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INSIGHTS

STATUTORY AUDIT AND GOVERNANCE

The role of the statutory auditor

differences and similarities with the board of statutory auditors

What the statutory auditor does under the Italian Civil Code and Legislative Decree 39/2010, what the board of statutory auditors and the sole statutory auditor do, where their functions meet and where they remain distinct. With a comparative table and one firm point: the statutory auditor is not a governance body.

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STATUTORY AUDIT AND GOVERNANCE

The role of the statutory auditor: *differences and similarities with the board of statutory auditors and the sole statutory auditor*

by **Domenico Merlino, Elda Gagliano** · 9 November 2026

> The statutory auditor and the board of statutory auditors are often seen as two versions of the same control. They are not. The first expresses a professional opinion on the financial statements; the second is a corporate body that oversees management. Confusing the two roles creates the wrong expectations, among shareholders and directors alike.

The statutory auditor in the Civil Code

Article 2409-bis of the Italian Civil Code entrusts the statutory audit to a statutory auditor or an audit firm entered in the Register. Its second paragraph allows companies that are not required to prepare consolidated financial statements to provide in their articles of association that the audit be performed by the board of statutory auditors, which in that case must be made up of registered auditors.

For limited liability companies (S.r.l.), Article 2477 lets the company choose between a control body, which may consist of a single member (the sole statutory auditor), and an external auditor. Once the size thresholds are exceeded, the appointment becomes mandatory. In every case the Code keeps the two functions distinct: oversight of management on one side, the audit of the accounts on the other.

The statutory auditor in Legislative Decree 39/2010

Legislative Decree 39/2010 governs who may perform the statutory audit and how. Its key points are:

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- entry in the Register of statutory auditors and continuing professional education;
- independence and objectivity towards the audited company (Article 10);
- performance of the engagement under the ISA Italia auditing standards (Article 11);
- appointment by the shareholders' meeting, on a reasoned proposal from the control body, for three financial years (Article 13);
- the audit report, with the opinion on the financial statements and on the consistency of the management report (Article 14);
- the right to obtain from the directors documents and information useful for the audit and to carry out checks (Article 14(6)).

The output of the auditor's work is one thing only: a professional opinion, expressed with reasonable assurance, on whether the financial statements give a true and fair view of the company's position.

The board of statutory auditors and the sole statutory auditor

The board of statutory auditors, or the sole statutory auditor, is a corporate body. Article 2403 of the Civil Code requires it to oversee compliance with the law and the articles of association, observance of the principles of sound management and the adequacy of the organisational, administrative and accounting arrangements. To do so, the Code grants it significant powers:

- it must attend meetings of the board of directors, the executive committee and the shareholders: members absent without good reason from two consecutive shareholders' meetings or board meetings lose office (Article 2405);
- it may carry out inspections and request information from the directors (Article 2403-bis);
- it calls the shareholders' meeting when the directors fail to do so or where there are serious and urgent matters for censure (Article 2406);
- it may challenge resolutions of the board and of the shareholders' meeting (Articles 2388 and 2377) and report serious irregularities to the court (Article 2409);
- it may bring liability actions against the directors (Article 2393);
- it reports to the board of directors when the conditions for the negotiated settlement of a crisis are met (Article 25-octies of the Business Crisis Code).

The similarities

The two functions share some features: both require professional competence, independence and confidentiality; both look at the internal control system and the financial statements, albeit from different angles; both end with a report to the shareholders' meeting. The Code also requires them to exchange relevant information promptly (Article 2409-septies). Where the articles of association allow it, the two functions may even be combined in the same body.

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A comparative table

ASPECT	STATUTORY AUDITOR	BOARD OF STATUTORY AUDITORS / SOLE STATUTORY AUDITOR
Nature	External professional or firm engaged to provide a service	Corporate body
Legal basis	Article 2409-bis Civil Code; Legislative Decree 39/2010	Articles 2397-2409 Civil Code; Article 2477 for S.r.l.
Subject matter	The financial statements: opinion on the true and fair view	Management: legality, sound management, adequacy of arrangements
Method	ISA Italia auditing standards	Rules of conduct for boards of statutory auditors
Outcome	Audit report with an opinion on the financial statements	Report to the shareholders' meeting (Article 2429) and action during the year
Board and shareholders' meetings	No duty to attend	Mandatory attendance, on pain of loss of office
Powers towards the directors	Request for documents and information for audit purposes	Inspection, calling the shareholders' meeting, challenging resolutions, reporting to the court, liability actions
Crisis reporting	Assesses going concern in the audit report	Reports to the board of directors (Article 25-octies Business Crisis Code)
Term of office	Three financial years (Article 13, Legislative Decree 39/2010)	Three financial years (Article 2400 Civil Code)

The statutory auditor is not a governance body

> **The statutory auditor is not a corporate body and takes no part in governance. It does not oversee management, does not approve or authorise the directors' decisions and has no power to prevent management transactions: it cannot challenge resolutions, call the shareholders' meeting or apply to the court. It is not required to attend meetings of the board of directors or of the shareholders.**

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This distinction is not a formality. It is the very condition of the auditor's independence: an auditor who took part in management decisions would end up judging, in the financial statements, choices it had helped to make. This is why auditing standards require the auditor to communicate with those charged with governance, not to take their place.

In practice, auditors are sometimes asked to "step in" on a transaction, to speak at a board meeting or to vouch for a decision. Such requests must be brought back within their proper limits: where significant matters arise, the auditor reports them in writing to the directors and to the control body, and takes them into account in its opinion on the financial statements. The power to act on management belongs to the board of statutory auditors or the sole statutory auditor.

How we work at Link Audit

Link Audit performs statutory audits and works alongside control bodies in companies where the two functions are separate, ensuring a timely and documented exchange of information. Engagements are carried out and documented on Digit Audit 4.0, a platform developed by Digit Audit, licensed to Link Audit and used exclusively in its own engagements; the work of control bodies is supported by Digit Audit Cooperative.

In short

The statutory auditor and the board of statutory auditors are complementary, not interchangeable. The first ensures reliable financial statements; the second oversees how the company is run.

Asking the auditor to act as a statutory board member, or the board member to act as auditor without the engagement, weakens both safeguards.

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References: Articles 2377, 2388, 2393, 2397-2409, 2409-bis, 2409-septies, 2429 and 2477 of the Italian Civil Code; Legislative Decree 39/2010, Articles 10, 11, 13 and 14; Legislative Decree 14/2019 (Business Crisis and Insolvency Code), Article 25-octies; ISA Italia 260 and 570; Rules of conduct for boards of statutory auditors. This article is for information purposes only and is not a substitute for professional advice on specific cases. In the event of any discrepancy, the Italian version prevails.

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