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Une approche de la théorie institutionnelle à la réglementation de l'audit légale et statutaire

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Résumé : En tant que cadre d'analyse, la théorie institutionnelle a été utilisée pour expliquer les différentes manières que les organisations développent et évoluent à travers le temps, en réponse à différents types de pressions institutionnelles. Cet article contribue à la littérature de la théorie institutionnelle de plusieurs façons. Tout d'abord, l'objet de l'étude est sur les récents changements dans les structures de régulation de l'audit légale et statutaire, une fonction importante dans le capitalisme contemporain. Deuxièmement, nous étendons la théorie institutionnelle par le biais d'une analyse comparative internationale des changements dans les structures de réglementation de l'audit légale et statutaire aux Etats-Unis, la France et le Canada. Troisièmement, d'une manière analogue à Dillard et al. (2004), nous étendons la théorie institutionnelle à travers une plus grande focalisation sur les aspects politiques de changement institutionnel en ce qui concerne la réglementation de l'audit légale et statutaire. Notre constat est qu'il y a eu des changements significatifs dans les structures de réglementation de l'audit légale et statutaire au cours des dernières années, entraînant une augmentation des niveaux d'isomorphisme institutionnel. Pressions, surtout à l'extérieur de cadres réglementaires nationaux, ont abouti à un plus grand légalisme dans la régulation de l'audit légale et statutaire dans les trois pays étudiés. La mondialisation des marchés de capitaux internationaux explique en partie ce phénomène, mais l'isomorphisme coercitif et isomorphisme mimétique sont également considérés comme jouant un rôle important dans ce processus.

Mot clés: Audit légale et statutaire, réglementation, la théorie institutionnelle

An Institutional Theory Approach to the Regulation of Statutory Auditing

Abstract: As a framework of analysis, Institutional Theory has been used to explain the various ways that organizations develop and change through time in response to various kinds of institutional pressure. This paper contributes to the Institutional Theory literature in several ways. First, the focus of the paper is on recent changes in the regulatory structures for "statutory auditing", an important function in contemporary capitalism. Second, we extend Institutional Theory through an international comparative analysis of changes in the regulatory structures for statutory auditing in the United States, France and Canada. Third, in a manner similar to Dillard et al. (2004), we extend Institutional Theory through an increased focus on the political aspects of institutional change with regard to the regulation of statutory auditing. Our overall finding is that there has been significant change in the regulatory structures for statutory auditing in recent years, resulting in increased levels of institutional isomorphism. Pressures, primarily external to the domestic regulatory frameworks, have resulted in greater legalism in the regulation of statutory auditing in the three countries examined. Globalization of international capital markets partly explains this phenomenon, but coercive isomorphism and mimetic isomorphism are also seen as playing important roles in this process.

Key words: statutory audit, regulation, institutional theory

Introduction

Statutory auditing is defined as the external audit of company financial statements by a person or persons recognized by the authority of the state as being competent to carry out such audits. Statutory audits are mandated by law in most advanced capitalist countries, with a particular emphasis on companies issuing securities in public capital markets. Statutory auditing is regulated by various entities, including institutions of the state as well as the organized accounting profession. While the expressed purpose of the regulation of statutory auditing is protecting the public interest, the ways in which this purpose has been envisioned and activated have varied from country to country, ranging from Associationism in the British and Canadian contexts, to Legalism in France and Germany (see Putxy et al., 1987; Baker et al., 2001; Bédard et al, 2002).

In this paper we examine recent changes in the regulation of statutory auditing in three countries with differing economic and legal traditions (i.e. the United States, France and Canada). Business scandals and audit failures have prompted changes in the regulation of statutory auditing in these three countries, resulting in a greater degree of institutional isomorphism (DiMaggio and Powell, 1983; Scott, 1991). Through the end of the 1990s, the United States, France and Canada had relatively distinct regulatory structures for statutory auditing (Puxty et al., 1987; Baker et al. 2002). During the first years of the 21st century, pressures, primarily external to the domestic regulatory frameworks, resulted in increasing levels of Legalism in the regulatory structures of the three countries examined. Globalization of international capital markets partly explains this phenomenon, but coercive and mimetic isomorphism also plays an important role.

This paper contributes to Institutional Theory in accounting research in several ways. First, the focus of the paper is on recent changes in the regulatory structure of statutory auditing, which comprises an important aspect of the public accounting profession. Second, we seek to extend Institutional Theory through an international comparison of changes in the regulatory structures for statutory auditing in three capitalist countries with differing economic and political histories. Third, in a manner similar to Dillard et al. (2004), we seek to extend Institutional

Theory through a focus on the political nature of institutional and organizational change, particularly with regard to the regulation of statutory auditing.

The remainder of the paper is organized as follows. In the first section we describe an analytical framework adapted from Puxty et al. (1987) which classifies modes of regulation in advanced capitalism. In the second section, a summary of Institutional Theory as applied to the regulation of statutory auditing is addressed. In the third section, changes in the regulatory structures for statutory auditing in the United States, France and Canada are discussed. A final section concludes the paper and offers some suggestions for further research.

Modes of regulation

In this section we briefly summarize an analytical framework developed by Puxty et al. (1987) which theorizes the regulation of accounting as the expression of the combined forces of the state, the social community, and the market. Puxty et al. identified four modes of regulation under advanced capitalism: *Liberalism*, *Associationism*, *Corporatism* and *Legalism*. These modes of regulation are distinguished by the relative degree of involvement of the state and the market in the regulatory structures. As illustrated in Figure 1, the modes of regulation can be arranged according to the increasing (decreasing) role of the state (market).

*****Insert Figure 1 here*****

Liberalism -- Under Liberalism, the regulation of statutory auditing is defined by the market for audit services. Auditing is viewed as a service purchased by companies in order to enhance the credibility of their financial statements. Fees paid to the auditor are a function of the perceived value to the company of the credibility added by the audit. The greater the credibility added, the greater the fee earned. Fees may increase over time and thereby provide an on-going revenue stream for the auditor. The auditor is self-interested and wants to build a reputation for quality and avoid the loss that might occur if the financial statements were revealed to be false or misleading. Market forces exert pressures on auditors to maintain high levels of technical and ethical standards, to which they conform on a voluntary basis, and with respect to which they assume unlimited liability (Thornton, 1992).

Associationism. At an intermediate level of regulation, falling between the market and the state, we find Associationism. Pursuant to this mode of regulation, regulatory activities are effectuated through professional institutes or associations that represent and defend the interests of their members. Membership in a professional institute or association is based on shared economic interests rather than consonance of values (Puxty et al., 1987, p. 284). The coming together of individuals with similar economic and professional interests permits economies of scale to be realized with regard to entry level examinations and continuing professional education, as well as the creation and promulgation of professional standards. It also permits association members to make their qualifications known to potential clients. The association as a whole has an interest in building a reputation for honesty and integrity, so that membership in the association becomes a mark of quality. To accomplish this objective, the association establishes stringent admission criteria, promulgates technical and ethical standards, oversees the practices of members, and when standards are violated, excludes delinquent members from membership or exacts penalties to deter such behavior. Professional associations are frequently designated by the state as having certain rights or privileges pertaining to specific types of services (e.g. statutory auditing).

Corporatism. Under Corporatism, the state not only permits the creation of professional associations, it integrates these associations into its regulatory apparatus. In essence, the state co-opts associations to implement its policies and procedures. Corporatism permits the state to transfer the costs of regulating professional activities to the association while removing conflicts regarding monopoly practices from the sphere of public debate (Richardson and McConomy 1992, p. 39). In exchange, the association accepts constraints while agreeing to maintain professional standards. The members of the association seek to enhance the reputation of the association because they recognize that their private interests must correlate with the public interest if the association is to maintain its favorable economic status (DTI, 1998, p. 4).

Legalism. Under Legalism, regulatory power resides with the state, and the exercise of regulatory power functions according to laws and regulations promulgated by the state. Legalism is commonly found when market mechanisms fail to deter private interests from transferring economic costs to others against their will (e.g. financial fraud), or if there is a need to establish a balance of power between private parties due to an asymmetry of information and

an inability on the part of one party to compel the other party to provide desired information. Under Legalism, professional associations function as an arm of the state.

According to Puxty et al., Liberalism and Legalism are situated at opposite ends of a continuum passing through Associationism and Corporatism. Empirically, one does not encounter pure instances of Liberalism or Legalism; these are ideal types. Increasing levels of globalization and international economic integration have caused the regulatory distinctions proposed by Puxty et al. to become blurred. Nevertheless, Puxty et al. maintained that certain modes of regulation tend to predominate in particular countries and that these modes of regulation differ from one country to another. Thus, in Germany the mode of regulation is closest to Legalism, while in Sweden it is closest to Corporatism. In the United Kingdom the mode of regulation is closest to Associationism, and in the United States there has been an unusual mixture of Associationism and Legalism. The dominant mode of regulation in a particular country is a function of various influences including: the power and prestige of the organized accounting profession; the economic and cultural history of the country; and the degree of control of corporations and business activity generally.

Institutional theory¹

Institutional Theory has been used to explain the ways that institutions and organizations develop and change through time. Various aspects of institutional theory have provided a theoretical basis for research in diverse areas of accounting, including: the accounting profession (Carpenter and Dirsmith, 1993; Dirsmith et al, 1997; Eden et al, 2001; Fogarty, 1992a, b, 1996; Fogarty et al. 1997; Hunt and Hogler, 1993), accounting regulation (Hines et al. 2001); and the regulatory role of the Securities and Exchange Commission (Bealing, 1994; Bealing et al., 1996; Neu, 1991; Rollins and Bremser, 1997).

Institutional Theory provides a framework for researching organizations and the social and political factors that impact on the evolution of organizations through time. One of the underlying premises of institutional theory is that organizations are subject to regulative

processes and that they operate under external and internal governance structures. In addition, all organizations are socially constituted, and they are subject to institutional processes that define the structures that organizations can assume and how they are able to operate legitimately (Dillard et al., 2004; Scott, 1995 p. 136).

Institutionalization is a process whereby social practices in organizational settings are created and learned. Institutional Theory is primarily concerned with an organization's interactions with its environment, the effects of external expectations on the organization, and the effect of these expectations on organizational structures and practices (Martinez, 1999). Organizational activities are motivated by legitimacy-seeking behaviors, which are in turn influenced by socially constructed norms. For organizations to survive, they must interact with their environment in ways that are acceptable to various constituents within the environment. By creating a formal structure that adheres to the norms and behavioral expectations of the environment, an organization demonstrates that it is acting on collectively valued purposes in an appropriate way (Meyer and Rowan, 1977). The incorporation of institutionalized elements provides the rationale for organizational activities and protects the organization from having its conduct questioned (Meyer and Rowan, 1977, p. 349). Thus, conscious efforts are made to create, maintain and manage legitimacy in the eyes of external groups in order to receive continued support (DiMaggio and Powell, 1983; Meyer and Rowan, 1977; Tolbert and Zucker, 1983). A highly institutionalized environment exerts pressures on organizations because of the power of external forces to influence the organization into adopting practices consistent with expectations (Greening and Gray, 1994, p. 471).

Within Institutional Theory, the idea of isomorphism relates to the processes through which an organization adapts to the expectations of its external environment. These processes take place in a series of steps "occurring over a period of time and ranging from co-optation of the representatives of relevant environmental elements to the evolution of specialized boundary roles to deal with strategic contingencies" (Scott, 1991, p. 179). Three types of isomorphism are mentioned within Institutional Theory: coercive, mimetic and normative (DiMaggio and Powell,

¹ This summary of Institutional Theory relies on insights provided by Dillard et al. (2004).

1983). Coercive isomorphism results from pressures exerted on an organization by external parties upon which the organization is dependent. Mimetic isomorphism occurs when an organization seeks to imitate a more successful organization operating in the same environment. Normative isomorphism derives from the efforts of members of an organization to define the conditions and methods of organizational life.

The recent changes in the regulatory structures for statutory auditing in the United States, France and Canada, reflect the effects of coercive, mimetic and normative isomorphism. The changes in the regulatory structures are discussed in the following sections.

The regulatory structures for statutory auditing

This section analyses the changes made in the regulation of statutory auditing in the United States, France and Canada and discusses the impact of these changes on the regulatory structures used in these countries. In each country, we examine three main aspects of regulation (licensing of auditors, standard setting, practice regulation) and the institutions involved in the regulatory structure. Because accounting scandals and reforms emerged first in the U.S., we begin our analysis with the regulation of statutory auditing in the United States.

The United States

After the emergence of the public accounting profession in the late 19th century, the regulatory structures for statutory auditing in the United States were defined in a formal terms by the individual states of the United States. Each state has the power to issue a license to practice as a Certified Public Account (CPA), which is required to become a statutory auditor. However, after the enactment of the federal securities laws in the 1930s, the regulation of securities trading became a matter of federal law. Federal securities laws specify that financial statements of companies with securities traded in public capital markets must be audited by independent accountants (i.e. CPAs). This requirement created the practice of statutory auditing in the United States. Therefore, the regulation of statutory auditing in the United States involves institutions of both the federal and state governments. In addition, the organized accounting profession, through the American Institute of CPAs (AICPA), has played an important role in the regulation of statutory auditing through its Auditing Standards Board (ASB), and through its Professional

Ethics Committee (PEC). Coordinating with the state Boards of Accountancy, the AICPA also plays a central role in the disciplinary procedures of the accounting profession. The AICPA also creates and marks the Uniform CPA exam, which is the only professional examination, required to become a statutory auditor in the United States.

After the passage of the Sarbanes Oxley Act of 2002, the regulatory structure for statutory auditing changed in significant ways. The primary change was the creation of a federal regulatory body called the Public Companies Accounting Oversight Board (PCAOB) whose primary function is the regulation of “registered auditors” (i.e. statutory auditors). Effectively, the responsibility for establishing auditing standards, independence standards, and practice reviews for statutory auditors was removed from the public accounting profession and transferred to the PCAOB. The roles and responsibilities of these institutions are summarized below.

****** Insert Figure 2 ******

- *Securities and Exchange Commission (SEC)* – The SEC is an agency of the US federal government, created by the *Securities Exchange Act of 1934 (1934 Act)*. The stated mission of the SEC is to protect investors and maintain integrity in the financial markets. The SEC is charged with administering the federal securities laws. The powers of the SEC are considerable; it can establish both accounting and auditing standards as well as the qualifications of auditors (Securities Act of 1933). The SEC traditionally has delegated much of its responsibility for setting auditing standards to the accounting profession, retaining a role largely of oversight. In addition, it can institute legal proceedings against auditors.
- *Public Companies Accounting Oversight Board (PCAOB)*. The PCAOB is a private-sector, not-for-profit corporation, created by the Sarbanes-Oxley Act of 2002 (SOX), a federal law enacted after the accounting scandals in 2001-2002. The mandate of the PCAOB is to “*oversee auditors of public companies in order to protect the interests of investors and to further the public interest in the preparation of informative, fair, and independent audit reports*” (PCAOB, 2003). The PCAOB began operations in April

2003. The PCAOB includes five members chosen by the SEC in consultation with interested parties. The majority of the five members must come from outside of the accounting profession. All accounting firms that audit public companies in the United States, whether they are domestic or foreign, must register with the PCAOB. The registration process involves paying a fee and agreeing to permit the audit practices of the registered firm to be inspected by the PCAOB on an annual basis. The PCAOB has assumed the responsibility for establishing auditing standards, independence standards, and practice reviews. The regulatory practices of the PCAOB are still evolving. A number of issues remain unresolved, such as the role of the former Auditing Standards Board in establishing auditing standards.

- *State Regulation*- The regulation of the accounting and auditing profession is carried out at the state level through *Boards of Accountancy* (Boards). These Boards are governmental entities. They administer laws dealing with the practice of accounting and auditing. The Boards are responsible for issuing licenses to practice as a CPA. The stated purpose of the laws is to protect the public interest. The members of the state boards of accountancy are chosen by the governors of each state. The powers of the Boards include the admission of persons who wish to become CPAs and the exercise of certain disciplinary powers (e.g. removal of license to practice). In the state of New York, the members of the *Board for Public Accountancy* are selected by the Board of Regents of the State of New York, which is a governmental body created to supervise post-secondary education in that state. The New York Board includes 20 licensed CPAs and two representatives from the general public. The financing of the Board comes from fees paid by licensed CPAs.
- *AICPA*- CPAs are organized nationally into the *American Institute of Certified Public Accountants* (AICPA). Membership in the AICPA is voluntary. In the past, the AICPA had a great deal of power and influence over the regulation of both accounting and auditing. This power and influence has diminished. Among the current activities of the AICPA are the preparation and marking of the *Uniform CPA Exam*, which is a necessary pre-requisite to becoming a CPA, and facilitating the activities of the *Professional Ethics*

Executive Committee, which sets the ethical standards for CPAs. In addition, a great deal of Continuing Profession Education is conducted through the AICPA. Until recently, the AICPA was also responsible for the issuance of *Generally Accepted Auditing Standards* (GAAS), which are the standards that auditors much follow when conducting audits. This responsibility has now been assumed by the PCAOB.

- *Auditing Standards Board* (ASB) – The ASB was formed in 1978. Until recently, the ASB had the responsibility of establishing Generally Accepted Auditing Standards (GAAS). The ASB is composed of fifteen members. Each of the major accounting firms has a representative on the ASB. Other members come from smaller practice units. In addition, there has usually been one university professor. The operations of the ASB are financed through the general budget of the AICPA. With respect to audits of companies with publicly traded securities, the PCAOB has taken over the standards setting responsibilities of the ASB. The ASB continues to establish standards for other types of auditing and attestation services.
- *Ethics Division* – The Ethics Division of the AICPA is responsible for administering and enforcing the AICPA’s Code of Professional Conduct. The Ethics Division operates under the supervision of the *Professional Ethics Executive Committee* (PEEC). The PEEC has 21 members. Since October 2001, 25% of the members must represent the public.
- *Public Oversight Board*- The U.S. accounting profession formerly had a self-regulatory system under the AICPA for many years. The activities of self-regulation included coordinating state regulatory statutes, establishing and enforcing auditing and ethics standards and organizing the mandatory peer review process.

Licensing of Auditors. State *Boards of Accountancy* are responsible for issuing license to practice as a Certified Public Account (CPA), which is a necessary requirement to become a statutory auditor. While the *Boards of Accountancy* of accountancy possess this power, in practice the profession has the main responsibility because it is the AICPA that creates and marks the Uniform CPA exam, which is the only professional examination required to become a statutory auditor in the United States.

The Sarbanes-Oxley Act of 2002 does not affect the licensing of individual auditors, but requires that all public accounting firms, domestic and foreign, register with the PCAOB (SOX, Sections 102 and 106a). Before SOX, all AICPA member firms that audited SEC registrants had to be member of the SEC Practice Section (SECPS) of the AICPA Division for CPA firms. Thus, following SOX, the regulatory mode for the licensing of audit firms has moved from associationism to legalism.

Standards Setting. Before SOX, the AICPA was responsible to establish the auditing standards and ethical standards of auditors of both public and private companies. The *Auditing Standards Board (ASB)*, which is composed of representative from the accounting firms and financed through the general budget of the AICPA, had the responsibility of establishing Generally Accepted Auditing Standards (GAAS). The *Ethics Division* of the AICPA had the responsibility of for administering the AICPA's Code of Professional Conduct. Ethical – Independence (SEC had some rules)

Practice Regulation: Practice regulation of statutory auditors is now performed by PCAOB. The PCAOB is a quasi-governmental entity, which operates under the aegis of the SEC, but with independent funding provided through fees charged to corporations that issue securities pursuant to the federal securities laws (SEC issuers). Section 102 of SOX requires all accounting firms that audit SEC issuers to register with the PCAOB. The larger accounting firms (those with more than 100 audit clients) must have their audit practices inspected annually by the PCAOB. The PCAOB has the authority to censure, fine or suspend an accounting firm that violates its standards, rules or regulations. The PCAOB also has the power to issue auditing standards, quality control standards, independence standards and ethics standards for registered accounting firms. Essentially, SOX removed self-regulation from the American public accounting profession (Siminuc, 2005; Defond and Francis, 2005; Kinney, 2005). In addition, through a provision that has been controversial because of its extra-territorial nature, Section 106 of SOX requires foreign accounting firm that audit SEC issuers or a subsidiary of an SEC issuer to register with the SEC. This requires a double form of registration (i.e. PCAOB and a foreign regulatory body); however, a compromise was agreed to by the SEC and the PCAOB which

allows a foreign regulatory body to control inspection and enforcement issues if the PCAOB believes that the regulatory agency's policies are effective.

Title II of SOX addresses auditor independence by prohibiting certain types of non-audit services if provided to audit clients (e.g. bookkeeping; information systems design and implementation; actuarial services; appraisal or valuation; internal audit; human resources; investment banking; legal services)(section 201). Title II also requires mandatory audit partner rotation (section 203); mandatory audit reports to audit committees (section 204); and it prohibits auditors from being hired as financial officers of the audit client for a period of one year (section 206).

Discussion. Prior to the passage of the Sarbanes-Oxley Act, the regulatory structure for statutory auditing in the United States was described as a combination of Associationism and Legalism. The evidence for Associationism was present in the key roles played by the AICPA in several areas of regulation including: creating and marking the nationwide CPA examination; determining and issuing Auditing Standards through the Auditing Standards Board; control of practice reviews through the Public Oversight Board (a private sector body created by the AICPA during the 1990s which was dissolved after the creation of the PCAOB); and control of ethics and disciplinary procedures through the Code of Conduct and the Joint Trial Board. After the creation of the PCAOB, these regulatory powers were removed from the AICPA and transferred to the PCAOB. Because the PCAOB is an organization created by law, the regulatory structure for statutory auditing in the United States can now be viewed as being closer to Legalism than Associationism. The way in which the institutional regulatory structure came to be modified in the United States was the result of a process of coercive isomorphism, involving entities external to the accounting profession (i.e. the Congress) which exerted its power to change the long established institutional regulatory structure.

Frequently, when an institutional regulatory environment changes, there is an attempt by an organization operating within that environment to co-opt the external force in order to retain its own power. The process of coercive isomorphism evident as a result of the Sarbanes-Oxley Act, has not yet led to apparent moves to re-acquire the lost regulatory power. This may be because the organized public accounting profession has benefited economically from the passage of the

Sarbanes-Oxley Act. Since the passage of the act, statutory auditors in the U.S. have earned substantially higher fees than before to the act. This is because, certain portions of the act required greater levels of auditing in order to test management's assertions regarding the effectiveness of a company's internal control system. Thus, while the institutional regulatory structure evolved towards Legalism as a result of coercive isomorphism, statutory auditors were compensated for this lost of self-regulation through increased audit revenues.

France

While audits of company financial statements existed before 1860, the origin of statutory auditing in France was the Loi du 23 Mai 1863, which created the limited liability companies called Sociétés à Responsabilité Limitée (SARL). The 1863 law and the subsequent Loi du 24 juillet 1867 regarding Sociétés Anonymes (SA) required the owners of a SARL to appoint one or more *commissaires* with the responsibility to prepare a report on the financial situation of the company, its balance sheet and the accounts presented by the management.

Another French law, the Décret de 1935, reiterated the Loi de 1867 requirement to designate a *commissaire de société*, but modified the requirement to restrict the choice to auditors chosen from a list maintained by the Appeal Court (an body of the French judicial system). In order to be included on the list of statutory auditors, a person had to take a technical exam (Décret du 29 juin 1936). Auditors included on the court list were also required to form an association, called the 'Compagnie des commissaires agréés', which possessed disciplinary power. The Décret de 1935 also modified the Loi de 1867 to impose requirements regarding auditor independence and to establish criminal penalties for confirming false information.

The Loi du 24 Juillet 1966, regarding business organizations, modernized the regulation of statutory auditing. This law established the current legal framework for statutory auditing. "[I]ndependance was reinforced, entry to the profession was made conditional upon success in exams of a very high level and the purpose of the audit was defined" (Mikol 1993, p. 10). This law was supplemented by the Décret 69-810 du 12 Août 1969 specifying the obligations of statutory auditors and the organizational structure of the profession. In 2000, the Loi du 24 Juillet

1966 was integrated into the Code de Commerce (the basic French law dealing with business affairs).

The Loi 2003-706 du 1er Août 2003 de Sécurité Financière, which modified the Code de commerce, was France's response to the financial scandals in the United States and the passage of the Sarbanes-Oxley Act. Contrary to the situation in the US where the accounting profession essentially lost its self-regulatory status, the Loi de sécurité financière did not change the institutional regulatory structure for statutory auditing in France in significant ways. The new law retained the shared regulatory structure, whereby statutory auditors are regulated through an institutional legal framework which confers on them the status of a regulated profession and where auditors regulate themselves by defining ethics rules and establishing monitoring mechanisms. The institutional changes in the regulation of statutory auditing in France have been focused around three main axes: creating an external controlling authority for the profession (the Haut Conseil du Commissariat aux Comptes), clarification and reinforcement of independence rules, and creation of new powers for the Garde des sceaux (Minister of Justice) and the securities commission (Autorité des marchés financiers). Figure 3 shows the institutional regulatory structure for statutory auditing in France before and after the Loi 2003-706 du 1er août 2003 de Sécurité Financière. The new law added two new institutions: the Haut conseil du commissariat aux comptes (H3C) and the Autorité des marchés financiers (AMF) which replaced the Commission des Opérations de Bourse (COB). It also dissolved one organization, the Comité de déontologie de l'indépendance. The members of the H3C and the AMF are named by the government of France (through the Minister of Justice).

*****Insert Figure 3*****

Compagnies des Commissaires aux Comptes.² Statutory auditors are organized at the regional level into *Compagnies Régionales de Commissaires aux Comptes* (CRCC) and at the

² There is also an *Ordre des Experts Comptables*, whose members serve as advisors to companies regarding accounting and tax matters. Legally, the professions of Expert Comptable and Commissaire aux Comptes are distinct, but they are practiced simultaneously by many accountants in France, provided that the auditing function and the accounting advisory function are not carried out at the same time for the same client

national level into the *Compagnie Nationale des Commissaires aux Comptes* (CNCC). The CNCC, operates under the supervision of the Justice Minister (Garde des Sceaux). The mission of the CNCC is to assure the proper functioning of auditing practice and to supervise and defend the profession and the independence of its members (Décret du 12 août 1969, art. 1). The CNCC is responsible for establishing requirements to become a statutory auditor; for establishing auditing standards; and for establishing the disciplinary practices of the profession. The CNCC is administered by a national council whose members are elected by representatives from the regional CRCCs. The regional representatives are chosen pursuant to a ratio of one representative per 200 members (Art. 51). Members of the CNCC include all statutory auditors, as well as auditing firms (Art. 25). The CNCC also establishes the ethical standards for the auditing profession. The operations of the CNCC are financed primarily through membership fees. The day to day operations of the profession are conducted through 34 regional companies of statutory auditors (CRCCs), the membership of which includes individual auditors as well as auditing firms. The regional CRCCs are managed by councils composed of between 6 and 26 auditors elected by a secret ballot (Art. 30 and 31). The regional CRCCs are responsible for maintaining the list of members, supervising the practice of auditing, and determining the annual fees of members. The Loi de sécurité financière modified the status of the CNCC. It is now a public corporation with legal personality instituted under the aegis of the Minister of Justice and directed to serve the public interest (Loi 2003-706 du 1er août 2003, Art. 100). This status does not change its mission or structure, but as a public corporation, it has the power to defend the public interest by being a civil party against persons who commit infringements of rules or regulations.

- **Haut Conseil du Commissariat aux Comptes** - The Loi de sécurité financière created the High Council for Auditors (H3C) to provide supervision for the profession with the support of the CNCC and to ensure respect for professional ethics and the independence of auditors (Code de commerce, Art. L821-1). The H3C is composed of 12 members and includes legal experts and judges, persons qualified in the areas of economics and financial affairs, as well as representatives from the securities exchanges, along with certain academic accountants. Statutory auditors are included, but they constitute a minority of the members (3 members). The H3C is charged with reviewing and providing

an opinion on the auditing standards issued by the CNCC prior to their approval by the Minister of Justice. The H3C has assumed the responsibility for audit quality reviews that was previously assumed by the Comité d'Examen National d'Activité (CENA). This program is directed towards the review of audit practices including: defining the scope of reviews; analysis of audit quality; conformity with ethical standards; and any other matters requested by the Minister of Justice in situations having public importance. The H3C also serves as an appeal board for disciplinary decisions of the regional CRCCs. The funds required to operate the H3C are derived from the budget of the Ministry of Justice.

- **Autorité des Marchés Financiers (AMF).** This entity was created by the Loi de sécurité financière du 1er août 2003, through a merger of the Commission des Opérations de Bourse (COB), the Conseil des Marchés Financiers (CMF), and the Conseil de discipline de la gestion financière (CDGF). The mission of the AMF includes overseeing the functioning of the securities markets. The CNCC operates in close collaboration with the AMF. The work of these bodies is coordinated to improve the quality of information provided by companies to markets and to improve the practice of statutory auditing. Like its predecessor, the AMF must be informed of proposals to appoint or reappoint the auditors of public companies and it may make a comment on such proposals. It may also request information about auditees from statutory auditors. The Loi de sécurité financière also gave power to the AMF to initiate an inspection of a statutory auditor to request the assistance of the CNCC.
- **Comité de déontologie de l'indépendance (CDI).** In 1999, the Commission des Opérations de Bourse (COB) and the CNCC established a consultative committee on independence, referred to by its French acronym as the CDI. The mission of the CDI was to provide advice and recommendations concerning the independence of statutory auditors, particularly with regard to auditors of companies with publicly traded securities, and also to enhance the objectivity of audit findings. The CDI was composed of 11 persons designated jointly by the CNCC and the AMF, of which the majority cannot come from the auditing profession. Since 2003, the H3C is the highest authority invested

with the duty of regulating statutory auditing, whether the auditee is a public company or not.

Discussion. Since the passage of the first French law regulating statutory auditing, in 1866, the institutional regulatory structure for statutory auditing can be seen as being closest to Corporatism. The French government essentially created the profession of statutory auditor and mandated that all statutory auditors must belong to a professional organization created by the government, whose members would be designated by the French courts operating under the supervision of the Ministry of Justice. At the same time, however, auditing standards, the code of ethics and disciplinary procedures were essentially left up to the statutory auditors themselves, operating through professional organizations (the CNCC and CRCCs). The 2003 law did not change this institutional regulatory structure significantly except by merging and renaming certain bodies. These changes were made in response to the processes of coercive isomorphism that existed in the United States as a result of the Sarbanes-Oxley Act. However, the French law can be seen as an example of mimetic isomorphism, in that the institutional structures created by the law were intended in part to mimic those of the United States. The H3C is similar to the PCAOB in the United States. But, it should be noted that the basic operations of the CNCC and the CRCCs have not changed significantly under the new law, and the establishment of auditing, ethics and independence standards, as well as practice reviews and disciplinary procedures, remain largely under the purview of the statutory auditors themselves. Thus, there has not been much change in the institutional regulatory structure for statutory auditors in France, even though the structural form of the institutions has changed in appearance in a way that mimics the changes that took place in the United States.

Canada

Pursuant to the Canadian constitution, the power to regulate professional activity as well as the initial issuance and trading of corporate securities, is within the responsibility of the Provinces. In essence, the ten Provinces of Canada regulate the practice of statutory auditing, acting in collaboration with the self-regulated bodies that make up the provincial and national accounting profession. Figure 4 outlines the relationships between the bodies involved in the regulation of statutory auditing in Canada.

*****Insert Figure 4*****

All of the Provincial governments, with the exception of Québec, have established regulatory bodies to regulate public accountancy and statutory auditing. In Ontario, the *Public Accountant Council* (Council) is charged with the responsibility for administering the public accountancy laws and regulations (L.R.O. 1990, c. P-37). The primary mission of the Council is to assure that persons practicing public accountancy possess a proper license issued by the Council. In addition to issuing a license to practice public accountancy, the Council exercises certain disciplinary powers, and can initiate lawsuits against persons who violate the public accountancy laws. The Council includes fifteen members, of whom twelve are named by the *Institute of Chartered Accountants of Ontario* (ICAO), and three are elected from among persons who are licensed to practice public accountancy but who are not members of the ICAO³. The operations of the Council are financed through annual fees paid by licensed professional accountants.

In Québec, there is no specific regulator for the public accountancy profession. By law, the regulatory responsibility has been delegated to the Order of Chartered Accountants of Québec (Order, or OCAQ). This body, like all other professional bodies in Québec, is supervised by the *Office of Professions* (Office). The function of the Office of Professions is to assure that professional bodies act in the public interest (L.R.Q., c. C-26, art. 12). The powers exercised by the Office are significant. It can make recommendations regarding rules and regulations of the Order, and if the Order does not adopt such recommendations, the Office can impose them. The Office is composed of five members named by the Government of Québec. Four of the members, including the chairperson and the vice-chairperson, must be licensed professionals. Three of the four, including either the chairperson or the vice-chairperson, are chosen from a list provided to the Government by the Inter-Professional Council. The fifth member of the Office cannot be a licensed professional. This member is chosen based on his or her ability to protect the public interest (L.R.Q., c. C-26, a. 4). The financing of the Council is

³ As of February 2001, only 47 (less than 1%) out of 8,184 licensed public accountants were not members of the

obtained from individual fees paid by licensed professionals. The Government determines the fees, but the fees are collected by the professional bodies.

In each Province, there is also a self-regulatory body of professional accountants. In Québec, the Order of Chartered Accountants was designated by law as the principal body responsible for the protecting the public interest with respect to public accountancy and statutory auditing. Towards this end, the Order is required to supervise the practice of its members (L.R.Q., c. C-26, a. 23). The functioning of the Order is prescribed by the Code of Professions and is overseen by the Office of Professions. The Order is administered by a Board of Directors headed by a Chairperson. The Board is composed of twenty-four directors elected by members of the Order in a secret ballot. The Board also includes four directors named by the Office of Professions, after consultation with various groups including labor unions, financial institutions, and educators (L.R.Q., c. C-26, a. 61 à 78).

In the other provinces, there are also self-regulatory professional organizations that play a role in the regulation of statutory auditing in Canada. For example, in Ontario, the ICAO is a body established by the *Chartered Accountants Act, 1956* (CA Act). In order to become a statutory auditor in Ontario, a person must be recognized as a Chartered Accountant (CA). The CA Act specifies that the ICAO is the only professional body that can enroll CA's, thereby creating a monopoly for CA's regarding statutory auditing in Ontario. Pursuant to the CA Act, the ICAO is responsible for, among other things, maintaining the knowledge and competence of its members, and promoting and protecting the interests of the accounting profession. In contrast with the Order of Chartered Accounts of Québec, which must follow the regulations of the Code of Professions of Québec, the ICAO has greater freedom to function. It can adopt regulations and have them approved by its members. The ICAO is administered by a Council composed of sixteen CA's elected by members of the institute, as well as four members named by Lieutenant-Governor of Ontario⁴ (CA Act 1956, p. 5).

⁴ Beginning in 1990, and until the modification of the CA Act in 2000, the Council included two public representatives who had the right to participate in the affairs of the Council, but not vote. These members were chosen by the Council.

The members of the provincial institutes of Chartered Accountants are usually members of the Canadian Institute of Chartered Accountants (CICA). The primary function of the CICA is to develop and issue accounting and auditing standards. It also shares responsibilities with the provincial institutes where it is determined that these relate to the Canadian accounting profession as a whole, notably: strategic planning; the process of admitting new members; and administering the code of ethics. The CICA is governed by a Board of Directors of twelve members, including two public representatives. The operations of the CICA are financed through fees paid by members of the Provincial institutes.

The CICA has several committees and boards that are important in the regulatory structure of the Canadian public accounting profession. Among these are :

Auditing and Assurance Standards Board (AASB)– The mission of the AASB⁵ is to assist the Canadian accounting profession in serving the public interest by enhancing the quality of auditing and assurance services. The AASB supports the growth and relevance of auditing and assurance services by disseminating generally accepted standards and implementation guidance for a range of assurance and related services. These standards and guidance are assumed to reflect best practices and to meet the needs of auditors and users of financial statements. The AASB is interested in international harmonization and is working with the International Auditing and Assurance Standards Board (IAASB) and other standard setters towards that goal. The AASB comprises twelve persons, all members of the CICA, with a majority who are practicing public accountants, along with a minority representing other spheres of activity such as industry, commerce, finance and academia. The chair and vice-chair of the AASB are named by the Board of Directors of the CICA. The other members are invited to serve by the Director of Auditing and Assurance Standards. The operations of the AASB are financed by the CICA.

Provincial Securities Commissions – Each Province has a Securities Commission which regulates, among other things, companies issuing securities (common shares and bonds) to the

public, including companies with shares are listed on stock exchanges. For example, in Québec, the Québec Securities Commission (CVMQ) is an autonomous regulatory body charged with overseeing the operations of the securities markets in Québec. The Commission exercises functions established by law to protect investors and regulate information received by shareholders (L.R.Q., c. V-1.1., a. 276). The Commission is composed of seven members, including a chairperson and two vice-chairs. The members are named by the Québec government for a maximum period of five years (L.R.Q., c. V-1.1., a. 277). The operations of the Commission are financed through fees paid by the issuers of securities. The provincial securities commissions act together with the Canadian Securities Authority to establish uniform rules and regulations throughout Canada.

Discussion and Conclusion

There are similarities in the institutional regulatory structures for statutory auditing in the United States, France and Canada (see Table 1). In each of these countries, there are entities of the state involved in the institutional regulatory structures, along with involvement of the professional institutes. The number of bodies, their powers, their responsibilities and constraints under which they operate, vary from country to country. In addition, depending on the legal structure of the country, the number of entities and the degree of centralization of power varies. With regard to capital markets, each of the three countries has created a national, state or provincial regulatory body that is charged by law with the responsibility of protecting the interests of investors. These entities are under the direct control of the state. Typically the majority of the members of these bodies are named by the state; their powers and responsibilities are prescribed by law, and they must account directly to the state for their actions and their decisions.

*****Insert Table 1*****

⁵ The name of the Assurance Standards Board (formerly, Auditing Standards Board) was changed to the Auditing and Assurance Standards Board in September 2003.

In the United States, and in several Canadian provinces, the laws regarding the regulation of statutory auditing mandate the creation of governmental agencies (i.e. Boards of Accountancy) which are responsible for certain aspects of regulation. In contrast with securities regulatory commissions, these entities are often controlled by professional accounting bodies. In the province of Ontario, the members of the regulatory body are named by the Canadian Institute of Chartered Accountants (CICA).

In France and in Canada, professional associations have also been created by law. Pursuant to the regulatory mode of Corporatism, the state has integrated these associations into its system of regulatory control by conferring certain responsibilities and powers on the associations, while also establishing certain constraints on their behavior. The degree of constraint varies. In Québec and Ontario, public representation on the Board of Directors of the OCAQ and the ICAO is required, while in France only statutory auditors can serve on the administrative bodies of the CRCCs and CNCC. Nevertheless, pursuant to the recent creation of the High Council for the CNCC, the majority of the members of the High Council must come from outside of the auditing profession. Typically the members of the High Council are magistrates or representatives of the French government. The constraints imposed on the regulatory bodies are perhaps greatest in Québec, where the powers of the OCAQ are stipulated by the Code of Professions. In contrast, the ICAO in Ontario probably has the least amount of constraint imposed by law. With the exception of mandated public representation on its Board of Directors, the CA Act of Ontario imposes few obligations and constraints on the ICAO. The regional companies of Commissaires aux comptes in France have a number of constraints on their duties and their internal functioning, but they also enjoy a great deal of latitude regarding the means used to realize their objective of regulating statutory auditors.

Finally, in the United States and in Canada, there are professional associations like the AICPA, the state societies of CPAs, and the CICA. Pursuant to the regulatory mode of Associationism, these bodies are self-regulated and function without specific legal constraints imposed by the state. In the US, the AICPA and the state societies of CPAs provide an example of Associationism. Not only are they self-regulated, but membership is voluntary. Despite the absence of specific legal requirements, these associations often function in a manner similar to

professional associations created by law. Thus, both the AICPA and the CICA have public representatives on their Board of Directors.

After passage of the Sarbanes-Oxley Act in the United States, the institutional regulation for statutory auditing in the United States underwent a process of coercive isomorphism in which the self-regulatory powers of the profession were removed and transferred to the PCAOB. The comparative evolution of the regulatory structures for auditing in the U.S., France and Canada is shown in Table 2. In France, a new law enacted in 2003, merged and renamed certain institutional regulatory structures for statutory auditing in a process of mimetic isomorphism, which mimicked the events taking place in the United States, but which did not change the fundamental institutional regulatory structures in France. In Canada, there was a certain degree of mimetic isomorphism in response to the events in the United States, but the auditing profession in Canada was largely able to maintain self-regulation. A sort of normative isomorphism was more evident in Canada. As the globalization of capital markets continues, we may expect to see an increased level of institutional isomorphism in the regulatory structures for statutory auditing in advanced capitalist countries. In this regard, it can be seen that the processes of globalization are causing a form of coercive isomorphism, which tends to obscure the formerly distinct categories of regulation existing in advanced capitalism as described by Puxty et al. (1987). What this means for future regulation of statutory auditing in a globalized environment is still unclear. While there appears to be a desired on the part of many national governments to increase the level of regulation of statutory auditing thus leading to an increased degree of Legalism, there is also a corresponding effort on the part of the organized public accounting profession to retain as much power over its own regulation as possible. See Table 2 for a graphic representation of the comparative evolution of regulation of statutory auditing as described above.

*****Insert Table 2*****

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Figure 1, Modes of regulation



Figure 2, Panel A, Regulatory Structure for Statutory Auditing in the United States Before Sarbanes Oxley

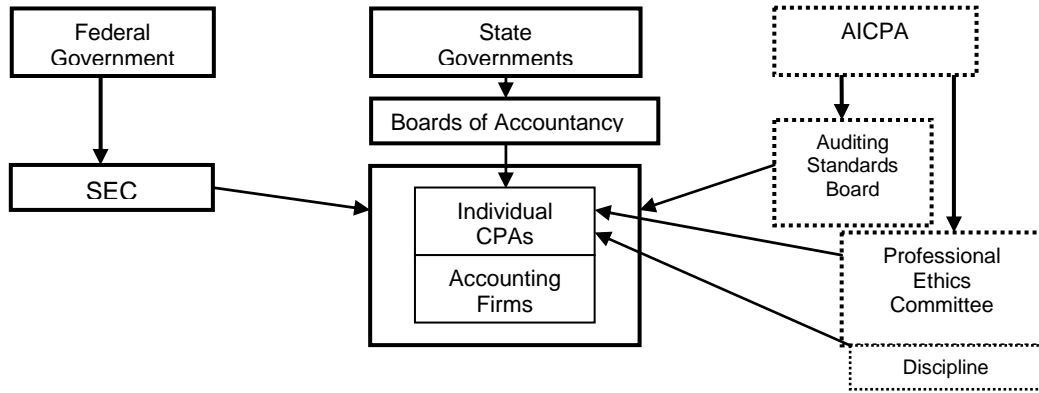


Figure 2, Panel B, Regulatory Structure in the United States after Sarbanes Oxley

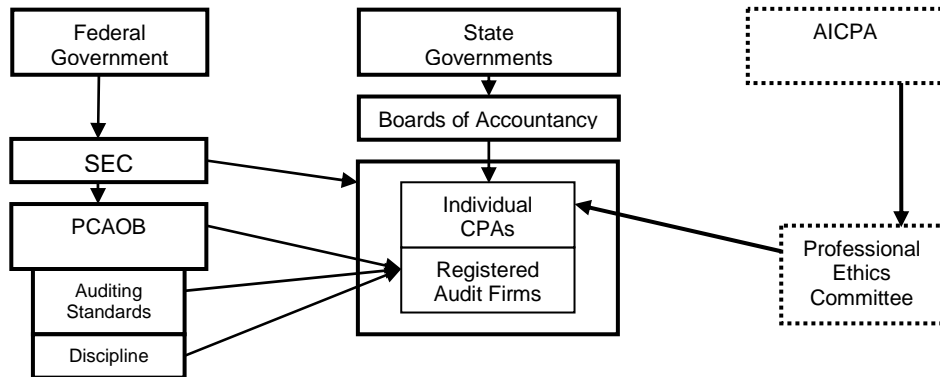
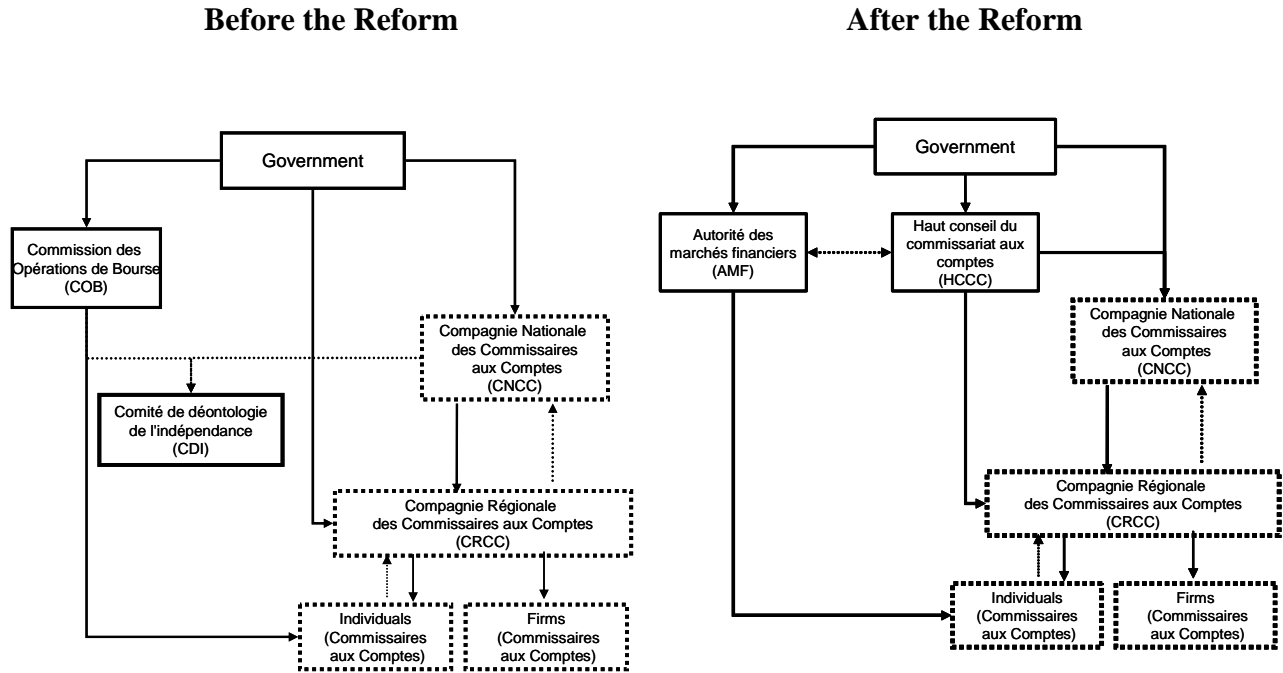


Figure 3 Regulatory Structure of Auditing in France



Legend

- Government / Governmental agency
- ▣ Professional Association / auditor
- Supervise the activities
- ⋯→ Participate to its management

Figure 4 Regulatory Structure of Auditing in Canada

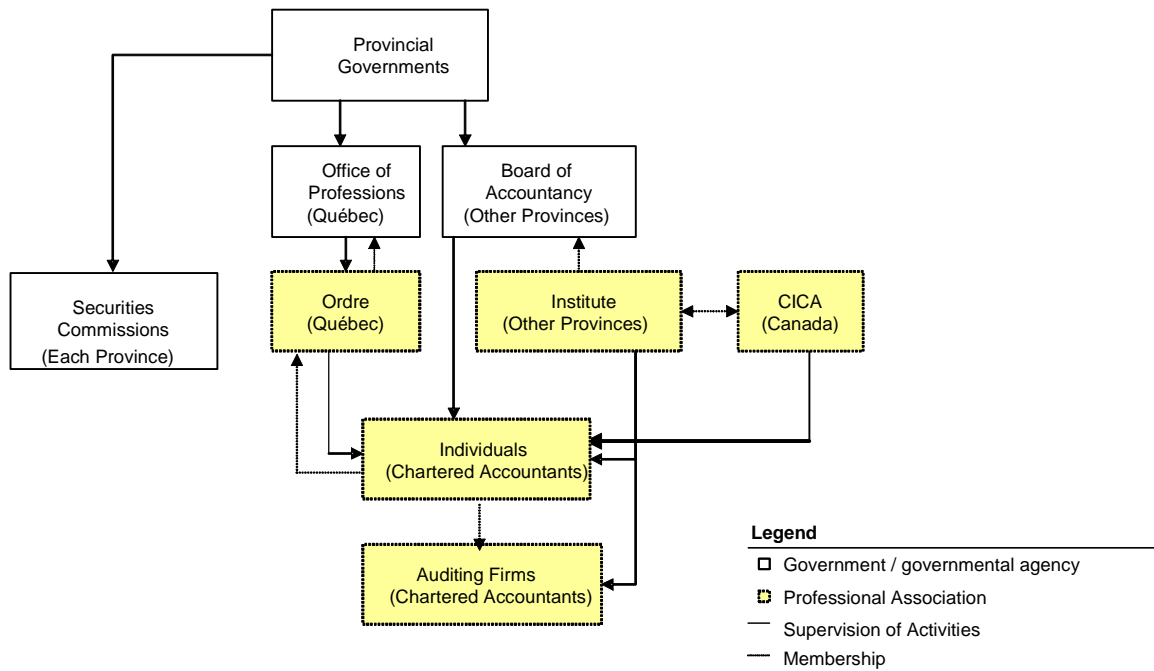


Table 1			
Comparison of Regulation			
ASPECT OF REGULATION	CANADA	FRANCE	UNITED STATES
<i>Licensing of Auditors</i>	Corporatism/ Associationism	Corporatism/Legalism	Associationism/ Legalism
<i>Standards Setting</i>			
<ul style="list-style-type: none"> • <i>Auditing</i> 	Associationism	Corporatism/ Legalism	Legalism
<ul style="list-style-type: none"> • <i>Ethical</i> 	Associationism (Ontario) Corporatism (Québec)	Corporatism/ Legalism	Associationism/ Legalism
<i>Practice Regulation</i>	Associationism (Ontario) Corporatism (Québec)	Corporatism	Legalism
<i>Preponderant Mode</i>	Associationism (Corporatism in Québec)	Corporatism/ Legalism	Associationism/ Legalism

Table 2 Evolution of Regulation

ASPECT OF REGULATION	Market	Associationism	Corporatism	Legalism
UNITED STATES OF AMERICA				
<i>Licensing of Auditors</i>				
▪ Individuals		B, A		
▪ Firms		B	→	A
<i>Standards Setting</i>				
▪ Auditing		B	→	A
▪ Ethical		B	→	A
▪ Ethical - Independence				B, A
<i>Practice Regulation</i>				
▪ Practice Inspection		B	→	A
▪ Enforcement			B →	A
PREPONDERANT MODE				
		B	→	A
CANADA				
<i>Licensing of Auditors</i>				
▪ Individuals		B, A		
▪ Firms	B	→	A	
<i>Standards Setting</i>				
▪ Auditing		B, A		
▪ Ethical		B, A		
<i>Practice Regulation</i>				
▪ Practice Inspection		B →	A	
▪ Enforcement		B →	A	
PREPONDERANT MODE				
		B →	A	
FRANCE				
<i>Licensing of Auditors</i>				
▪ Individuals			B, A	
▪ Firms	B, A			
<i>Standards Setting</i>				
▪ Auditing		B, A		
▪ Ethical		B, A		
▪ Ethical - Independence				B, A
<i>Practice Regulation</i>				
▪ Practice Inspection			B, A	

ASPECT OF REGULATION	Market	Associationism	Corporatism	Legalism
▪ <i>Enforcement</i>			B,A	
PREPONDERANT MODE			B,A	