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Article

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BANK SUPERVISION: APPOINTING THE HEAD OF THE SUPERVISORY AUTHORITY

By virtue of bank failures and financial turmoil, the recent financial crisis has highlighted the importance of a well-functioning bank supervision and regulation system. Against this background the World Bank conducted its fourth survey on Bank Regulation and Supervision between 2011 and 2012. The World Bank's survey was addressed to the head of banking supervision in central banks or the head of a separate banking supervision agency. Responses were given by that person or a relevant senior-level staff member and cover the time period of 2008–2010 (Čihák et al. 2012; World Bank 2012).

In its survey the World Bank asked, among other things, about the legal framework of such appointments, the recruiting term and the removal of the head of the supervisory agency. Given that the supervisory authority is part of the central bank in some countries, this question also relates to the appointment of the head of the central bank in such cases. The independence of the central bank is central to implementing independent monetary policy and achieving low and stable inflation rates, as shown by a study of Alesina and Summers (1993). The autonomy argument also holds for the supervisory authority, which must be able to exercise its control functions independently and without state or private intervention. Otherwise, an exertion of influence can lead to a decrease in supervision and increase the risk of banks and other financial institutions engaging in deceptive or fraudulent behaviour. One important aspect of the legal framework for supervisory agencies is the design of the appointment process, the term served by a head and his/her eventual removal. A cross-country comparison is provided in Tables 1 and 2 below.

Appointment: one of the World Bank survey questions covered the power to appoint the head of the supervisory agency. In nearly all countries this post is assigned via a decision taken by one of the three following bodies: the head of government (i.e., the president or prime minister), the finance minister or some other cabinet level authority, or a legislative body (such as the parliament or congress). The decision is only taken by the supervisory authority itself in Estonia, Iceland and Malta, whereas in Belgium and Luxembourg the appointment is made by royal decree or respectively by the *Grand Duc*. The

head is appointed at the recommendation or proposal of the board or council of the reserve bank in Greece, Italy and New Zealand. Only five countries (Austria, Germany, Ireland, Latvia and New Zealand) rely on the recommendations of external experts or a panel of experts in their appointment decisions.

Term: in most countries the head of the supervisory agency is appointed for a fixed term. Germany, Lithuania, Malta and Iceland are the only countries in which there is no such fixed time span. The length of the term varies, with limits of five or six years in most countries. In about one third of the countries considered the maximum number of allowed terms ranges from one to three.

Removal: The decision to remove the head of the supervisory agency is taken by the same institutional body as the appointment decision in many countries. The legal terms for removal are, however, prescribed by a number of criteria. These criteria include for example, that the head has not adequately discharged his/her responsibilities, that s/he has hindered the work of the agency or is guilty of serious misconduct. The institutional bodies responsible for taking this decision are mainly governmental and only reside in the supervisory agency in a small number of countries. In some cases, however, this decision is taken after a consultation with the board or council of the relevant supervisory authority.

The framework for the appointment of the head is only one of many aspects that determine the supervisory agency's scope of action and its work. Other important issues involve the mandate and structure, the budget and the legal responsibility and liability of the supervisory authority. The World Bank survey on bank regulation and supervision draws a detailed picture of these areas, as well as of the financial regulation system as a whole. It addresses various important questions that allow for in-depth analysis and cross-country comparisons. For other areas of interest in the field of bank regulation and supervision, please consult the related DICE topics of “*Bank Regulation and Legal Framework*”, “*Bank Supervision*” and “*Deposit Insurance*”, as well as the DICE Report article “*Bank Resolution: National Legislation and Frameworks*”.

Andrea Hohenadl

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Table 1

| Supervision: appointment of the head of the supervisory authority, 2008 – 2010 | | | | | |
|--|--|---|--|--|--|
| | How is the head of the supervisory agency appointed? Decision of ... | | | | Appointment based on a recommendation by an external expert or a panel of experts? |
| | Head of government (e.g., President, Prime Minister) | Finance Minister or other cabinet level authority | Legislative body, such as Parliament or Congress | Other / explanation | |
| Austria | Yes | No | No | – | Yes |
| Belgium | No | No | No | Appointed by Royal decree. | No |
| Bulgaria | No | No | Yes | – | No |
| Croatia | No | No | Yes | – | No |
| Cyprus | Yes | No | No | – | No |
| Denmark | No | Yes | No | – | No |
| Estonia | No | No | No | Appointed by Supervisory council. | No |
| Finland | No | No | Yes | – | No |
| France | Yes | No | No | – | No |
| Germany | No | Yes | No | – | Yes |
| Greece | No | No | No | Appointed by Presidential Decree on proposal of Council of Ministers following proposal by Bank's General Council. | No |
| Hungary | Yes | No | No | – | No |
| Ireland | No | Yes | No | – | Yes |
| Italy | No | No | No | Appointed by Presidential Decree on proposal of Prime Minister following resolution of Council of Ministers after hearing opinion of Bank of Italy's Board of Directors. | No |
| Latvia | No | No | Yes | – | Yes |
| Lithuania | No | No | Yes | – | No |
| Luxembourg | No | No | No | Appointed by the Grand Duc on proposal of government. | No |
| Malta | No | No | No | Appointed by the Malta Financial Services Authority. | No |
| Netherlands | Yes | No | No | – | No |
| Poland | Yes | No | No | – | No |
| Portugal | No | Yes | No | – | No |
| Romania | No | No | Yes | – | Yes |
| Slovak | No | No | Yes | – | Yes |
| Slovenia | No | No | Yes | – | No |
| Spain | Yes | No | No | – | No |
| United Kingdom | No | Yes | No | – | – |
| Iceland | No | No | No | Hired by the Board of Directors of FME, which is appointed by the Minister of Economic Affairs. | No |
| Montenegro | Yes | No | Yes | – | No |
| Serbia | No | No | Yes | – | No |
| Norway | No | Yes | No | – | No |
| Switzerland | No | Yes | No | – | No |
| Turkey | No | No | No | Appointed by Council of Ministers. | No |
| Australia | Yes | No | No | – | No |
| Canada | No | Yes | No | – | No |
| Korea | Yes | No | No | – | No |
| New Zealand | No | Yes | No | On advice of the Board of the Reserve Bank. | Yes |
| United States | Yes | Yes | Yes | – | No |

Source: World Bank (2012), Bank Regulation and Supervision Survey IV, <http://go.worldbank.org/SNUSW978P0>.

Table 2

| Supervision: term and removal of the head of the supervisory authority, 2008 – 2010 | | | | | | |
|---|-----------------------------------|-----------------------------------|--|---|--|---|
| | Term length if fixed term (years) | Maximum number of permitted terms | Can the head of the supervisory agency be removed by a decision of...? | | | |
| | | | Head of government (e.g., President, Prime Minister) | Finance Minister or other cabinet level authority | Legislative body, such as Parliament or Congress | Other / explanation |
| Austria | 5 | No | No | Yes | No | – |
| Belgium | 5 | No | No | No | No | – |
| Bulgaria | 6 | No | No | No | Yes | – |
| Croatia | 6 | No | No | No | Yes | – |
| Cyprus | 5 | No | No | No | No | – |
| Denmark | – | No | Yes | No | No | – |
| Estonia | 4 | No | Yes | Yes | Yes | Supervisory council. |
| Finland | 5 | No | No | No | Yes | – |
| France | 6 | 2 | Yes | No | No | – |
| Germany | – | – | Yes | Yes | No | – |
| Greece | 6 | No | No | No | No | Decision by the General Meeting of Shareholders. |
| Hungary | 6 | No | Yes | No | No | – |
| Ireland | 5 | No | No | No | No | – |
| Italy | 6 | 2 | No | No | No | Removal only in the case provided by article 14.2 of the statute of the ESCB (incapacity or serious misconduct) through a decree issued by the President. ^{a)} |
| Latvia | 6 | No | No | No | Yes | – |
| Lithuania | – | No | No | No | Yes | – |
| Luxembourg | 5 | No | No | No | No | The government after consulting the board of the CSSF may make a proposal to the Grand Duc. ^{b)} |
| Malta | – | No | No | No | No | Removal in terms of the Authority's handbook. |
| Netherlands | 7 | No | Yes | No | No | – |
| Poland | 5 | No | Yes | No | No | Only under very limited circumstances. |
| Portugal | 5 | 2 | No | No | No | Only in the circumstances envisaged in Article 14.2 of the ESCB/ECB Statute. |
| Romania | 5 | No | No | No | Yes | – |
| Slovak Republic | 5 | 2 | No | No | Yes | – |
| Slovenia | 6 | No | No | No | Yes | – |
| Spain | 6 | 1 | No | No | No | Government |
| United Kingdom | – | – | – | – | – | Can be removed by the Treasury. |
| Iceland | – | No | No | No | No | Board of Directors of FME. |
| Montenegro | 6 | 2 | No | No | Yes | – |
| Serbia | 6 | No | No | No | Yes | – |
| Norway | 6 | – | No | Yes | No | – |
| Switzerland | 4 | 3 | No | Yes | No | – |
| Turkey | 6 | 1 | No | No | No | – |
| Australia | 5 | No | Yes | No | No | – |
| Canada | 7 | No | No | Yes | No | – |
| Korea | 3 | 2 | No | Yes | Yes | – |
| New Zealand | 5 | No | No | Yes | No | The Governor-General, on the advice of the Minister of Finance. ^{c)} |
| United States | 5 | No | Yes | Yes | Yes | – |

^{a)} Acting on a proposal from the Prime Minister following the adoption of a resolution by the Council of Ministers after hearing the opinion of the Bank of Italy's Board of Directors.

^{b)} Proposal regarding the dismissal of a member of the executive board who no longer meets the conditions stipulated for his duties or who is guilty of serious misconduct.

^{c)} A number of criteria would have to be met, Section 49 of the RBNZ Act 1989 applies. This has not happened before and would be highly unusual.

Source: World Bank (2012), Bank Regulation and Supervision Survey IV, <http://go.worldbank.org/SNUSW978P0>.