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Policy Brief

Beyond Wirecard

All of Europe Needs Independent Financial Supervisors, Not Just Germany

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#Wirecard
#Independence
#FinancialSupervision

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Financial supervisory authorities in the EU are not sufficiently independent of political and economic influence. As the financial scandal surrounding Wirecard shows, this risks creating conflicts of interest that undermine the integrity of the European financial system and harm the goal of an integrated banking and capital markets union. This Policy Brief therefore proposes European-wide requirements for the independence, accountability and transparency of national financial regulators. Ten years after the establishment of the European System of Financial Supervision, it is high time to regulate the governance of national supervisory authorities across Europe and thereby strengthen financial supervision throughout the EU.

The accounting fraud at Wirecard is the greatest financial scandal in German post-war history. The Parliamentary Inquiry Committee formed by the German Parliament (Bundestag) revealed not only the criminal creativity of the actors and the weaknesses of the auditing firm, but also the massive failures of the German Federal Financial Supervisory Authority (Bundesanstalt für Finanzdienstleistungsaufsicht, BaFin). BaFin certainly had indications of irregularities and fraud, but did not pursue them.

The Parliamentary Inquiry Committee is still clarifying the exact reasons for BaFin's passivity. However, it has already been clear for quite some time that BaFin's lack of independence from industry and politics can lead to conflicts of interest. The supervisory failure in the case of Wirecard has now brought us to the point where, at the very least, the right lessons can be drawn for the future: A strong financial supervisory authority must be independent of political and economic influence.

That the supervisory authority lacks independence is not unique to Germany – in fact, it is a problem in many EU countries. This undermines the integrity of the entire European financial system and harms the goal of an integrated banking and capital markets union: If national regulators cannot rely on impartial supervision in neighbouring countries, it will hardly be possible to work together on the basis of trust. Above all, however, the negligence of a supervisor in one member state – as with BaFin in the case of Wirecard – can have a considerable impact on other member states. That is why the EU should

find a European remedy for this problem. For a functioning Single Market, it is necessary to have not only uniform rules for supervision, but also common requirements for the organisation of national supervisory authorities. European financial markets are simply too closely interlinked to allow individual member states with weak supervision to serve as a gateway for financial crime to enter the EU.

This Policy Brief proposes the adoption of European requirements for the independence, accountability and transparency of national financial supervisors. In particular, all supervisory authorities should be able to make their decisions free from economic interests and political considerations; they should manage their budget themselves and the appointment and dismissal of senior management should be handled in accordance with objective criteria. In turn, the supervisory authorities must be transparent in reporting on their actions and be held accountable at regular intervals, ideally by the national parliament.

1 Lack of Independence as a Supervisory Problem in Germany and Europe

BaFin's lack of independence was raised as a problem by the International Monetary Fund (IMF) in 2016 when it assessed the stability of the financial system in Germany: "[...] there is potential for indirect influence of government and industry in the execution of BaFin's supervisory objectives through the budget approval process and the mandatory approval of BaFin's internal organization and structure by the MoF [Ministry of Finance]".

In November 2020, the European Securities and Markets Authority (ESMA) addressed the possibility of influence by the German Federal Ministry of Finance (BMF) in a report and established the connection to BaFin's supervisory failure in the case of Wirecard: "For BaFin [...] there is a heightened risk of influence by the Ministry of Finance (MoF) given the frequency and detail of reporting to the MoF in the Wirecard case, in some cases before actions were taken."

In fact, BaFin is dependent on the government in multiple regards. As the general financial supervisory authority in Germany, the BaFin handles the operational supervision of banks, insurance companies, securities, money laundering and consumer protection. The BMF, however, is responsible for the legal and technical supervision of the BaFin, i.e. it monitors both the legality and the appropriateness of BaFin's decisions. Accordingly, the BMF has extensive rights to information with respect to BaFin, which informs the ministry in part even before a decision is reached. The members of BaFin's Executive Board are appointed by the German federal president at the recommendation of the federal government and can be dismissed at any time and without providing justification. Finally, the BMF appoints all members of the 17-person Administrative Council (Verwaltungsrat) and provides the chairperson, the vice-chairperson and another member from its own ranks. Another three members come from the Federal Ministry of Justice and the Federal Ministry for Economic Affairs. The financial industry also proposes three members. The Administrative Council monitors BaFin's Executive Board and determines its budget, which is then financed by the companies supervised.

There is no evidence that the BMF actively intervened in the supervisory work of BaFin in the case of Wirecard. But in a hierarchical system such as the one between the BMF and BaFin, there is the risk that the supervisory authority internalises political or industrial policy considerations and acts accordingly. Active intervention in supervisory work is then no longer necessary. This leads to the suspicion that BaFin followed the public position of the federal government, which celebrated Wirecard as a national champion and poster child of the tech industry. Under this impression, the BaFin may have well been inclined to forego any critical questioning or penalties that could later turn out to be unjustified or false. The technical supervision by the BMF also made it easier for BaFin's leadership to hide behind the political responsibility of the Ministry.

The dependence of a financial supervisory authority on the government thus bears the potential for a conflict of interests where industrial policy considerations collide with a strict application of the rules by the supervisory authority. Going forward, even the appearance of any conflict of interest should be avoided: This is the precondition for a rigorous and active supervisory culture. One solution to this problem is therefore a change in the governance structure to eliminate the relationship of dependency. This is in the interests of all actors.

However, the independence of the financial supervisory authority is not just poor in Germany. In the latest round of its periodic Financial Sector Assessment Program, the IMF criticizes a number of EU member states for the limited degree to which the national financial supervisory authority is independent of the business community and policymakers (see the detailed summary in the annex). As criteria for its assessments, the IMF refers to the relevant international – but non-binding – standards for the supervision of banks ("Basel Core Principles for Effective Banking Supervision"), insurance companies ("IAIS Insurance Core Principles") and securities ("IOSCO Objectives and Principles of Securities Regulation"), which all require that the supervisory authorities be independent of economic interests and political influence.

In contrast, an example of an effective financial market supervisory authority is the U.S. Securities and Exchange Commission (SEC). This is particularly true due to its wide range of responsibilities, which include the prosecution of insider trading and accounting fraud. However, the SEC is a model not just due to the sheer range of its responsibilities, but also because of its extensive independence from the US government. The US president does appoint the five-person governing body of the SEC, each of whom must be approved by the Senate, but the president can only dismiss members by providing justification and may only nominate a maximum of three persons from the ranks of their own party. The SEC is accountable solely to Congress in its supervisory capacity. Regulatory measures and decisions are transparently reported by the SEC to the public. However, the SEC is not perfect: The independence of the SEC finds its limits in its inability to autonomously determine its budget. Congress approves the budget for the SEC and in this way significantly influences its priorities.

2 In the EU, only the European supervisory authorities are required to be independent

The lack of independence of national supervisory authorities in the EU has a simple reason: there are no mandatory provisions requiring independence.

Learning from the damaging laxness of national financial supervisors, the EU member states established the European System of Financial Supervision (ESFS) after the financial crisis. Since 2011, the European supervisory authorities for banks (EBA), insurance companies (EIOPA) and securities (ESMA) have coordinated the collaboration between national financial supervisors in their respective fields. ESMA also directly supervises the credit rating agencies, transaction registers and, as of 2022, third-country central counterparties. Within the Banking Union, another important step was taken: Since 2014, the European Central Bank (ECB) has been supervising the largest banks of the participating member states. The European Single Resolution Board (SRB) handles their recovery and resolution.

The independence of the ECB is anchored directly in Article 130 of the Treaty on the Functioning of the EU (TFEU). To prevent any doubts that these provisions also apply to the supervision of banks by the ECB, the Single Supervisory Mechanism Regulation (SSM Regulation) also obliges the ECB to act independently and prohibits its staff from accepting instructions from other European institutions, member state governments and other public or private bodies (Article 19 SSM Regulation). Comparable requirements regarding independence can be found in the constitutive acts of the SRB (Article 47 SRM Regulation) and EBA, ESMA and EIOPA (Article 42 of the respective Regulations).

In his 2009 report, the intellectual father of the ESFS, Jacques de Larosière, called for the independence of financial authorities from possible political and economic influence, and to achieve this not only on the European level, but also on the national level: "The ESFS must be independent from possible political and industry influences, at both EU and national level. This means that supervisors should have clear mandates and tasks as well as sufficient resources and powers." In return for regulatory independence, de Larosière recommended a strengthening of the financial supervisory authority's accountability to guarantee democratic control and legitimacy: "In order to strengthen legitimacy and as a counterpart for independence, proper accountability to the political authorities at the EU and national levels should be ensured. In short, supervisory work must be independent from the political authorities, but fully accountable to them."

However, for the governance of national financial supervisory authorities, no statutory requirements on independence were adopted when the ESFS was established – although the direct supervision of the majority of the banks in the EU has remained in the hands of national

authorities, just as with the supervision of other financial market participants. Contrary to the recommendations made by de Larosière, the European harmonisation of governance rules for national financial supervisory authorities has so far been limited to powers of supervision, investigation, sanctioning and exchanging information. In its Guidelines on the Enforcement of Financial Information ("GLEFI"), ESMA has also adopted recommendations for the independence of the national authorities entrusted with monitoring accounting. But as guidelines, ESMA recommendations are non-binding; failure to comply with them bears no consequences.

European financial market legislation on securities supervision (Transparency Directive), banking supervision (Capital Requirements Directive), money laundering prevention (Anti-Money Laundering Directive) and insurance supervision (Solvency Directive) either entirely lack requirements for the governance of supervisory authorities or contain only vague requirements on independence (see box).

Box: Existing rules on the independence of national financial supervisory authorities

The Transparency Directive calls for independence of economic interests only in the Recitals: "(28) [...] Such an authority should be of an administrative nature, and its independence from economic players should be ensured in order to avoid conflicts of interest."

The Capital Requirements Directive in Article 4 requires member states to guarantee the independence of national banking supervisors but does not elaborate further on the actual meaning of this requirement: "4. Member States shall ensure that the competent authorities have the expertise, resources, operational capacity, powers and independence necessary to carry out the functions relating to prudential supervision, investigations and penalties set out in this Directive and in Regulation (EU) No 575/2013."

The Anti-money Laundering Directive in Article 32 urges Financial Intelligence Units (FIUs) to be operationally independent: "3. Each FIU shall be operationally independent and autonomous, which means that the FIU shall have the authority and capacity to carry out its functions freely, including the ability to take autonomous decisions to analyse, request and disseminate specific information." The national authorities actually responsible for the prevention of money laundering, however, shall only respect high standards addressing conflicts of interest, according to Article 48: "2. [...] Member States shall ensure that staff of those authorities are of high integrity and appropriately skilled, and maintain high professional standards, including standards of confidentiality, data protection and standards addressing conflicts of interest."

Finally, the Solvency II Directive in Article 31 contains only rudimentary stipulations on the governance of national insurance supervisors: "3. Member States shall provide for transparent procedures regarding the appointment and dismissal of the members of the governing and managing bodies of their supervisory authorities."

The lack of independence of national supervisors compromises not only the quality of supervision at the member state level but also the functioning of the common Single Market. If national supervisors cannot rely on impartial supervision in neighbouring countries, it will hardly be possible to work together on the basis of trust. Above all, however, the negligence of a supervisor in one member state – as with the BaFin in the case of Wirecard – can have a considerable impact on other member states. This undermines the integrity of the entire European financial system and harms the goal of an integrated banking and capital markets union.

3 European rules on the independence of national financial supervisors

In order to minimise conflicts of interest involving national authorities in the European System of Financial Supervision, the independence of the supervisory authorities in the EU member states should be regulated uniformly across Europe. This would be possible by amendments to the relevant financial market legislation, above all the Transparency Directive, the Capital Requirements Directive, the Solvency Directive and the Anti-Money Laundering Directive, following the ordinary legislative procedure.

European requirements on the independence of national regulatory and supervisory authorities are nothing new, as can be seen in the requirements for national authorities in the areas of electricity (Article 57 of Directive (EU) 2019/944), electronic communication (Articles 6-9 of Directive (EU) 2018/1972) and data protection (Articles 52-54 of Regulation (EU) 2016/679). They show how extensive and detailed European requirements for the structural and operational independence of national authorities could also be in the area of financial market supervision. To ensure that the independence does not harm democratic control and legitimacy, accountability and transparency of the financial supervisory authority would have to be substantially strengthened in turn.

On the basis of the international standards and by using the tested approaches in other jurisdictions and policy areas as a benchmark, the following European requirements for national financial supervisory authorities could make supervision more independent and effective:

Structural independence

First of all, it should be ensured that supervisory authorities are structurally independent of the government. In this regard, the following provisions, among others, should be adopted:

- The supervisory authority should be legally distinct and functionally independent from other public or private institutions.
- The decisions of the authority should be made by a collegial executive board and not by an individual person. The members of the executive board of the supervisory authority should be appointed for a fixed term of five to seven years, not renewable, in a process that ensures the qualifications and independence of the members on the basis of objective, transparent and published criteria.
- The members of the executive board of the supervisory authority can only be dismissed if they no longer meet the requirements for performing the duties of their office as defined in national law before their appointment. The reasons for dismissal should be made public.
- If a supervisory board within the supervisory authority is responsible for the monitoring of the executive board, the members of the supervisory board should also be appointed on the basis of objective, transparent and published criteria within the framework of an independent and impartial process. Relevant technical knowledge from practice and from academia, as well as international experience, should be decisive for the selection.
- Staff members of government agencies should be prohibited from serving on the executive board or, if applicable, on the supervisory board of the supervisory authority.
- The members of the executive board and staff of the supervisory authority should be subject to requirements on conflicts of interest and confidentiality, including after the end of their mandate. There should be appropriate sanctions in place if these requirements are not followed.

These precautions would shield the supervisory authority from indirect influence and prevent the supervisors from internalising political considerations in their supervisory practice.

Operational independence

However, the supervisory authority should be independent not only structurally, but also operationally. At minimum, the following aspects must be ensured:

- The supervisory authority should make autonomous decisions independently of all government agencies and market interests. The members of the executive board of the supervisory authority, bodies engaged by it and their employees should act independently of market interests and shall neither take nor seek instructions from the government or other public or private institutions.
- The supervisory authority should have no obligation to provide information to the government. That requirement is without prejudice to cooperation with other relevant authorities such as a public prosecutors' office or a Financial Intelligence Unit.
- The supervisory authority should have all the necessary human and financial resources to carry out its duties and exercise its powers effectively and efficiently. It should charge fees to supervised companies and autonomously implement its budget.

These guarantees would prevent any direct influence and allow the supervisory authority to concentrate solely on the execution of its mandate. In this regard, independence from political and from economic interests are equally important.

Accountability and transparency

Finally, within a democracy, greater independence must always go hand in hand with more transparency and accountability. This should include at minimum:

- The supervisory authority should be subject to financial oversight which does not affect its supervisory objectives and activities. Appropriateness of expenditures as well as the fees collected should be ensured.
- The supervisory authority should be accountable for its decisions, its human and financial resources and their allocation, and its future planning.
- The supervisory authority should publish its objectives and inform the public at least once a year in the form of a report on its supervisory activity, its supervisory practice and the achievement of its objectives. It should not report on individual cases, unless there is an exceptional regulatory need.

These safeguards would ensure that the supervisory authority fulfils its statutory mandate despite its independent status, and that senior management officials in particular do not use its power to their own advantage.

Parliamentary oversight is the most democratic and objective form of accountability. Therefore, the national parliaments in the member states would ideally be assigned the central tasks of deciding on the appointment and dismissal of executive board members and of controlling the authority's budget and its supervisory actions. However, due to the principle of national constitutional identity, it is rather difficult to prescribe parliamentary oversight of national executive bodies in European law. Therefore, member states on their part should require their respective financial supervisory authority to be accountable to the national parliament.

4 Outlook

Ten years after the establishment of the European System of Financial Supervision, it is high time that the EU acts on the recommendations of the de Larosière report and codifies the independence, accountability and transparency of national financial supervisory authorities with binding requirements on governance. This would strengthen not only supervision in the individual member states, but also the entire European financial supervisory system.

The European Commission should soon make a legislative proposal to adopt the above-described requirements on the independence of national supervisory authorities in EU financial market law. The German federal government should actively call for and support this proposal – especially against the backdrop of the Wirecard case.

Appendix

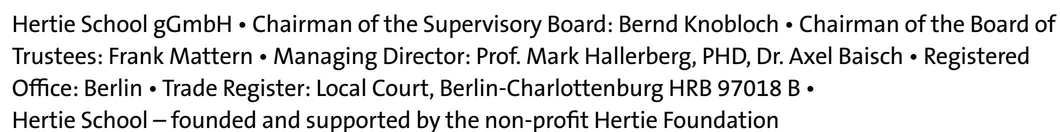
Evaluation of the independence of national financial supervisors as reported in the Financial Stability Assessment Program (FSAP) of the International Monetary Fund (IMF) 2010-2020

	IMF Assessment on Independence of financial oversight	Report date
Belgium	The NBB [National Bank of Belgium] has the required operational and financial independence to carry out its supervisory tasks without political interference. It has transparent processes and a sound governance structure. The NBB is an autonomous public authority; Article 22 of the NBB Organic Law states that the Minister of Finance does not have the right to supervise the NBB transactions nor to oppose the implementation of any measure which is contrary to the law, the Statutes or the interests of the State. Oversight is provided by the Chamber of Representatives and the Governor sends an annual report to that body.	2018
Bulgaria	The 2015 BCP [Basel Core Principles] Assessment report identified weaknesses in a number of areas. Progress in responding to the recommendation of the 2015 BCP Assessment is underway. However, there is still room for further enhancing the governance model, risk assessment practices, and the response to the risk accumulation, notably regarding local risks. Assessing the needs and allocating reasonable incremental resources to the BSD [Banking Supervision Department] is crucial, including providing tools to support and manage the risk assessment process.	2017
Czechia	The Basel Core Principles (BCP) assessors did not find any interference from external parties into the Czech National Bank‘s conduct of supervision. The assessors found, however, a shortage of staff resources for regulation and supervision, which made supervision less effective in several areas, such as identifying and addressing bank problems at an early stage.	2012
Denmark	The operational independence of the Danish Financial Supervisory Authority (DFSA) remains an issue. The respects in which the DFSA's operational independence is undermined fall into two broad categories: governance and resource. While practical constraints exist, improvements can be made in both areas. Resources continue to constrain the DFSA inappropriately. Despite welcome increments to AML and insurance staffing, risks to the financial system are outpacing staffing. The funding structure does not isolate the DFSA from the potential influence of either the government—a ministry representative sits on the Board with observer status—or of the industry. The DFSA must not be required to operate on a "least cost" basis as this undermines the quality and needed further development of policy and processes, as well as the scope and execution of its tasks, notwithstanding a cadre of dedicated staff.	2020
Germany	There is potential for indirect influence of government and industry in the execution of BaFin's supervisory objectives through the budget approval process and the mandatory approval of BaFin's internal organization and structure by the MoF [Ministry of Finance]	2016
Ireland	The legal framework for Central Bank's governance arrangements may potentially introduce political considerations that could have implications for Central Bank's independence. The Minister appoints all the non-executive Commissioners and sets the remuneration and allowances of Commissioners. The Minister [of Finance] may remove [Central Bank] Commission members for specified reasons which are broad in nature and interpretation. The Secretary General of the Department of Finance sits on the Central Bank Commission in an ex-officio capacity.	2016

Spain	Securities: The CNMV [National Securities Market Commission] does not have autonomy to hire extra-staff, if needed. Moreover, the CNMV cannot independently decide on the salary policy of its staff and, consequently, cannot retain highly professional and experienced people that leave the CNMV. In addition, the CNMV is not able to hire experts from the market with experience in certain areas that would be useful for the CNMV to adequately perform its duties. Banks: Legislation has not been amended to give BdE [Bank of Spain] operational independence in its supervisory function in line with its independence as a central bank, as recommended by the 2012 FSAP. Even if, in practice, BdE appears to have operational independence in carrying out its supervisory function, the case for formally reinforcing the BdE's independence as a supervisor remains valid. This could be achieved by preventing the representatives of the government from participating in the decisions on supervisory issues, including the nomination of senior supervisory staff and the allocation of supervisory budget. The MdE [Ministry of Economy] is the appeals body for submissions by aggrieved parties against BdE decisions, including sanctions. Such an appeals mechanism has the potential, at least in theory, for government interference. In many jurisdictions, the appeals mechanism involves an independent tribunal, independent of government or industry influence.	2017
France	The Ministry of Finance (MoF) sits on the Boards of the AMF [French Financial Markets Authority] and ACPR [French Prudential Supervision and Resolution Authority] and, of greater concern, also participates in the meetings of the Sanctions Committee of the ACPR. This gives rise to risks of (perceived) conflicts of interest and lack of independence. In addition, the Sanctions Committee of the AMF includes members who are active in the securities industry. Finally, both the AMF and the ACPR could benefit from greater autonomy in determining their own resources. The membership of the Resolution and Supervision colleges involves some overlaps and the representation, via senior authorities, of other public institutions—including the non-voting presence from the MoF. While such structure is geared to ensure coordination, it also implies that both functions are not operationally fully independent.	2019
Italy	Insurance: There remains a need to address the independence and resource adequacy of IVASS [insurance sector supervisor]. The staff strength of IVASS is capped by legislation. It is timely for IVASS to review and justify its staffing requirements and amend the legislation if necessary. IVASS should also review the powers that currently rest upon the Minister for Economic Development. Banks: Limiting the role of the Minister of Economy and Finance in resolution and liquidation to cases that have direct fiscal impact or may have adverse implications for financial stability at large would strengthen operational independence of the BdI (in its capacity of national resolution authority) and enhance alignment with international standards. Deposit guarantee schemes: The removal of 'active' bankers from their Boards would help strengthen operational independence.	2020

Luxem-bourg	While the mission encountered no evidence of political or industry interference, the operational independence and accountability of the CSSF [Commission de Surveillance du Secteur Financier] and CAA [Commissariat aux Assurances] should be enshrined in law (as recommended by international standards) in order to safeguard financial stability well into the future. The CSSF Board, which is chaired by the Director of the Treasury, has seven members: four are appointed by the Minister responsible for the CSSF, with three appointed on a proposal from the companies and persons subject to supervision. A Board so constituted could have implications for the operational independence of the CSSF given that it determines CSSF's annual budget and gives its opinion on the level of fees that regulated entities may be charged. Accordingly, it is recommended that the authorities consider a structure whereby the financial supervisor would no longer fall under the direct authority of the minister but would be answerable to Parliament which is the practice in many jurisdictions; have a board comprising independent directors and expand the powers of that independent board to be reasonable for all the functions of the CSSF; be in a position to determine its own budget and be responsible for its hire and dismissal of executive staff.	2017
Malta	Necessary preconditions for operational independence are not all met: a recent change in the MFSA's funding model introduces a degree of uncertainty by requiring the MFSA to negotiate for governmental and parliamentary approval of its budget on a yearly basis; the MFSA does not have full autonomy over the recruitment process, as the projected budget to be allocated for human resources has to be endorsed on a yearly basis by the Ministry of Finance (MFIN), and all the recruitments have to be approved on a case-by-case basis by the Office of the Parliamentary Secretary for Financial Services, Digital Economy, and Innovation (PSFSDEI); several areas of the proposed reorganization of the MFSA raise concern.	2019
Nether-lands	The requirement for ministerial approval of the supervisory budgets of the DNB [De Nederlandsche Bank] and AFM [Authority for the Financial Markets], and the proposed legislation on a salary cap could limit the supervisors' ability to attract and retain essential staff and deliver their responsibilities effectively. The limited ability of the supervisor to introduce technical regulations has the potential to reduce supervisory effectiveness as does the authority of the MoF to set aside rules enacted by the supervisors (even if not formally used) and the inability of the supervisors to use external experts to better equip them to address increasing complexity. Lastly, the authority specified in legislation for the removal of members of the executive or supervisory boards of the supervisors is open to wide interpretation.	2017
Austria	Assessors made a number of findings where the operational independence of the FMA [Financial Market Authority] might be endangered, including the presence of industry representatives on the Supervisory Board, the BMF's [Federal Ministry of Finance] role in approving FMA regulations, and the BMF's right to gather information from the FMA.	2020
Poland	Important shortcomings were identified in prudential oversight reflecting budgetary constraints and a governance framework that compromises operational independence. The consequences of under-resourcing the Polish Financial Supervision Authority (PFSA) are likely to become apparent with the inevitable turn in the financial cycle as well as resource pressures from dealing with some troubled institutions. While there was not observable improper influence on the PFSA arising from greater state control, shortcomings in its budget and governance structure raised questions about whether it had the necessary degree of independence. A new law that will be in force in early 2019, while making it more likely that additional financial resources will be available, makes governance changes that will further weaken the PFSA's independence; consequently, reform is still incomplete relative to the need for independent supervision and regulation functions.	2019

Romania	The NBR [National Bank of Romania] is independent and accountable to Parliament. The NBR publishes annual reports and other information to promote transparency. The CNVM [National Securities Commission] acts with a reasonable degree of independence but needs to continue to resist diminution of budgetary independence and should strengthen the independence of the appointment of Board members. The CNVM acts in an independent fashion but the practice of allocating nominating rights for Board appointments to political parties risks compromising that independence and undermines the advantages of appointment by the Parliament.	2010
Slovenia	Securities: The Market in Financial Instruments Act matches the recognized global standard for political independence of a securities market regulator (as endorsed by IOSCO), but the Public Agencies Act detracts from that standard in a number of its provisions. Examples include Article 48, Minister's right exercise supervision over the agency's affairs; Articles 15 (limiting the protection from legal liability); Articles 23 and 24 (premature dismissal of the Director and Council) Article 36 (limitations to the Agency's action program). Banks: BOS [Bank of Slovenia] has a great deal of de jure and de facto independence and accountability mechanisms are in place. No other government agency appears to influence its decisions. However, the State's policies or priorities may act as an impediment to the fully effective supervision of the Government controlled banks. One such issue in this regard is the adequate capitalization of these institutions.	2012
Finland	From the perspective of the best international practices, related to operational independence of supervisors, the composition of the Board, with officials from Ministry of Finance and Ministry of Social Affairs serving as board members, creates the appearance of a lack of independence. While the mission is unaware of any inappropriate interference by the Board in the decision made by the FSA [Financial Supervisory Authority], appointing Board members in the future from outside of government would reduce the risks of such potential conflicts. While FIN-FSA, and the BOF [Bank of Finland], which approves the budget of FIN-FSA, are independent agencies, their budgets are still expected to reflect government policy. As a result of the Finnish government's expectation of increasing efficiency within the public sector, FIN-FSA has had a long-standing policy of budget tightening. The fact that most of FIN-FSA's budget is paid for by the regulated industry rather than the taxpayer does not seem to have factored into the budget decisions.	2016
Sweden	Despite the improvements in operational independence, including an indicative multiyear budget commitment, FI's actual resource envelope is still determined by the government on an annual basis. A major challenge is that FI continues to be underresourced relative to the size and complexity of the supervised system. Bank supervision has less than 100 staff to supervise 124 institutions, including one G-SIB. The result is limited analytical capability, too few examinations, and over-reliance on a small number of key people.	2016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