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CORPORATE CORRUPTION AND FUNCTIONS OF INDEPENDENT AND INTERNAL AUDITORS

The article aims to clarify the modern concept of corruption, identify its type, and define the role of external (independent) and internal auditors in the fight against corporate corruption. Another objective is to start a debate on the development of accounting standards and auditing techniques to detect corruption in business.

The article argues that the lack of clarity regarding the responsibilities of independent auditors related to corporate corruption may induce auditors to ignore their responsibility for identifying corruption that could have a significant effect on financial reporting (because it is not required by the auditing standards). The audit standards should be modified to view corruption not only as internal fraud, which may have a significant effect on financial reporting, but also as an unlawful act.

Keywords: Corruption, auditing, bribery, auditing standards, audit risk, audit. **JEL classification:** M420

Background. Corruption is one of the main threats that businesses and countries face. Corruption not only destroys lives of people and well-being of communities but also demolishes countries and organizations. Fighting corruption requires efforts and cooperation of regulatory bodies, independent and internal auditors, law enforcement agencies, and state authorities.

Fighting corruption nowadays is one of the priorities of Ukrainian society (and, hopefully, government). The corresponding law was introduced in 2014 [2]; the National Anti-Corruption Committee and National Anti-Corruption Bureau, as well as a specialized anti-corruption prosecutors body were created. In 2015, the Anti-corruption Research & Education Centre (ACREC) was created at the NaUKMA. But still, in 2016 Ukraine took the 131st place among 176 countries in the Transparency International Corruption Perception Index (www. transparency.org), and it puts the country into 25 % of the most corrupted countries in the world. Meanwhile, Denmark did the best, Somalia did the worst, Russia was ranked the same as Ukraine; and such countries as, for instance, Botswana with the 35th place, Rwanda with 50th, Ethiopia (108th), and Honduras (123th) were ranked better than Ukraine.

There are various types of corruption that can be found in Ukraine, but let us consider a recent business case which affected all the Ukrainians.

*The Privatbank Case and the Auditor's Failure*¹. For more than ten years in a row, Privatbank has been

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the largest Ukrainian bank on assets basis (www. bank.gov.ua). In the mid-summer of 2016. PwC issued not a clean but qualified opinion for the PrivatBank 2015 financial statements (https:// privatbank.ua). The audit firm noted some delays with valuation of re-possessed collateral taken from the borrowers. However, the opinion stated that, except for the possible effect of this, "the consolidated financial statements present fairly, in all material respects, the financial position of the <Privatbank> Group as of 31 December 2015, and its financial performance and its cash flows for the year then ended in accordance with International Financial Reporting Standards."

Unexpectedly for the public, in December 2016, the Ukrainian authorities announced nationalization of PrivatBank after its failure to fulfill a three-year recapitalization program, agreed in February 2016. According to the National Bank of Ukraine (NBU), the hole in the lender's balance sheet as of early December 2016 was UAH 148 bn (\$5.6 bn), and related-party lending accounted for the vast majority of the sum. After nationalization, the NBU estimated that 97 percent of the bank's loan portfolio was comprised of loans to companies linked to Ihor Kolomoisky (the owner) ². The National Bank of Ukraine (NBU) also accused PwC of providing an inadequate evaluation of collateral under loans provided by the bank.

¹ The author is grateful to Andrew Masiuk for editorial advice provided on the role of auditors and the PrivatBank case.

² Billionaire banking tycoon Ihor Kolomoisky was appointed governor of Dnipro(petrovsk) Oblast, a region in the east of the country that includes Ukraine's third-largest city, in 2014. He had the main task to prevent the territory from falling into the hands of pro-Moscow rebels.

For instance, PwC appraised airplanes listed as collateral by PrivatBank. The auditors claimed they went to Boryspil International Airport to verify the collateral, but their report included only a picture of an airplane taken from the internet. At the background, the sign "Antaliya International Airport" was visible, actually showing the airplane located in Turkey.

Also, the PwC report on a distillery plant stated that the entire property complex was assessed, including buildings and equipment, and that all belongs to the same legal entity. When checked by NBU, it was found that this legal entity owned only the buildings, while the equipment belonged to another company. But the real estate without equipment is not quite liquid as it could cost four to six times less than the value of the integral property complex.

What is more, PwC had no right to conduct an evaluation of the assets that the bank took as collateral, as the officials of the NBU's risk department said in an interview published on January 18 (www.intellinews.com). The regulator is considering holding the auditor accountable for misconduct, which may include criminal or civil prosecution. NBU also expected PwC to close its offices in Ukraine.

To sum up, the case clearly shows how the bank owners put their business loans (and problems) on the care of the Ukrainian state, and therefore it is an obvious example of corruption.

But the question is whether the auditors could prevent such an issue. One can blame PrivatBank auditors for doing a "bad job" and misleading the public and the state. Others insist that the very fundamentals of the auditing profession do not provide all the needed tools for them to do that due to some inherent limitations.

The purpose of the research. The study aims to clarify the definition of corruption and its types, define the concept of corporate corruption, disclose the role of external (independent) and internal auditors in anti-corruption activities, as well as some of the problems and obstacles in this regard, and to outline the ways of further research that connect auditing and corruption.

Presentation of the main findings and results of research. Corruption is illegal and prohibited by law in one way or another around the world. In Ukraine, the basic law is the Law of Ukraine "On Corruption Prevention" [2]. The UK recently adopted the "Bribery Act" [5]. The US "Foreign Corrupt Practices Act" law, which is widely known [13], prohibits individuals and businesses in the United States to make corrupt payments to foreign government officials or politicians to promote business deals.

The world leading international organization for fighting corruption is *Transparency International*, which has more than a hundred regional chapters (incl. Ukraine) with headquarters in Berlin (www. transparency.org). The motto of the organization is "to work together with government, business and citizens in order to stop the abuse of power, bribery and secret agreements." Economic Cooperation Organization and Development is also involved in combating corruption (Organisation for Economic Co-operation and Development – OECD, www. oecd.org).

The Definition of Corruption. Historically corruption was understood as synonymous to bribery; namely, giving money (a bribe) to an official with the purpose to get something useful in exchange (e.g. some services for someone who gives this bribe) [3, Vol. 1, p. 901; 11, p. 48]. For example, a popular Ukrainian Language Dictionary defines corruption as "the use by an officer his official position for personal gain," as well as "accessibility to bribery, venality of government officials and public figures" [1, p. 578] (translated by the author).

Nowadays, this understanding should be considered obsolete. For instance, the definition of corruption in the online Cambridge dictionary (dictionary.cambridge.org) says nothing about bribery, but primarily about "illegal, bad, or dishonest behaviour, especially by people in positions of power". The Meriam-Webster (www. merriam-webster.com) online dictionary provides more options, namely: "a) dishonest or illegal behavior especially by powerful people (as government officials or police officers); b) decay, decomposition; c) inducement to wrong by improper or unlawful means (as bribery); d) a departure from the original or from what is pure or correct." Thus, bribery here is not on the first place. Instead, the definition emphasizes destruction of moral principles, deviation from the existing ideals.

Transparency International defines corruption in general sense very narrowly as "the abuse of entrusted power for private gain" (www.transparency.org). The Law of Ukraine "On Corruption Prevention" [2, Article 1, par. 5] defines corruption as "the use by a person, named in the Article 3 of this law ³, authority, granted to him (or related opportunities) for obtaining undue advantage or acceptance of such advantage (or a promise of such undue advantage) for himself (or for others); or rendering (or offering/promising)

³ The list of persons in the Law (Article 3) includes state officials (incl. elected politicians); policemen; managers of all levels at all entities; and persons who render public services by profession (incl. auditors, notary, valuation experts, etc.) or by function.

undue advantage to a person named in the Article 3 of this Law, or, at his/her request to another person or legal entity to persuade the person to the unlawful use of authority granted to him/her or related opportunities" (translated by the author). The "undue advantage" is cash or other property, advantages, benefits, services, intangibles, and any other benefits of the intangible or non-monetary nature that are promised, offered, given, or received without lawful justification [2, p. 1, p. 6]. So by the Law, cash is not the only form of bribe.

However, in the Law "On Corruption Prevention" an explicit list of corruption types is not provided. Contrary to this, Transparency International gives a brief and an extended classification of corruption on its website. A brief one includes 'grand', 'petty', and 'political' corruption.

Grand corruption consists of "acts committed at a high level of government that distort policies or the central functioning of the state, enabling leaders to benefit at the expense of the public good." Petty corruption refers to everyday abuse of entrusted power by low- and mid-level public officials in their interactions with ordinary citizens who often are trying to access basic goods or services in places like hospitals, schools, police departments, and other agencies. Political corruption is manipulation of policies, institutions, and rules of procedure in the allocation of resources and financing by political decision makers who abuse their position to sustain their power, status, and wealth.

The extended Transparency International list includes 25 types and forms of corruption. The total glossary (which contains both types and signs of corruption) includes the following items: 1) base erosion and profit shifting; 2) beneficial ownership secrecy; 3) bribery; 4) clientelism; 5) collusion; 6) conflict of interests; 7) embezzlement; 8) extortion; 9) facilitation payments; 10) fraud; 11) illicit financial flows; 12) lobbying; 13) money laundering; 14) nepotism; 15) nominee; 16) offshore financial centres; 17) patronage; 18) political contribution; 19) secrecy jurisdiction; 20) shell company; 21) solicitation; 22) state capture; 23) tax evasion; 24) tax haven; 25) transfer (mis) pricing. Despite the fact that there are very interesting and useful animations depicting various forms of corruption, they are not classified and grouped.

It may be noticed that the types of corruption listed in the Transparency International online glossary can be grouped into the following main categories: 1) bribery in various forms and types ($N_{\mathbb{D}}N_{\mathbb{D}}$ 3, 9, 12, 18); 2) thefts, based on related break of trust ($N_{\mathbb{D}}N_{\mathbb{D}}$ 7, 10); 3) granting undue advantages in business, promotions, etc. ($N_{\mathbb{D}}N_{\mathbb{D}}$ 5, 6, 14, 17, 22); 4) tax minimization ($\mathbb{N} \otimes \mathbb{N} \otimes 1$, 16, 19, 23, 24, 25); 5) abuse of a person in various forms, aimed at encouraging corruption ($\mathbb{N} \otimes \mathbb{N} \otimes 4$, 8, 21); 6) different ways of concealing committed corruption ($\mathbb{N} \otimes \mathbb{N} \otimes 2$, 11, 13, 15, 20).

Types of Corruption. It is important for the further research to define the types of corruption which auditors could potentially meet in business. Although Transparency International notes that corruption is connected with public (governmental) bodies, the descriptions of corruption and methods to fight it indicate that corruption is closely tied with business (corporate corruption). Bribery and corruption both coexist in government and public organizations, as well as in business (and in relations between them).

The papers which study connections between corruption from one side and accounting and auditing from the other are rare. It is stated that corruption destroys transparency in financial reporting [12]. Also, researchers examine the link between the quality of accounting and auditing and a predictable level of corruption [9]. According to the survey, the quality of accounting and auditing in a particular country quite significantly relate to the estimated level of corruption in this country.

However, M. Khan [8] states that auditors do not deal with political, social, and cultural corruption. For example, auditors "by default" cannot influence the situation when an ordinary citizen is giving a bribe to petty officials, for instance, a physician or a policeman.

But in business, corrupt employees may cause a company paying inflated prices for goods and services acquired from suppliers, in which these employees have hidden interest. Such conflicts of interest can also make a company, for example, providing customers with unreasonable discounts. Also, inadequate disclosure of related party transactions and conflict of interest may lead to misstatements in financial statements.

On the other hand, if a company gives a bribe, it cannot be legally shown as a "bribe cost" in its accounting documents, including reporting. Such payments are masked as legitimate payments for goods and services, which also misstates financial statement figures. For example, a common criminal scheme in Ukraine is converting money, legally paid for some non-existing goods and services, into 'black' cash (using criminal banks and companies) and then using this cash to pay remuneration to employees (avoiding taxes) and for giving bribes. Lending in various forms could be also a kind of bribe, especially if such loans are provided with an under-market interest rate. One can easily see that corruption in business, by its form and by its substance, has many similarities with fraud. In Ukraine frauds are criminally punished. Article 190 of the Criminal Code of Ukraine defines it as "the appropriation of another's property or the acquisition of property rights by deception or abuse of trust" (translated by the author). Fraud in business is a narrower concept than corruption. Corporate corruption involves fraud (Figure).

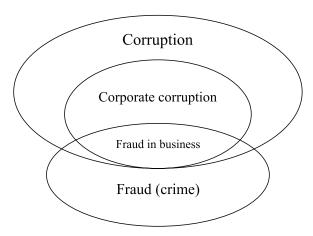


Figure. Corruption and Fraud in business

Auditing standards consider fraud as "an intentional act by one or more individuals among management, those charged with governance, employees, or third parties, involving the use of deception to obtain an unjust or illegal advantage" [6, Vol. 1, c. 30] that is usually limited to a theft from the company (in fact, from its owners). Corporate corruption could affect a much wider range of people: employees and owners of other companies, as well as public and society. Nevertheless, corporate corruption is a part of corruption as a big phenomenon, which encompasses corruption committed by officials both in business and from public institutions, and harms society as a whole and its individual members.

The questions to address are what the anticorruption techniques are and whether accounting and auditing can be useful. Transparency International names the following methods of fighting corruption:

 – audit as an internal or external examination of an organization's accounts, processes, functions and performance to produce an independent and credible assessment of their compliance with applicable laws and regulations;

– compliance, which refers to the procedures, systems or departments within public agencies or companies that ensure all legal, operational and financial activities are in conformity with current laws, rules, norms, regulations, standards and public expectations;

 accountability: the concept that individuals, agencies and organizations (public, private and civil society) are held responsible for reporting their activities and executing their powers properly; and

– access to information – the right by law – often through freedom of information legislation (acts or laws) – to access key facts and data from the government and any public body based on the notion that citizens can obtain information which is in the possession of the state.

Inherent Limitation in Auditing and the Need for Robust Regulations. All of the mentioned methods relate to accounting and auditing. The authors [9] also hypothesized about how countries can reduce corruption by increasing transparency in financial reporting which is to be made by the improvement of accounting standards and standards on auditing.

However, as it written in the International Standard on Auditing 200 "Overall Objectives of the Independent Auditor and the Conduct of an Audit in Accordance with International Standards on Auditing" [6], the Standards on Auditing require the auditor to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error. Reasonable assurance is a high level of assurance. It is obtained when the auditor has obtained sufficient appropriate audit evidence to reduce audit risk (that is, the risk that the auditor expresses an inappropriate opinion when the financial statements are materially misstated) to an acceptably low level. However, reasonable assurance is not an absolute level of assurance because there are inherent limitations of the audit which result in most of the audit evidence on which the auditor draws conclusions and bases the auditor's opinion being persuasive rather than conclusive. Inherent limitations are such features of audit that constrains the auditor to obtain absolute assurance (e.g. auditors physically cannot check up everything within some limited time and therefore use sampling techniques, etc.), and they cannot be completely eliminated. So, independent auditors, by the Standards, cannot guarantee a hundred percent assurance in their official opinions on financial statements.

That is why the classic work by R. Mauts and H. Sharaf [10], which serves as the philosophic foundation for the modern independent auditing, states (in the audit postulates section) that if an external auditor suspects that the fraud is being committed by top management of the company, the

risk of incorrect audit opinion on the financial statements for the auditor is very high, and the best strategy for auditors would be to avoid this audit engagement. Otherwise, scandals could put auditors in a very bad situation. The recent high-profile corruption scandals are corruption within FIFA (KPMG), or in the giant Brazilian state oil and gas corporation Petrobras (PwC) [7]. In Ukraine it could be the PrivatBank and PwC case mentioned above.

In terms of corruption, the conflict between public expectations and the results of auditors' work could happen because business owners often are not very concerned about the situation when top management bribes public officials (or auditors) until costs are less than the benefits of such bribes. For instance, as noted in [8], the auditor is unlikely to be interested in the first place, in detection of bribes given to tax inspectors for the tax avoiding purpose.

Thus, there is a problem. The very profession of an independent auditor emerged as a function to help businesses to attract private investors. Business owners are primarily interested in detecting and preventing fraud resulting in the company's assets misappropriation. But today it is not enough. As the authors [7] indicate, the actual public expectations towards auditors and the bodies that regulate auditing activities include auditors to pay more attention to corruptionrelated risks. Failure to do so can lead not only to the loss of confidence in the audit profession but also to inability of audit firms to survive on the market in a situation where their reputation is seriously damaged.

Corruption is an illegal activity forbidden by legislation around the globe. Auditing standards make independent auditors to some extent responsible for checking whether clients follow laws and regulations. Thus, the International Standard on Auditing (ISA) 250 "Consideration of Laws and Regulations in an Audit of Financial Statements" states that "the auditor shall obtain sufficient appropriate audit evidence regarding compliance with the provisions of those laws and regulations generally recognized to have a direct effect on the determination of material amounts and disclosures in the financial statements" [6, paragraph 13]. Some provisions of laws and regulations can directly relate to the specific amounts in financial reporting (e.g. completeness provisions for corporate income tax), while others may relate to financial reporting in general (e.g., a complete set of financial statements). The purpose of the ISA 250 paragraph 13 requirements is to obtain sufficient appropriate audit evidence about amounts and disclosures in financial statements in accordance with relevant provisions of laws and regulations.

Failure to comply with provisions of laws and regulations could result in fines, lawsuits or other consequences for the entity, the cost of which must be reflected in financial statements (however, it is considered not as a direct impact, but rather as a possibility). US standard on auditing SAS 54 contains similar requirements. But none of the known set of standards for independent auditors has direct instructions about what to do with corruption⁴, and therefore there is no direct guidance on auditors' responsibilities in relation to corruption ⁵. There is no clear guidance for auditors how to distinguish between direct and indirect effects of legislation violations on the financial statements as well.

Anti-Corruption Techniques in Use by Internal Auditors. At the level of individual businesses internal auditors can help to solve the corruption problem: they can perform audits for compliance with regulations as part of their audits. The EY publication [4] noted that since many U.S. companies consider the risk of corruption as the biggest compliance problem within a company, they combine traditional compliance audit programs with additional methods and checks related to bribery and corruption. The above mentioned publication contains a number of useful recommendations on anti-corruption. The most significant idea is that a company should have a anti-corruption special program and its implementation has to be regularly monitored. It is observed that the skills required to perform anticorruption audits are significantly different from those needed to make a regular audit. It means that the audit stuff has to obtain appropriate training; otherwise specialized auditors have to be hired.

The EY publication provides the following distinctive features of an anti-corruption audit [4, p. 2]: 1) the country's corruption perception index where a particular unit is located has to be taken into account; 2) evaluation the degree of interaction of a particular business with state bodies, including the volume of transactions with state-owned enterprises and institutions; 3) evaluation how

⁴ International Standards for the Professional Practice of Internal Auditing, issued by the Institute of Internal Auditors (theiia. com) do not contain direct guidance regarding corruption as well.

⁵ In International Standards on Auditing the term 'corruption' happens just twice. It is stated that an audit, done by governmental auditors could be intended to fight corruption [6, ISA 220, A12], and noted that in some circumstances, vague or unrecorded terms and conditions of transactions and agreements may create opportunities for fraud and corruption [6, Vol. III, p. 34].

robustly company's business is limited by state laws and regulations.

To sum up, both internal and independent audits are not investigations but rather regulated business processes which involve sets of pre-defined procedures for the detection of potential problems. In case auditors found some signs that may indicate corruption, certain further actions that will have legal consequences should be provided. In such a case, lawyers and relevant managers should be involved and the decision on a possible appeal to the relevant law enforcement agencies should be made.

Conclusions. Corruption, as well as fraud, unlike theft (or robbery) is about the breach of trust to an official who is entrusted to manage people, perform socially important functions, or keep property or other resources.

Corporate corruption covers a wide range of issues generally connected to illegal and/or unethical relations between business and government officials in order to obtain undue advantage, or collusion of business entities in order to gain advantage at the expense of other players in the market, and ultimately at the expense of society.

Corporate corruption is directly related to the audit because the financial statements may be significantly distorted.

Independent auditors must understand the nature of corruption, types of corruption, and the ways in which each type of corruption can be committed. (It is quite important, given the fact that auditors are among the categories of officials mentioned in the Law "On Corruption Prevention"). Such knowledge is necessary for auditors to help to determine the potential for corruption. Auditors also need to understand the scope of their responsibility in connection with corruption and evaluate risks of ignoring possible corruption.

The lack of clarity on the responsibilities of external auditors regarding corporate corruption may encourage external auditors to overlook their responsibility for exposing corruption, which could materially affect the financial statements, as it is not clearly required by auditing standards. Finally, for auditors, this may cause court cases and increase of legal payments. Auditors should be aware about the 'red flags' in accounting, which could indicate high risk of corruption, such as acquisitions, trade credits, cash on hand, costs of services, accounts receivable, credit cards expenses, and disclosures in financial reporting, especially discloses of transactions with related parties.

Auditors should also pay special attention to the corporate culture of a particular organization. If leaders clearly articulate the policy of fighting corruption (and the auditor finds evidence that such policies are followed), it reduces the risk of committing acts of corruption.

Auditors should include in the audit plan the procedures that would provide: 1) identification of opportunities for corruption; 2) check whether these opportunities were "utilized" by company officials. It is desirable for an auditor to develop his own database of examples of both the opportunities and indicators for corruption, as well as audit procedures and tests.

In general, state and public bodies governing the audit should clarify the role of external and internal auditors on corruption prevention. This requires clear statements written in audit standards that auditors are responsible for detecting material misstatements due to corruption and that it is necessary to measure corruption risks and respond to those risks. Audit standards should be modified in such a way that corruption should not be seen only as internal fraud (which can have a significant impact on the financial statements) but also as an illegal act.

In fact, regulators, in particular the International Federation of Accountants, Chamber of Auditors of Ukraine should regulate how auditors have to assess the risk of corruption and respond to those assessed risks. To develop a set of typical examples on how corruption and related illegal actions can significantly distort the financial statements would also be useful.

Research scholars can also play an important role in the fight against corruption, for example, by doing research on the basis of which appropriate training materials for external auditors could be developed. This can be useful to help auditors in understanding the nature of corruption and how corruption activities are being committed.

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КОРПОРАТИВНА КОРУПЦІЯ ТА ФУНКЦІЇ НЕЗАЛЕЖНИХ І ВНУТРІШНІХ АУДИТОРІВ

Стаття покликана прояснити сучасну концепцію корупції, визначити її типи і з'ясувати роль зовнішніх (незалежних) і внутрішніх аудиторів у боротьбі з корпоративною корупцією. Завданням також є почати дискусію з розроблення стандартів бухгалтерського обліку та аудиту щодо методів для виявлення випадків корупції в бізнесі.

У статті доведено, що відсутність ясності щодо обов'язків зовнішніх аудиторів стосовно корпоративної корупції може спонукати зовнішніх аудиторів випустити з уваги свою відповідальність за виявлення корупції, яка могла б суттєво вплинути на фінансову звітність, оскільки цього не вимагають стандарти аудиту. Потрібно модифікувати стандарти аудиту в такий спосіб, щоб корупція розглядалася не лише як внутрішнє шахрайство, яке може суттєво вплинути на фінансову звітність, але і як незаконне діяння.

Ключові слова: корупція, аудит, хабарництво, стандарти аудиту, аудиторський ризик, аудиторська діяльність.

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