested. Later, in section 4.4, the auditor's responsibility towards corporate fraud will be discussed in more detail.

2.1.5. Historical evolution

The audit as a profession was first recognized under the British Companies Act 1862. From 1862 to 1905, the audit profession grew and flourished in England, and was introduced in the United States by 1900. In England the detection of fraud —what became the main objective of the audit— was growing importance. The image of the auditor spread over England, USA, Canada and countries under their influence, and throughout the Western countries in general.

In the United States of America, after the economic crisis of 1929, companies looked for solutions to reduce costs and increase efficiency. In this regard, banks began to use the services of external auditors, but later on they created their own internal audit departments. Therefore, external and internal audit were organized under the pressure of owners and other users of financial information, which expressed some confidence in the correctness or competence of managers.

As for Spain, according Larriba (2009), up to recent times, the practice of auditing was virtually limited to companies with foreign participation and the auditors that conducted them belonged to international firms established at the request of foreign investors.

The first school of auditors was born in 1912. It was named Colegio de Contadores Públicos, but it was not successful. Later, the Instituto de Censores Jurados was created in the Basque Country, which was more successful than the previous one. Others were founded in Vigo, Seville and Barcelona in 1936, but without success, because of the Civil War. In 1942 the Instituto de Censores Jurados de Cuentas de España was created. It was a pioneer organization in these areas, with years of effort focused on the implementation of the audit in our country and on the creation and development of the group of professionals devoted to carry it out. Along with the dedication of these professionals, the growth of foreign investment, favored by the economic opening as a result of the change of political regime, and the expansion of our companies abroad, all of this marked, at the end of the decade of the seventies and early eighties, a critical boost to the development of the auditing profession in Spain, being the definitive push the incorporation of Spain to the European Union and the respective adaptation of its commercial legislation to the Community Law. Since then, and especially since the implementation of the Law 19/1988, of July 12, on Auditing, the situation of the Spanish audit has been equated with that of other neighboring countries, creating the Instituto de Contabilidad y Auditoría de Cuentas (ICAC) and the Registro Oficial de Auditores de Cuentas (ROAC).

According Madariaga (2004), at the beginning of the twentieth century, the audit was mainly understood as a protective activity, and its fundamental purpose was to discover and prevent fraud. In recent decades, the audit has evolved into a management counselor for companies, providing tax services, advice on accounting, administrative studies and industrial research and organization of societies. The audit should determine and assess how the companies apply their policies and programs and if there are safe and tailored controls adjusted to their needs. However, the current concept does not eliminate the valuable service which presided audit activities at its inception, as the protection of assets and the accuracy of the accounts were.

Therefore, the difference between the audit in the beginning of it and the current audit lies in the mind of the auditor. In the past, the auditors focused their efforts in the verification and the protection. Currently, his or her consideration takes into account all business activities and his or her recommendations are geared to make the company's operations more profitable. Therefore, it can be said that the audit has experienced a simultaneous progress in economic and social development which has been favorable for society.

2.2. TECHNICAL STANDARDS ON AUDITING

2.2.1. Concept and content

Technical Standards on Auditing (TSA), gather up the conditions to be met by the auditor and his or her behavior in the development of audit activity. Pereda (2002) states that the TSA are the principles and requirements that the auditor must necessarily take into account when performing its function in order to be able express a responsible technical opinion.

The auditor will determine the scope of his or her work in accordance with the Technical Standards on Auditing. When applying these Standards and deciding the audit procedures and their extension, the auditor will use his or her professional judgment by taking into account the concepts of importance and relative risks (Mira, 2006).

The Technical Standards on Auditing are divided into three groups:

First, there are the **general technical standards**, which are those that affect the qualities that the auditor must possess in order to develop the audit profession.

These standards show the regulation of the criteria that the auditor must follow to ensure compliance with the current regulations such as independence, professional secrecy and wages. The audit work, whose purpose is to transmit an independent professional opinion, should be carried out by people who have a professional title legally issued and recognized, and have appropriate technical training and professional capacity as auditors.

Second, there are **standards of execution of work**, which regulate the preparation and implementation of the auditor's work. These are the set of applicable investigation and inspection techniques in order to issue the final technical opinion.

The audit work should be planned properly, and if assistants are used, they must be supervised properly. The auditor should make a proper study and evaluation suitable to the internal control to determine the scope of the tests. Through audit procedures, the auditor should obtain sufficient and appropriate evidence to achieve an objective basis and thereby secure his or her opinion.

Third and finally, there are the **reporting standards**, which regulate the outcome of the auditor's work; i. e., the report. Through this report, the auditor informs all interested

persons the results of their work and the opinion which has been reached through its review.

The importance that the report has for the auditor, for the client and for stakeholders, makes also necessary an establishment of standards governing the quality and minimum reporting requirements. In addition, the report should indicate whether the financial statements adjust to the generally accepted accounting principles, contain briefings reasonably appropriate to the financial statements and report the financial statements taken as a whole.

In any case, apart from all that which has not been established in the Technical Standards published by the ICAC, usual applications or practices of the auditors, defined as repeated, constant and widespread acts observed by those who develop this activity will be considered as them. For this, the professional Corporation will prepare working procedures guidelines in which the common uses or practices where the uses or customary practices in the exercise of the audit activity are established. (Mira, 2006)

2.2.3. Training standards for auditors

In Spain, auditors have to meet some requirements similar to those established in any member country of the European Union.

The auditors must be registered with the Registro Oficial de Auditores (ROAC) and the Instituto de Contabilidad y Auditoría de Cuentas (ICAC), which will be explained below.

2.2.3.1. Instituto de Contabilidad y Auditoría de Cuentas (ICAC)

The Instituto de Contabilidad y Auditoría de Cuentas (ICAC) is an autonomous body under the Ministry of Economy and Competitiveness, which governs its actions by the general laws and regulations that are applicable and, especially, by what is provided by Law 6/1997 of 14 April, on the Organization and Functioning of the State Administration for that kind of public agencies, as well as by that set out specifically in the revised text of the Law on Auditing, approved by the Royal Legislative Decree 1/2011, of 1 July, and its development regulations, approved by Royal Decree 1517/2011, of 31 October.

That is, the ICAC is the agency responsible for ensuring the proper performance of the duty of independence, as well as to assess in each particular job the possible lack of independence of a statutory auditor or audit firm.

The legislation entrusts the aforementioned Instituto with the following functions and responsibilities:

The establishment of principles and accounting standards.

-The improvement and updating of the audit activity.

-The control and discipline in carrying out this activity.

The establishment and supervision of an Official Register of Auditors.

-The resolution of the basic rules to be followed by the examination of professional competence made as a joint proposal by the professional corporations, as well as the approval of the call; alternatively make the call for the aptitude test.

-The recognition and publication of audit standards developed by the Corporations representing auditors.

-The fulfillment and promotion of research, documentation, broadcasting and publication necessary for the development and improvement of the audit activity.

-The coordination and technical cooperation in auditing with international organizations, particularly with the EEC, as well as with the national ones.

In addition to the functions legally attributed to the Instituto de Contabilidad y Auditoría de Cuentas, this organism is also in charge of the control of the activity of audit, which will be conducted *ex officio* when the overriding public interest requires it through reviews or inspections concluded by any of the work of the auditors, as well as through the exercise of the disciplinary powers of the auditors and audit firms. It will depend on the Instituto de Contabilidad y Auditoría de Cuentas y del Registro Oficial de Auditores de Cuentas (ROAC). (De la Peña 2008)

2.2.3.2. Registro Oficial de Cuentas (ROAC)

Created by Law 19/1988, of July 12, on Auditing, it depends on the Instituto de Contabilidad y Auditoría de Cuentas, and the enrollment in it is an essential requirement to enable natural or legal persons who meet the remaining conditions stated by the aforesaid Law, to perform audit activity and issue reports they may have against third parties. To be entered in the Official Register of Auditors the following will be required:

- a) Being an adult.
- b) Having Spanish nationality or of any of the Member States of the European Union, subject as provided in the rules on the right of establishment.
- c) Having no criminal record for fraud.
- d) Having obtained an official university degree, or being in possession of studies or titles that enable for university entrance.
- e) To have the basic theoretical knowledge to be able to carry out this profession, obtained through specific teaching courses which the amount of hours or ECTS determined in the ICAC Resolution, of 12 June 2012.
- f) Demonstrating a minimum of three years of practical training, or eight if the candidate does not have an official university degree.

Those who, fulfilling the requirements, except for those who have completed studies or obtained the titles that enable for admission to college and have acquired practical training indicated above, with a minimum period of eight years of experience in jobs mainly related to the control of annual accounts, consolidated accounts and similar financial statements, of which at least five years have been together with a person authorized to audit accounts and in the exercise of this activity, may be entered in the Official Register of Auditors.

Officials from bodies whose formation and functions are related to the audit of public sector accounts, or to the examination or assessment of the financial situation and assets and the performance of financial institutions or insurance companies, when they meet the requirements for registration in the Official Register of Auditors established by law, will be able to register in the Official Register of Auditors.

The requirement for the monitoring of programs of theoretical training, and that corresponding to overcome the examination of professional competence, shall be met

by overcoming the public examination or tests established for entering in the determinate body.

The auditors will be temporary or permanently terminated, as appropriate, in the Official Register of Auditors, in the following cases:

- a) Breach of any of the requirements of Article 7 of this law.
- b) Voluntary resignation.
- c) Failure to maintain the safeguards provided in this law.
- d) Penalty.

2.3. THE AUDIT REPORT

2.3.1. Concept and content

According to Urías (1990), the audit report is a document of communication between the auditor and its addressees, and it is the final and visible result of all the audit work, calling it a "major product". According to the author, in order the report complies with its communication function, it must have the following characteristics:

Objectivity. Events have to be exposed as they are, without any bias on the part of the auditor.

Integrity. Everything that can be discussed must be reported.

Clarity. The language should be as clear and understandable as possible, always following a technical language.

Certainty. The report shall be established on the basis of a safe and clear knowledge of the facts that are wanted to communicate.

Credibility. It is the attribute that gives, nowadays, more usefulness to the auditor's report.

Opportunity. It should be written with appropriate intervals and in a timely manner.

Relevance. The information must adequately meet the needs of the user. Therefore, it must point out the most relevant facts.

Its content includes the description of the work that has been done, and also the result obtained. The basic elements that should appear in an audit report are included in the table below:

Table 2. Audit report

ITEMS OF AN AUDIT REPORT
Report title: Audit of financial statements.
Identification of recipients and individuals who requested the job.
Identification of the company or auditing company.
Scope paragraph. This paragraph, which will be the first, includes: <ul style="list-style-type: none">- The documents forming the annual accounts- An indication that auditing standards have been applied- To express the previous procedures in the rules that have not been able to implement.
Opinion paragraph. In this, the auditor expresses whether the financial statements represent a fair image. If not, he or she will indicate the nature of any exception not significant by the statement "Except for"; and, in the event that they were significant, the auditor would have to deny its opinion or express an unfavorable opinion.
Exceptions paragraph. In this, the effect of the exception in the annual accounts if quantifiable, or its nature if it cannot be estimate, is detailed.
Paragraph on the management report. To express the scope of work and tally with the information stated in the financial statements.
Data and signature of the auditor.
Date of issue.

Source: Own

2.3.2. Audit opinion

According to Larriba (2009), four types of audit opinion may appear in the audit report.

First, the opinion may be **favorable**, meaning that, for the auditor, the annual accounts and the management report express fairly the equity and financial situation.

Secondly, it can be a **qualified opinion** when the auditor concludes that there is one or more circumstances considered “exceptions”, provided they are significant in relation to the financial statements as a whole. The reservations concern the scope limitation, that is, when the auditor is unable to apply audit procedures ordered by the Technical Standards on Auditing or any additional procedures that the auditor considers necessary to ascertain whether the annual accounts present a true picture of the audited entity; errors or failure to comply with the generally accepted accounting principles and standards, including the omission of required information; uncertainties or changes in accounting principles during the year, compared to those of the previous year.

Third, it can be **unfavorable** when the auditor considers that the annual accounts and reports do not express fairly the equity and financial situation. For this, it is necessary that errors, breaches of accounting principles and standards, including reporting errors, which have been identified and, in the auditor’s view, affect the financial statements in a significant amount or concept.

Finally, the auditor may **refuse** the review when he or she has not obtained evidence enough to establish an opinion on the financial statements as a whole. In general, it comes from limitations on the scope or uncertainties, when these are very significant and, therefore, prevent him or her from configuring an opinion.

More specifically, the purpose of the audit report focuses on verifying and stating whether the financial statements give a true and fair view of the assets, financial situation and results of the audited entity in accordance with the financial information regulatory framework that is applicable. That is, after performing the audit report, the auditor expressed the opinion on the audit carried out.

It should be highlighted that the prevention and detection of errors always correspond to the administrators and the management. The auditor is not responsible for the prevention of errors. However, when planning his or her audit, the auditor must assess the risk that the annual accounts have errors. The auditor is responsible for being reasonable sure about whether the financial statements as a whole are free from

errors, assuming the unavoidable risk that some misstatements may not be detected if the audit has been properly developed.

4.3. RESPONSIBILITY OF THE AUDITOR TOWARDS FRAUD

The auditor's responsibility towards corporate fraud is one of the most contentious issues existing in the history of the audit. The function assigned to the auditor against fraud has been altered over time.

In the international context, the external audit is currently receiving considerable criticism. The constant financial scandals that have happened in many countries have seriously questioned the role of the audit of the financial statements.

Fraudulent financial reporting is defined as the Treadway Report, as "willful conduct, whether by act or omission, which leads to distortion of financial statements" (AICPA, 1987). This implies either the existence of manipulation, falsification or alteration of documents and accounting records, or the development of intentionally wrong statements or the omission of amounts, among others. It should be noted the importance of it being a "willful" act intended to deceive and to change the financial statements, for example, which tries not to point out a real benefit. (As quoted in García-Humphrey, 1995)

Mainly, there are two types of fraud. The first one is committed with a financial intent of misappropriating corporate assets. According to a statistical survey of Price Waterhouse, 90 % of frauds belong to this group. In this case, as Romney *et al.* (1980) point out, there are three essential facts that engage in fraud: personal pressures, opportunities for fraud and the characteristics of the fraudster. As for the personal pressures, it is understood that they may be either economic or otherwise, also including types of fraud that occur when the fraudster does business outside the company which he or she works for. With regard to opportunities for fraud, they exist from the moment a series of corporate attributes, which may contribute to the fraudulent manipulation of financial statements, appear. As for the characteristics of the fraudster, risk and honesty are fundamental and determining factors. The second type of fraud, report of fraudulent financial information, is an intentional act that is intended to alter the annual accounts. Usually, among its causes, it is included the intention to increase the value of the shares, to meet the expectations of investors, or to hide the weakness of internal control. (As quoted in García-Humphrey, 1995)

Since the early twentieth century, the role of the auditor towards fraud has been determined. Before 1920, it was understood that the main objective of the audit was to detect fraud. Between 1920 and 1960, a change in this position occurs, and detecting fraud is not assumed as a responsibility of the auditor anymore. Since then,

professional audit report focuses on the accuracy and reliability of the financial statements. This means that, through the audit work, it is reasonable to find significant errors and fraud, but if none is detected, the auditor is not responsible for it. From 1960-1980, driven by public dissatisfaction with the profession, the auditor's obligation to accept responsibility for detecting fraud was gradually restored. (Garcia et al. 1995)

In any case, it is essential that the auditor understands the nature of the fraud, the causes that originates it and the techniques to be used when fraud has already occurred. The auditor, as indicated in Guía Internacional de Auditoría nº11 (IFAC, 1982), "in order to fashion an opinion on the financial statements, any indication that there might be some sort of fraud or mistake regarding to it, will cause the auditor to extend his or her procedures to be able to confirm or reject these assumptions". The auditor's recognition of these situations is a basic fact before entering the sphere of allocation of responsibilities. There is great confusion among users of accounting information towards which is the responsibility of the general management of the company when developing financial statements that fairly reflect the assets, the financial situation and the results of the company, and what responsibility should assume the auditor when expressing an independent opinion. The accuracy of these issues is essential for the audit to fulfill its social function. (As quoted in García-Humphrey, 1995)

Singleton (1990) sums up the controversy in the statements above as follows: "The real issue is the underlying fraud. We can ignore the fact that the auditor is expected to discover all major fraud. The profession will be doing itself a favor if it reformulates its guidelines. The fact is that if the auditors would not have any responsibility for fraud detection, people would not waste time and money pointing them out what they are not able to find. The auditors must face their responsibilities and take a positive position towards them. A negative attitude, however, does not diminish their responsibilities as auditors, although it would lead them to discredit the profession. "(As quoted in García-Humphrey, 1995)

From the quote above, we can extract that what is being sought is a match between what auditors do and what is expected from them, which would have a positive impact, as it would improve the social recognition of the audit of financial statements.

It seems clear that there is a "gap between expectations" (*audit expectations gap*) of the users and those of the auditors. On the one hand, the expectations of users of the audit are not satisfied, and, secondly, the auditors do not seem willing to assume other responsibilities besides those derivatives of the reliability of financial statements.

Connecting this with the results of recent empirical studies on the expectations of the audit, it seems clear that a more active stance by the auditors —understood as to define its role in fraud detection— is necessary. It is revealing, regarding all the stated so far, that the Financial Times published that of 297 audit firms and individual auditors visited by the Chartered Association of Certified Accountants, 139 were classified as with poor arguments to offer a particular audit opinion. (Garcia et al. 1995)

According to the Texto Refundido de la Ley de Sociedades Anónimas (Royal Decree 1/2010), the main obligations of managers are the formulation of the annual accounts, the management report and the completion of the proposal of the result application. On the other hand, the auditor, acting under the rules governing the audit, has the responsibility to check whether the annual accounts give a true and fair view of the assets, the financial situation and the results of the company as well as the connection between the management report and the financial statements, which allows him or her to issue an opinion on them. The Technical Auditing Standards state that "the scope of the tests has to be based, inter alia, on the evolution of internal control that the entity keeps, since the purpose of an audit is not to discover embezzlement and irregularities." This highlights the lack of accountability to the auditor to fraud. However, in general, as indicated by the Technical Auditing Standards, the auditor should immediately inform the management of those irregularities which have been discovered. This does not mean that such information has to be gathered necessarily in the audit report, since, due to the confidentiality of its information; it is advised to obtain permission from the company before including it in the report.

It should be noted that differences in perceptions among users and auditors are not as significant in Spain as in other countries, mainly due to the securities offered by the Spanish auditors, who are much more positive than those of other countries.

To conclude this section, it should be noted that efforts should focus on preventing fraud; to prevent fraud is to be made. This means that appropriate measures should be taken, so that it does not occur. The International Federation of Accountants, in its Rule 11, paragraph 4, states that the responsibility for preventing fraud corresponds to the management, through the implementation and continued operation of an adequate system of internal control. This is because adequate control systems minimize the opportunities for fraud to occur and increase the likelihood of its detection. Perhaps, a way to limit the accounting irregularities would be rethinking the possibility of the auditor to act as the adviser of the client company. Nevertheless, it is difficult to define the boundaries between the advice considered as somewhat acceptable and that

thought as not acceptable, because if the counsel is very broad, it is difficult to measure the independence of auditors —especially by users—, and can cause serious difficulties between them and auditors.

Although this could be a possible solution, there are many other aspects that are directly and indirectly influencing the role of the auditor in situations of fraudulent information. These aspects could be, for example, the consideration of the income provided by the customer, the quality of the financial information, and many others. (As quoted in García-Humphrey, 1995)

3. ANALYSIS BANKING INSTITUTIONS

In recent times, public scandals socio-economic, from banks, are increasingly significant. Therefore, an analysis of the results and the auditor's role will be performed by separate entities. The entities that are part of the study are Bankia, CAM and Banco de Valencia, which will be compared with BBVA some relevant aspects. The study covers the period 2010-2012.

First, we have analyzed the results of Bankia, Cam and BBVA, which are shown in the following table:

Table 3. Results BBVA, Bankia and CAM (2010-2011)

*Millones de euros	BBVA 2010	BBVA 2011	BANKIA 2010	BANKIA 2011	CAM 2010	CAM 2011
Margen de intereses	13,316	13,152	2,815	2,637	359	501
Margen bruto	20,333	20,028	22,533	4,099	919	573
Beneficio antes de impuestos	6,059	3,446	1,373	-4,307	142	-3,492
Beneficio atribuido al grupo	4,606	3,004	934	-2,979	170	57

Source: Annual accounts BBVA, Bankia and CAM.

On the one hand, through Bankia results shows that presents a profit of 934 million euros in 2010, compared with a loss of 2,979 million in 2011, as indicated in the restated accounts. Between 2010 and 2012 the BFA-Bankia losses exceeded 36,000 million euros, corresponding to 3.5% of Spanish GDP, double the equity of 7 boxes that were part of Bankia or 13.5% of its total assets. In addition, it should be noted that prior to the restatement of accounts, being President Rodrigo Rato, the results presented were different. On June 9, 2011, before the IPO, Bankia presented a profit of 91 million, audited and published with the approval of the Board of Directors, the CNMV, the Banco de España and the Ministry of Economy accounts. Therefore, we can say that the losses of 2011 and 2012, after reformulation, the accumulated losses are not shown by Rodrigo Rato.

Making a comparison with the results of BBVA, it appears that this entity presented a fairly regular pattern of 4,606 million and 3,004 million in 2010 and 2011 respectively. Moreover, CAM has decreased more than 50% on profit, but later we will show that these benefits were not real.

In the next section the causes that have led to massive losses of Bankia and the benefit of CAM will be analyzed.

3.1. BANKIA

In this section, Bankia's accounts and the auditor's role in this organization will be analyzed, since it has had the greater social and economic importance in both the financial system and the Spanish society.

Bankia SA It is a financial institution that was founded in late 2010 as a result of the financial restructuring led by the Banco de España, and it is the result of the merging of seven savings banks: Caja de Ahorros y Monte de Piedad de Madrid, Caja de Ahorros de Valencia, Castellón y Alicante (Bancaja), Caja Insular de Ahorros de Canarias, Caja de Ahorros and Monte de Piedad de Ávila, Caixa d'Estalvis Laietana, Caja de Ahorros y Monte de Piedad de Segovia y Caja de Ahorros de la Rioja, which signed a Integration Agreement for the establishment of a Contractual Group formed as an Institutional Protection Scheme (IPS)⁶.

The Integration Agreement was aimed at setting the Group as an integrated organization, recognized as a consolidated group from the accounting and regulatory point of view, and as an instrument of concentration from the point of view of competition law, considering the construction of a powerful financial integration, the integration of management and ownership of the business investment of the group, and the centralization of the investment and disinvestment decisions of existing and future portfolios. (Bankia S.A., 2013).

After analyzing the annual accounts, it has been observed that Bankia's massive losses are due to a combination of relevant errors, which are: hiding losses on nonperforming loans, non-updating assets at market prices, and excess of supplies. To demonstrate what has been stated above, a comparison between the results of Bankia and BBVA was made, as the latter is similar in size and, also, it did not need a government intervention.

First, the concealment of losses on nonperforming loans in 2010, can be seen through the evolution of the NPL ratio, shown in table 4. In 2010, the group's NPL ratio stood at the close of 2010 at 6.3 %. This data is the result of dividing the bad debts by the total risks declared by the entity. It can be seen that BBVA presents an upward trend, but

⁶ IPSs are a cooperation formula for sharing the liquidity and credit risk among entities. Note the essential equivalence between mergers and IPS in their relevant effects: the transfer to the central body of the authority to define policies and major strategies, the high degree of mutual commitment to support the solvency and liquidity among participants, and the fact that they share the results of their activity in a high percentage.

within normal limits. However, Bankia has a very uneven evolution, as it goes from 6.3% in 2010 to 9.8% and 12.9 % in 2011 and 2012 respectively.

Table 4. NPL ratio

NPL RATIO		
YEAR	BBVA	BANKIA
2010	4.5%	6.3%
2011	4.7%	9.8%
2012	6.0%	12.9%

Source: Annual accounts of BBVA and Bankia.

Second, in the restated accounts, Bankia has not applied the accounting standards by Banco de España regarding the update of the assets at market price in the constitution of IPS. As a result, in 2011 and, especially, in 2012, the allocations in provisions are much higher in Bankia (26,845 million euros) than in BBVA (7,834 million euros), as shown in table 5. Furthermore, it may be a consequence of the presentation of some results much worse results than the actual by the new president of the group, Jose Ignacio Goirigolzarri, who stated losses of 2,979 million euros, since sales made in 2013 yield to capital gains, even though the market knew that the company was forced to sell.

Table 5. Provisions

ALLOCATION TO PROVISIONS		
*Million of €	BBVA	BANKIA
2012	7,834	26,845

Source: Annual accounts BBVA y Bankia.

Following the analysis, it should be noted that the accounts were manipulated in order to carry out a restructuring of the group to go public, which is explained below.

June 28, 2011 the General Meeting of Shareholders and the Board of Directors of BFA and then the General Meeting of Shareholders and the Board of Directors of Bankia, adopted the necessary agreements to launch the IPO of Bankia by conducting a public offering and admission of trading of shares in Bankia (PAHO) with the aim of consolidating the configuration of own resources.

On 29 June the same year, the emission corresponding to the PAHO of the shares, meeting the solvency requirements and resources required from the scope of the

Banco de España and the framework established by Royal Decree-Law 2/2011, was registered in the CNMV.

On July 20, 2011, the process of IPO of Bankia was initiated by the issuance of 824,572,253 new shares with a par value of 2 euros each, and an issue premium of 1.75 euros per share, which is an issue price of 3.75 euros in total. (Bankia S.A., 2011)

Therefore, we can say that in 2010 the annual accounts of Bankia did not reflect their true picture, since they were manipulated to show non-real benefits in order to get out on the stock exchange and expand its capital in 1,649 million euros with a issue premium of 1,443 million euros, amounting to a total of 3,092 million euros. After enlargement, the social capital of Bankia became of 3.465 million euros, represented by 1,732,572,253 fully subscribed and paid shares, being 47.6 % of the social capital of Bankia at the end of 2011 held by minority shareholders, and belonging the rest of its social capital to BFA.

To complete the analysis of Bankia, it should be pointed out that because of huge losses; this entity was the one which get highest aid from the government. First, it was bailed out by the Spanish state, what meant its nationalization, and then it got an injection of public money amounting to 4,465 million. But this amount was insufficient to its viability, so of the 100,000 million euros delivered to the Spanish state by the ECB for the reorganization of the Spanish financial system, 17,000 million went to Bankia. This capital injection has managed, so far, to maintain the stability of the company and has allowed the course of its activities. (De Barrón, I., 2011)

3.2. CAM

Caja de Ahorros del Mediterráneo, hereafter CAM, was founded in 1975 as a result of integration at different stages of 29 financial institutions. On July 22, 2011, it was bailed out by the Banco de España, which ceased the administrators of the company in order to audit it, recapitalize it and open a bidding process for its adjudication. On December 7, 2011, it was sold to Banco Sabadell for the symbolic price of one euro, after the capital injection of 5,249 million euros in the Fondo de Garantía de Depósitos (FGD)⁷. In that amount, 2,800 million euros injected through the Fondo de Reestructuración Ordenada Bancaria (FROB)⁸ to meet the regulatory capital requirements, and which were returned to the state by the FGD, were included.

On May 30, 2012, the European Commission approved the transaction, and the president of Banco Sabadell, Josep Olliu, reported that on December 8 it would officially cease to exist due to its full integration into Banco Sabadell.

On June 1, 2012, the transfer of the 100% of the shares of Banco CAM to Banco Sabadell was held by the FGD. CAM became, automatically and by legal order, a special foundation, with the dissolution of all its government bodies and its withdrawal in the special register of credit institutions from the Banco de España. On April 9, 2014, it was formally established the Fundación Caja Mediterráneo.

After analyzing the annual accounts of CAM concerning 2010 and 2011, several cases of criminal offenses can be extracted, of which the most important will be explained in detail below.

First, the annual accounts were altered. The financial statements for the year 2010 and the first half of 2011 did not reflect the true picture of the state, largely due to the improper release of provisions related to securitized loans, so the income for the year 2010 should have been lower. On the other hand, dividend distributions of the subsidiaries of the CAM and the provision on the early retirement fund were irregularly recorded, disturbing the true picture of the economic situation of the entity. In addition, monthly, quarterly and semi-annual balances of 2011 were falsified, since these interim financial statements did not reflect the real critical situation of the organization, but they

⁷ The Fondo de Garantía de Depósitos (Deposit Guarantee Fund) of credit institutions is to ensure the deposits in cash and securities or other financial instruments made in credit institutions, with a limit of 100,000 euros for deposits in cash or, in the case of deposits in another currency, their equivalent, applying the corresponding exchange rates; and 100,000 euros for investors who have entrusted to a credit institution securities or other financial instruments.

⁸ The Fondo de Reestructuración Ordenada Bancaria (Fund for Orderly Bank Restructuring) is an entity that aims to manage the restructuring and resolution of credit institutions.

offered a distorted image, simulating profit of 57 million euros when, in fact, it had losses of 1,136 million euros.

Second, irregularities took place regarding early retirement, as the steering committee secured an additional benefit for the time of retirement of its members which had as a reference the salary level of 2010. The directors of CAM consciously hid to the external consultant that was hired to quantify the cost of early retirements resulting from their integration into the IPS, Towers Watson, that six members of its steering committee had joined the staff restructuring program. This concealment implied that losses quantified at 15.5 million euros on the results of 2010 did not provide provisions. Furthermore, the members of the steering committee illegally charged CAM 47,3072 million euros by various remuneration items such as compensation, wage supplements and interest relating to the excess of premium paid to the insurer Caser. The latter will be explained in detail below.

In 2007, the board agreed to contract with the insurer Caser an additional benefit; i. e., an additional economic complement to the public retirement pension. The amount of the insured additional provision would be 60% of the remuneration received by them in the three years prior to retirement, and only those members of the steering committee that have been part of it for at least five years could be beneficiaries of it. However, on June 21, 2010, they agreed to the payment of 25.6 million euros, even knowing the weak situation of CAM and its complicated viability. (As shown in the Constitutional Court Sentence 170/2011, of 27 April 2015)

Therefore, we can say that it was in the steering committee interest to alter and swell the accounts for their retirement to be more beneficial to them, since the amount of retirement pensions depended on the results obtained by the entity.

3.3. BANCO DE VALENCIA

Banco de Valencia is a bank founded in 1900 in Valencia. In 2010, it became the seventh Spanish bank by market capitalization—which amounted to over 1,500 million—and the eighth in terms of lending, with more than 18,400 million of net lending.

This entity has also been featured in various public scandals, being the most relevant ones its nationalization by the Spanish state and its subsequent purchase by CaixaBank, and its mismanagement by the former leadership of the entity, which has led to numerous complaints from shareholders and clients of the company, and courts.

On November 21, 2011, Banco de Valencia was bailed out by Banco de España with a capital injection of 3,000 million euros, which led to its nationalization. A year later, the Fondo de Reestructuración Ordenada Bancaria (FROB) reported that it would inject 4,500 million euros in the Valencian entity from the European aid of 100,000 million. Besides this capital injection, the entity had to transfer to Sareb⁹ ("bad bank") all the toxic assets related to the building sector, that is, 1.962 million euros of assets. On June 12, 2013, the General Meeting of Shareholders of Banco de Valencia accepted the integration of the entity in the CaixaBank group.

Those responsible for the entity have failed to manage well the resources of the organization in the years of economic boom and, after the outbreak of the financial crisis, their poor work aiming at personal gain has been brought to light. Therefore, one of the most important news about Banco de Valencia has been the complaint laid by the FROB in which it is considered that part of the former directors of the company, including the former CEOs of Banco de Valencia—Domingo Parra and Aurelio Izquierdo, and businessman Eugenio Calabuig—the entity could cause a loss of approximately 500 million euros due to fraud, misappropriation and unfair management of financial resources from the entity. Also, it notes that, in 2011, Domingo Parra decided to reward his own management of the entity with a raise of 7.5 % in his remuneration, as well as those of the deputy general directors and other members of the Executive Management Committee. This increase occurred a few months before the entity had to be bailed out by Banco de España to avoid bankruptcy. Because of all of that, 137 shareholders filed a lawsuit against the leadership of the entity, in which the presentation of false accounts that aggravated the damage caused to many

⁹ Sareb is a private corporation established to assist the reorganization of the Spanish financial sector, and, particularly, of entities crawling problems due to its excessive exposure to real estate. Its mission is to manage and market and commercialize its portfolio of assets valued at 50,781 million euros over a period of 15 years, looking for the maximum profitability.

customers was denounced, and, generally, more than 2,000 million euros were withdrawn due to distrust towards the entity. (Segovia, 2013)

4. AUDIT OPINION AND AUDIT REPORT

4.1. BANKIA

Regarding the financial information for 2011 of BFA and Bankia, once the financial statements had been restated on May 25, 2012, both individual and consolidated annual accounts were audited with the following opinion:

Table 6. Audit opinion on restated annual accounts of BFA and Bankia, in 2011

CONCEPT	2011
Individual BFA	Favorable
Consolidated BFA	Favorable
Individual Bankia	Favorable
Consolidated Bankia	Favorable

Source: Own

After analyzing the financial data and the auditor's opinion following the OPS, the following interim conclusions can be highlighted:

First, Bankia interim financial information from March 2011, which was prior to the issuance of shares, was audited with a favorable opinion by the auditors. In addition, and because of the process of integration, the information from the BFA Group for 2010 was also audited with a favorable opinion by the auditor, what was issued on February 17, 2011. Furthermore, the auditors conducted audit tests on Bankia until May 31, 2011, concluding that there were no relevant changes regarding the information audited in March that year. In relation to the audit opinion relating to a period of time prior to the issuance of equity, the existence of interim financial statements can be observed in the official register of the CNMV dated August 30, 2011, concerning the first half of 2011, individual and consolidated, audited with a favorable report by the auditor.

Bankia's financial statements relating to earlier and the same dates the IPO of Bankia took place were unqualified audited by Deloitte; therefore, in the auditor's point of view, the financial statements and the management report expressed fairly the equity and financial situation of the entity. Remarkably, Deloitte, apart from auditing the accounts of Bankia, also provided consulting services. Specifically, Deloitte had a turnover of 2.3 million euros for non-audit work, and 1.6 million for the audit itself. Thence, it billed

more for advisory services than by the audit, so the auditor ran an unacceptable level of risk to maintain his or her independence and objectivity.

4.2. CAM

Next, the audit report on the annual accounts of Caja de Ahorros del Mediterraneo to December 31, 2010, by KPMG, will be analyzed. In order to do this, the words of the auditor in the audit report should be pointed out: "We have checked that the accounting information contained in the aforementioned report is consistent with the annual accounts for 2010". The auditor issues an unqualified audit report, which means that, in his or her opinion, the annual accounts and the management report express fairly the equity and financial position of the entity in December 31, 2010.

According Segovia (2011), for twenty years, since 1991, KPMG has audited the accounts of CAM, and this auditing firm has also provided consulting services, despite the conflict it could arouse. Specifically, KPMG invoiced 507,000 euros for non-audit work, according to the corporate governance report 2010. This figure represents 37.8% of the total amount paid by CAM to the company.

Infringements carried out by the auditor of CAM and Bankia focus on a very serious infringement for lack of independence, and also two serious offenses for breaching of auditing standards, based on the Texto Refundido de Auditoría de Cuentas (TRLAC)¹⁰.

¹⁰ Consolidated Text on Auditing

4.3. BANCO DE VALENCIA

Following, the audit report on the annual accounts of Banco de Valencia in December 31, 2010, conducted by Deloitte, will be analyzed. This firm, which in turn was auditing the accounts of Bankia, published a favorable report on the 2010 accounts of the entity presided José Luis Olivas. In particular, the auditor words were: "In our opinion, the financial statements for 2010 present fairly, in all material respects, the equity and financial position of Banco de Valencia, S. A. in December 31, 2010, as well as the results of its operations and cash flows for the year closed at that time, in accordance with the financial reporting framework that is applicable and, in particular, the accounting principles and criteria contained therein". As Segovia (2011) indicates, Deloitte did not detect any irregularity since 2002 and, yet, it had some reasons to detect it, because in the first quarter of 2011 the company had some irregularities. On the one hand, the classification of loans was not correct, as it had bad loans that were not considered as such. On the other hand, there were delays regarding compliance with the timetable of provisions of the Banco de España. In addition, the shortfall of 1,000 million was caused because many of the real estate assets appeared at book value rather than at market price, in order not to have to provision the difference.

Therefore, through this analysis, we can say that Deloitte failed not only in the case of Bankia, but also in the audits of other banks.

5. AUDIT'S LAW

After public financial scandals, such as the cases of Bankia, CAM and Banco de Valencia discussed above, the need to reinforce confidence in economic and financial information through the quality of audits has been pointed out. In order to do this, a process of reform and harmonization of auditing standards at European level to converge with the other countries around us has been stated as necessary, and, above all, an achievement of full transparency and a reduction of the gap in expectations between what users expect from this service and the purpose of the audit.

According to the Instituto de Censores Jurados de Cuentas de España (ICJCE)¹¹, the new Auditing Act could enter into force in June 2016, which will present some news that will be listed below.

Among the main changes introduced, there is the external rotation of ten years of audit firms in the case of public interest entities (PIEs) as listed companies, both credit and insurance. However, it provides the option to extend the term to 14 years if, once that time has passed, two or more auditors are appointed jointly. In case of rotation, it would not be able to be re-audited to that entity until three periods have passed, against the current two. It also establishes the possibility that a shareholder with 5% or more of the voting rights or capital of the company, as well as the Audit Committee or the Instituto de Contabilidad y Auditoría de Cuentas, has to apply to the courts the change of auditor or the audit firm "for good cause".

Second, the new legislation introduces new incompatibilities, such as the significant interest in the audited entity derived from the ownership of property or the ownership of a contract, and the reception of gifts of significant value by the audited entity.

Third, the text includes a list of various services that the auditor cannot provide in the event that the audited company is a public interest entity (PIE). These include tax, payroll, relating to internal control procedures and risk management services and legal services, services related to the internal audit function, the financing, the structure and the distribution of capital and strategy investment, in services related to the promotion, negotiation or subscription of shares of the PIE, as well as human resources.

Fourth, a limitation of auditors' fees is set, so that the total fees for audit services do not exceeded for three or more consecutive years 70% of the average. Also, it provides

¹¹ Institute of Chartered Accountants of Spain

that the fees collected shall not exceed in the previous three years 15% of the earned income.

Finally, the creation of an inspectorate is proposed in order to monitor the work of the auditors. Furthermore, EIP supervisors are required now to report requirements on financial institutions classified as systemic risk, as well as communication of irregularities. In addition, greater transparency is required in the annual report as certain financial information is now included, such as turnover for audit and non-audit services provided to the PIE.

6. CONCLUSION AND RECOMMENDATIONS

Once done the analysis, the main conclusions drawn from it will be under consideration.

After studying the financial institutions Bankia, CAM and Banco de Valencia, we can say that cases like these cannot be repeated, as they have exacerbated the effects of the economic crisis and fractured the Spanish financial system.

Much of these scandals are due to the situation of dependence of auditors towards the entrepreneurs whose accounts they have to verify. And the reason is none other than the fact that these are those who hire and pay the auditors. Hence, an unfavorable report may hinder the recovery of the amounts owed or the loss of a customer. And these circumstances are of paramount importance on any audit firm, especially in the large ones, the managers of which must be accountable to the associates.

Because of this, the accounting profession in general, and the audit in particular, is currently subject to great reviews and this is due to the existence of the unfortunate actions that have had a broad social impact, as it has previously been analyzed in detail in this thesis.

It is noteworthy that only auditors have the common point of reference the Audit Act, the regulations that it develops and the Technical Standards. The most important points around which they revolve are: independence, integrity and objectivity, along with inconsistencies, confidentiality, accountability and fees. All such rules should help the auditor both in decision-making and when they plan and carry out the audit.

The relevance of the audit activity for the economic development is unquestionable, so we must try to improve it, especially at a time when the Spanish society demands more transparency to public and private institutions, and the best possible conditions for job creation are required. It is necessary for all citizens that the work of auditors is valued and respected.

Therefore, the Spanish state needs to put the means to get the Project Auditing Act be a mainline law to the benefit of the whole society. Some of the recommendations that are believed necessary to achieve that stated above are the following:

First, the law should have an impact in the fact that auditors can perform their job with the necessary independence to be able to carry out their activity in the desired way; for

example, through the creation of the inspectorate to oversee at all times the work of auditors and, therefore, remain informed of any irregularities or fraud found.

Second, the auditor should not provide consulting services or internal audit, as, thus, the objectivity in his or her opinion would be optimized.

Third, companies should not be those who pay directly to the firm, because, that way, the auditor may feel pressured to receive their fees and/or keep customers.

Fourth, the rotation could be less than ten years, since this number of years can lead to an excessive familiarity with the customer, and, therefore, not to be independent and objective.

Fifth and finally, they could increase the monetary and criminal penalties not only for auditors, but also for the managers of the entities.

To end with, we can say that there is still a long way ahead to get what has been proposed in this dissertation, but with the effort and work of the political forces, together with the auditors, it could be achieved. This would be beneficial not only in economic terms, but also in social aspects. And, therefore, confidence in the banks and in the audit activity would be recovered.

7. BIBLIOGRAPHY

Agencia Estatal. Boletín Oficial del Estado. [PDF] Anteproyecto de ley por la que se modifica la ley 19/1988, de 12 de julio, de auditoría de cuentas para su adaptación a la normativa comunitaria. Available at:

<http://www.boe.es/boe/dias/2010/07/01/pdfs/BOE-A-2010-10421.pdf> [6/04/2015]

Agencia Estatal. Boletín Oficial del Estado. [PDF] Ley 1/2010, del 2 de Julio, Ley de Sociedades Anónimas. Available at: <http://www.boe.es/boe/dias/2010/07/03/pdfs/BOE-A-2010-10544.pdf> [6/04/2015]

Agencia Estatal. Boletín Oficial del Estado. [PDF] Ley 19/1988, del 12 de Julio, de Auditoría de Cuentas. Available at:

<http://www.boe.es/boe/dias/1990/12/25/pdfs/A38447-38455.pdf> [02/04/2015]

Arens, Alvin A.; Randal J.Elder; Mark S.Beasley (2007) *Auditoría. Un enfoque integral*. España: Pearson Prentice Hall [18/03/2015]

Bankia S.A. (2011). Entidad de crédito [PDF] Cuentas anuales. Available at: <http://www.cnmv.es/AUDITA/2011/14065.pdf> [12/05/2015]

Bankia S.A. (2013). Entidad de crédito. Available at: <http://www.bankia.com/es/quienes-somos/sobre-nosotros/origen/> [16/05/2015]

Blanco, L. (2003) *Normas y Procedimientos de la Auditoria Integral*. España: Publicado Ecoe ediciones [18/03/2015]

De Barrón, I. (2011). El Estado nacionaliza con 4.751 millones tres cajas ahogadas por el ladrillo. Madrid: El País. Available at:

http://elpais.com/diario/2011/10/01/economia/1317420001_850215.html [16/05/2015]

De la Peña, A. (2008) *Auditoría, Un enfoque práctico*. España: Editorial Paraninfo [16/03/2015]

García, M.A, Humphey, C. (1995) *La auditoría y el fraude: Algunas consideraciones internacionales*. *Revista española de financiación y contabilidad*. Abril-Junio, VOL XXIV, nº 84. Universidad de Valencia. [19/03/2015]

Instituto de Censores Jurados de Cuentas de España. Acceso ROAC. Available at: <http://www.icjce.es/acceso-roac> [28/03/2015]

Instituto de Censores Jurados de Cuentas de España. Proyecto de Ley de Auditoría de Cuentas. Available at: <http://www.icjce.es/ley-de-auditoria-de-cuentas> [10/05/2015]

Instituto de Contabilidad y Auditoría de Cuentas de España (ICAC) (1991). Available at: <http://www.icac.meh.es> [04/06/2015]

Larriba, A. (2009) *Auditoría de cuentas anuales*. Centro de estudios financieros (CEF). [18/03/2015]

Madariaga, J. (2004) *Manual práctico de auditoría*. España: Ed. Deusto [18/03/2015]

Mira, J.C. (2006) *Apuntes de Auditoría*. España: Desclée de Brower [18/03/2015]

Pereda, J. M. (2002) *Manual de auditoría y cuentas anuales*. Centro de Estudios Universitarios Ramón Areces. España: Editorial Ramón Areces [06/04/2015]

Segovia, E. El confidencial. (2013) “¿Cuánto ha costado de verdad el rescate de la banca? 100.000 millones de euros”. 8 September. Available at: http://www.elconfidencial.com/empresas/2013-09-08/cuanto-ha-costado-de-verdad-el-rescate-de-la-banca-100-000-millones-de-euros_25562/ [2/06/2015]

Segovia, E. El confidencial. (2013) “Economía abre una investigación a Deloitte por la auditoría de Banco de Valencia”. 21 March. Available at: http://www.elconfidencial.com/economia/2013-03-21/economia-abre-una-investigacion-a-deloitte-por-la-auditoria-de-banco-de-valencia_374577/ [2/06/2015]

Segovia, E. El confidencial. (2011) “KPMG no detectó ninguna irregularidad en las cuentas de la CAM en los últimos 20 años”. 27 July. Available at: http://www.elconfidencial.com/empresas/2011-07-27/kpmg-no-detecto-ninguna-irregularidad-en-las-cuentas-de-la-cam-en-los-ultimos-20-anos_375808/ [2/06/2015]

Urías, J. (1990) *El objetivo de relevancia en el informe del auditor independiente*. Instituto de Contabilidad y Auditoría de Cuentas, Madrid. [03/04/2015]

Vela, M., Montesinos, V. (1992) *La auditoría en España: Situación actual y perspectivas: homenaje al profesor Manuel Vela Pastor*. Universitat de València, Departament d'Economia Financera i Comptabilitat. [29/04/2015]