

ODGOVORNOST REVIZORA

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ODGOVORNOST REVIZORA

- Za što je odgovoran
- Prema kome
- Moguće zaštite



ODGOVORNOST REVIZORA

Za što je odgovoran ?

- Nije za ocjenu o klijentovom poslovanju
- Nije za točnost
- U slučaju zakonske revizije, odgovoran je za mišljenje koje je izrazio



ODGOVORNOST REVIZORA

Prema kome snosi odgovornost?

- Nedvojbeno prema klijentu (ugovorne obveze)
- Može ali i ne mora prema trećim strankama
 - Ovisi pravnim standardima koji se primjenjuju u pojedinoj državi
 - Postoje 4



pravni standardi

1. **Privaty rule – od 1919.godine**
2. **Near-privaty – od 1931.godine**
3. **The restatement rule – od 1968.godine**
4. **The reasonable foreseeability rule – od 1983.godine**



Privaty rule

Privaty rule – od 1919.godine

Mora postojati ugovorni odnos ili izravna veza između revizora i treće stranke da bi ona mogla uspješno tužiti revizora za nemarnost



Near-privatny rule -1931.

Tri uvjeta moraju biti ispunjena da bi 3.stranka mogla uspješno tužiti revizora za nemarnost:

1. Revizor mora imati saznanje da će se financijski izvještaji koristiti za određenu svrhu;
2. Poznata stranka ili više njih imaju namjeru da se mogu osloniti na te izvještaje; i
3. U obavljanju posla mora postojati nekakva veza između revizora i stranke koja se oslanja na njegov rad



The restatement rule – od 1968.godine

Proširuje klasu osoba prema kojima revizor ima obvezu da postupa s dužnom pažnjom

U klasu se uključuju namjeravani prepoznatljivi i neprepoznatljivi korisnici

Međutim, ako revizor nema razloga vjerovati da bi informacije mogle biti dostupne trećoj stranci ili ako se mijenja korištenje informacija tako da značajno povećava revizijski rizik, revizor nije odgovoran prema toj klasi



The reasonable foreseeability rule – od 1983.godine

Revizor ima obveze prema svima za koje može razumno predvidjeti kao one koje dobivaju ili se oslanjaju na revidirane izvještaje

Odgovornosti se protežu samo na one korisnike na čije odluke su utjecali revidirani financijski izvještaji dobiveni od revidiranog subjekta za odgovarajuću poslovnu svrhu.

Što više odgovornost se proteže samo na one korisnike koji su dobili subjektive financijske izvještaje izravno od revidiranog subjekta





Contents lists available at ScienceDirect

Journal of International Accounting, Auditing and Taxation



Auditor liability to third parties after Sarbanes-Oxley: An international comparison of regulatory and legal reforms

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J. Chung et al. / Journal of International Accounting, Auditing and Taxation 19 (2010) 66–78

Table 2

International comparison of combined degree of privity.

	Privity	Near-privity	Restatement	Reasonable foreseeability
U.S.	✓	✓	✓	✓
Canada		✓		
U.K.	✓			
Australia			✓	
New Zealand			✓	
France				✓
Germany				✓





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Table 4

Post-SOX changes to auditor liability to third parties.

	Quantitative	Qualitative-legislative
U.S.	Increase in civil and criminal penalties for SOX violations— \$15M and \$25M USD	SOX can expand auditor duty of care to third parties
Canada	New liability cap—greater of \$1M CDN and fees received in the preceding 12 months (Ont. & Alberta)	More auditor-attested disclosures on which third parties can rely
U.K.	None	None
Australia	New liability cap—\$20 million AUS	CLERP 9 can expand auditor duty of care to third parties
New Zealand	None	Auditor guidelines can expand
France	None	None
Germany	None	None



REAKCIJE NA IZLOŽENOST - zaštite

- Nema više revizorskih tvrtki s potpunom odgovornošću
- Restrukturiranje mreža revizorskih društava
- Ugovaranje ograničenja odgovornosti prema trećima, gdje je to moguće
- Osnivanje vlastitih osiguravajućih društava
- Ulaženje u tzv. Class action settlements
 - 2012. PwC se nagodio u Australiji platiti 1/3 od \$ 203 mil.
 - 2012. E&Y se u Kandi nagodio platiti \$ 118 mil.
- Lobiranje za izmjenu regulative



IP/05/1420

Brussels, 15 November 2005

**REAKCIJE
u EU**

Auditors' liability: new European Forum on limitation of financial burdens

The European Commission has set up a European Forum to gather market players' views on limiting financial burdens for auditors. The Forum will consider market-led solutions to mitigate litigation risks. The Forum comprises twenty market experts from various professional backgrounds (such as auditors, bankers, investors, companies, insurers and academics) with particular experience and knowledge of the subject.

Internal Market Commissioner Charlie McCreevy said: "No-one wants another corporate scandal that could reduce the Big Four to the Big Three - especially audit firms themselves, who we know want to limit their liability for acts under their direct responsibility. Now that some EU countries already have limitations or are moving in that direction, we think the time is ripe for EU-wide action. The forum's market experts will help us to analyse all the issues."

IP/06/1307

Brussels, 4 October 2006

Auditors' liability: Commission publishes independent study on economic impact of current rules

The European Commission has published an independent study on the economic impact of current EU rules on auditors' liability regimes and on insurance conditions in Member States. The study analyses the structure of the auditing market and its possible development in the future, describes the existing limitations in the insurance market for international audits, examines the economic needs for limiting auditors' liability and compares several possible methods for limiting liability. It represents the first EU-wide scale economic study on this subject. The preparation of the study has been accompanied by the creation of an Auditors Liability Forum composed of market experts (see [IP/05/1420](#)).



REAKCIJE u EU

COMMISSION RECOMMENDATION
of 5 June 2008
concerning the limitation of the civil liability of statutory auditors and audit firms
(notified under document number C(2008) 2274)
(Text with EEA relevance)
(2008/473/EC)

Odgovornost zakonskih revizora i revizorskih društava za kršenje njihovih profesionalnih dužnosti treba se ograničiti osim u slučajevima namjernog kršenja. Ograničenje odgovornosti odnosi se prema revidiranom društvu i trećim strankama koje prema nacionalnom zakonu imaju pravo podnijeti zahtjev za nadoknadu štete. Ograničenje odgovornosti ne treba biti takvo da onemogućava oštećenoj strani pravičnu kompenzaciju

Države članice poduzet će mjere za ograničavanje odgovornosti i preporučuje da koriste jednu ili više od mogućih sljedećih mjera:

- Ustanovljivanje maksimalnog financijskog iznosa ili formule koja omogućava izračunavanje takvog iznosa
- Ustanovljivanje načela prema kojem revizor/revizorsko društvo nije odgovorno iznad svojeg stvarnog doprinosa u nastanku štete, a ne solidarno
- Pravo da revidirani subjekt i revizor ugovorom ograniče odgovornost, ali uz uvjete da to:
 - U konačnici potvrdi skupština
 - Bude objavljeno u bilješkama uz financijske izvještaje

REAKCIJE
u EU

kod nas?

The screenshot displays the EUR-Lex website interface. The browser address bar shows the URL: http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L_.2008.162.01.ENG&toc=OJ.L_.2008.162.TOC. The page title is "EUR-Lex - 32008H0473 - EN ... X".

The main content area displays the document information for "Commission Recommendation of 5 June 2008 concerning the limitation of the civil liability of statutory auditors and audit firms (notified under document number C(2008) 2274)". The document is in force and available in multiple languages (BG, ES, CS, DA, DE, ET, EL, EN, FR, GA, HR, IT, LV, LT, HU, MT, NL, PL, PT, RO, SK, SL, FI, SV). The document is available in HTML, PDF, and Official Journal formats.

The multilingual display section shows the document is currently displayed in English (en). The text content is as follows:

21.6.2008 Official Journal of the European Union L 162/39

COMMISSION RECOMMENDATION
of 5 June 2008
concerning the limitation of the civil liability of statutory auditors and audit firms
(notified under document number C(2008) 2274)
(Text with EEA relevance)
(2008/473/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,
Having regard to the Treaty establishing the European Community, and in particular Article 211, second indent, thereof,
Whereas:

- Directive 2006/43/EC of the European Parliament and of the Council of 17 May 2006 on statutory audits of annual accounts and consolidated accounts, amending Council Directives 78/660/EEC and 83/349/EEC and repealing Council Directive 84/253/EEC (*) establishes a minimum harmonisation of statutory audit requirements. Pursuant to Article 31 of that Directive, the Commission is to report on the impact of the national liability rules for the carrying out of statutory audits on European capital markets and on the insurance conditions for statutory auditors and audit firms and to make recommendations if it considers it appropriate.
- Smooth functioning of capital markets requires sustainable audit capacity and a competitive market for audit services in which there is a sufficient choice of audit firms, capable of conducting and willing to conduct statutory audits of companies the securities of which are admitted

The bottom of the page shows the Windows taskbar with the system clock displaying 14:48 on 7.11.2017.

Professional liability of accountants and auditors



This factsheet provides guidance on the liability for professional negligence which members may incur because of an act or default by them (or by their employees or associates) which results in a financial loss to a client or a third party to whom a duty of care is owed.

"Whilst every care has been taken in the preparation of this document, it may contain errors for which we cannot be responsible."