The Gatekeepers of Corporate Governance

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Sources of CG and enforcement

• Sources of CG rules and principles
  – Laws
  – Agency and independent authorities regulations
  – Listing rules
  – Voluntary private sector practices (stock exchange, chambers of commerce, business associations, etc.)

• Enforcement
  – Agencies
  – Courts
  – Comply or explain
  – Reputation

• Effects on the CG of corporations
  – Compliance is on the rise
The concept of gatekeepers

• CG rests on the cooperation among corporate actors...
  – Board of directors
  – Shareholders
  – Labour

• ...and on the confidence that investors and the market may or not have in the board of the corporation
  – Lawyers
  – Auditors
  – Accountants
  – Investment bankers
  – Analysts
  – Credit rating agencies
The basis of confidence

• Gatekeepers help to evaluate corporate transactions and determine whether annual accounts and corporate information are correct

• Conditions
  – Independence
  – Professionalism
    • Access to the profession is usually regulated
    • Supervision by the State or other Authorities
    • Sanctions for infringements and liability towards clients and investors
The Board of Directors

• The Audit Committee
• The system of Internal Controls
• The Internal Auditor
Inside or statutory auditors

• Differ according to the governance model adopted by the company:
  – One tier system: Audit Committee
  – Two-tier system: Supervisory Board
  – Latin system: Collegio Sindacale
Inside or statutory auditors (2)

• Controls over:
  – The accuracy of financial statements
  – The going concern status/solvency of the company
  – The existence of fraud
  – The respect by the company of its legal obligations
  – Responsible behaviour by the company with regard to environmental and societal matters
Differences Between Internal Audit And Statutory Audit
External auditors

• First introduced in the US (no audit committee was provided until 1970s)
• Introduced in Germany since 1930s
• Today all jurisdictions require and independent external audit to be conducted on financial documents
• Important regulatory changes after the collapse of Arthur Andersen in the aftermath of Enron (Sarbanes-Oxley Act and EU Directive and Regulation)
• Currently an oligopoly of four firms dominates worldwide
External auditors (2)

• Tasks
  – Certify companies’ financial statements (provide stakeholders an opinion on the accuracy of companies’ accounts)

• Requirements
  – Independence
    • Organizational requirements
      – Mandatory rotation of auditors and audit firms every ten years
      – List of non audit services that cannot be provided
      – Limitations on fees charged for non audit services
      – Strengthen role and competences of audit committees in appointment of the firm and in monitoring the audit
      – Strengthen requirements for audit reports
External auditors (3)

- Mandatory in the EU for Public Interest Entities (PIE)
- Voluntary for other firms
Special audits and investigations of company’s affairs

- Exists in a number of countries (Netherlands, Belgium, Germany, France, Austria, Switzerland, Italy, Poland)
- Special auditor appointed either by general meeting or by the Courts
- Special audits are rare but serve as a preventive measure