

CORPORATE GOVERNANCE IN THE BRAZILIAN BANKING SECTOR: A STUDY OF PRACTICES ADOPTED BY THE BOARDS

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Abstract

This study is an analysis of the best practices of corporate governance adopted by the boards of Brazilian banking institutions. The findings show that most banks adhere to the latest Brazilian Institute of Corporate Governance guidelines with regard to board size and to the standards required by BM&FBovespa in terms of independence. The banks studied are rigorous with regard to audits and control in the process of corporate governance and most have a diversified board with the positions of chief executive officer and chairman occupied by different individuals. Practices regarding disclosure of board member remuneration are still at an early stage of development with banks restricting disclosure to what is required by law.

Keywords: Corporate Governance in Emerging Economies, Sustainable Development in Emerging Countries.

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Introduction

Corporate governance is a system of relationships between shareholders, independent auditors and company executives headed by the board (Lodi, 2000). The board constitutes an interface between shareholders, administrators, auditors, supervisors, society and other stakeholders (Lameira, 2000).

The board is a deliberative organ engaged in the permanent defense of the interests of shareholders by such means as developing guidelines and strategies for the promotion of the growth and protection of the organization's assets and preventing or minimizing conflicts of interest (Lodi, 2000; IBGC, 2009).

In this context many theories, terms and concepts have emerged to become widely disseminated on the world market. One such concept is that of the board as the main agency defending the shareholders' interests, especially in view of the power and responsibility with which it is endowed by the ordinary general meeting.

Companies represent a set of contracts and relations between stakeholders (Sunder, 2002). Due to the disquieting history of expropriation of shareholders' assets by administrators (Silveira, 2002), it has become particularly necessary to improve internal and external control systems, generating expectations among stakeholders with regard to the interaction of the board with the executive directors and its role in the decision making process.

Many theories on board structure include the adoption of practices related to board size, composition and diversity, segregation of functions, independence and remuneration. These practices, which are widely discussed in the literature and recommended by practically all codes of governance, including some of the major codes of corporate governance, are intended to help the board monitor and minimize conflicts and agency costs.

Even though the Brazilian banking sector has proven solid and shown vigor and strength in dealing with the crisis which shook the financial markets of the world in 2008-2009—in fact, the Basel index of the National Financial System rose from 15.5% to 17.5% in the second semester of 2008 (Bacen, 2009)—little has been published about the attributions and effective action of the boards of Brazilian banks. The scarcity of information is in no way mitigated by the habitual exclusion of banks and financial institutions in general from studies on corporate governance.

The present study is an analysis of the corporate governance practices adopted by the boards of Brazilian banks traded on the BM&FBovespa stock market as of September 10, 2009, measured against the recommendations given in the Brazilian Institute of Corporate Governance - IBGC code 2009.

The study was based on a review of documents, including secondary data from online databases of the Brazilian Securities and Exchange Commission (CVM)

and BM&FBovespa. The data were submitted to content analysis, using categories and subcategories of board practices, as recommended by the IBGC (2009).

Section 2 contains a review of the theories dealing with the major practices described in the literature on the board. This is followed by a description of the methodology employed (Section 3) and an analysis of the study results (Section 4). Finally, Section 5 presents our conclusions, study limitations and suggestions for further research.

Literature Review

2.1 Size, composition and diversity of the board

The appropriate quantitative and qualitative composition of the board seems to be as important to the performance of the board as it controversial among scholars. This is due to the widely recognized fact that the size of the board to a large extent determines its efficiency as a control mechanism, directly affecting its ability to monitor and discipline executive management (Fama & Jensen, 1983).

Jensen (1993) believes that larger boards are less efficient and exert a negative impact on the decision-making process. Conversely, smaller boards are believed to improve company performance. Boards with more than seven members tend to function less efficiently and to be more susceptible to control by the CEO (Jensen, 1993).

Yermack (1996) tested this prediction empirically and found that a company's market value increases when the board is limited to 4-5 members, decreases drastically when the number is raised to 6-10 members and continues decreasing, though less drastically, when the board is increased to 10-24 members. Based on these findings, the author believes that for companies to remain efficient, board should have no more than 6 members.

In the IBGC code of BPCG (2009) boards are advised to have between 5 and 11 members.

The question of the proportion of insiders and outsiders on the board is also a controversial matter, as pointed out by Weisbach (1998), due to the important role these directors play in the monitoring (supervision and record keeping) of corporate governance management.

Hitt, Ireland and Hoskisson (2005) do not approve of the presence of outsiders on the board, arguing that outsiders have no daily contact with company operations and therefore have limited access to updated information on managers. Such information may be required to efficiently evaluate administrative decisions and initiatives.

Zahra (1996) shares this opinion. To him, unlike outsiders, insiders are in permanent interaction with the other members on the board and may be previously and adequately informed of initiatives and strategies to be implemented, thereby making the decision-making process more efficient. Likewise, according to Vancil

(1987), insiders help the CEO maximize the company value by counseling and conveying knowledge and experience derived from the company's daily operations.

In fact, knowledge and experience are important attributes in board composition. Baysinger and Hoskisson (1990) believe larger boards benefit organizations. According to this reasoning, boards with fewer members tend to be less diversified and less capable of capitalizing knowledge and experience.

According to Erhardt, Werbel and Sarader (2003), the concept of diversity is an ample one, involving both observable or demographic aspects (age, race, gender and ethnicity) and non-observable or cognitive aspects (knowledge, values, individual perceptions and characteristics). Thus, in an analysis covering the period 1993–1998, the authors found a positive correlation between demographic diversity of the board and financial performance in 127 large American enterprises.

Most approaches favor a mix of diversity of experience and independence. It would therefore seem appropriate, or even necessary, for the board to be composed of not only a majority of independent members or insiders, but of a mix of counselors with a wide range of specialized knowledge and experience.

This view is also espoused by Hallqvist (2000), to whom the board should ideally be composed of individuals who—in addition to the absence of conflicts of interest, a *sine qua non* for membership—have served on other boards in the past, have worked as top executives in times of crisis and possess extensive knowledge of finances and accounting.

Apart from all controversy, a certain number of board members is required for opinions to have significant weight during group deliberations (Lodi, 2000). Based on the same reasoning, Brazilian Securities and Exchange Commission (CVM, 2002) recommends the number of members on the board be sufficient to ensure ample representativeness without being detrimental to efficiency.

The IBGC code (2009: 32) specifies that diversity of experience, qualifications and style of behavior provides the board with the competence required to fulfill its attributions.

The present study adopts the IBGC classification (2009) for boards featuring three categories of members, namely: a) insiders—active company staff, directors or board members; b) outsiders—non-executive directors or staff, including former staff, former directors, external lawyers, shareholders or representatives of the controlling group, directors' close relatives, etc.; and c) independent members—individuals not affiliated with the organization apart from an occasional and non-relevant participation in the capital. In addition, the latest IBGC code (2009: 37) lists another eleven important characteristics and recommendations for independent board members.

2.2 Segregation of functions

The segregation of the functions of CEO and chairman is

a long-standing practice adopted to ensure the efficiency of the board. As illustrated by Lodi (1976), the question has been studied by American researchers since the mid-seventies and it now seems undisputable that the concomitant occupation of the two functions by the same individual is detrimental to organizations. According to Lodi (2000), the fact became more widely acknowledged after the issue of the Hampel Committee Code in 1998, which among other recommendations proposes segregating the two functions.

According to Coombes and Wong (2004), the positions of CEO and chairman—the two most important functions in the company—have different and potentially conflicting attributions and should therefore be segregated in order to preserve the independence of the board.

Fama and Jensen (1983) believe the success of the organization to a large extent depends on the integration between the board and top management. Likewise, Lorange (2005) suggests that management decisions (the CEO's responsibility) and control functions (pertaining to the board) be harmonized, complementing each other, in order to strengthen the partnership and give board members and top executives a feeling of belonging to the same team.

It should be remembered that it is the job of the chairman of the board to evaluate the performance of the executive management and, if results are deemed unsatisfactory, make the necessary replacements. Thus, for the sake of efficiency in monitoring, the functions of CEO and chairman should be segregated (Mellone Júnior & Saito, 2004).

However compelling the argument may seem, segregation is by no means a universal practice. According to Coombes and Wong (2004), even among companies traded on American stock markets segregation is rather the exception than the rule. In their opinion, American culture—with its view of the CEO as the most important actor in the corporate world—is a major obstacle to the adoption of the practice of segregation. In fact, Brickley, Coles and Jarrel (2000) defend the juxtaposition of the two functions and argue that advocates of segregation generally fail to consider the corresponding costs involved, which in most company settings outweigh the benefits obtained.

Several authors (Yermack, 1996; Brickley, Coles & Jarrel, 2000; Coombes & Wong, 2004) have pointed out that empirical evidence from international studies are strongly in favor of segregating the functions of CEO and chairman. In Brazil, the juxtaposition of functions is legal and, as shown by Brazilian authors, a common phenomenon. Here the number of companies with concentrated control and property structure is still high—based on a sample of 325 companies traded on the Bovespa stock market, Valadares and Leal (2000) reported that in 62% of the companies a single shareholder detained over 50% of the ordinary shares—so it is not surprising if the two positions are frequently occupied by the same individual.

This pattern of shareholder concentration was confirmed by Ventura (2000), according to whom the functions of CEO and chairman are exercised by the same person in 41% of Brazilian companies. The author adds that in 72% of the companies the CEO is a member of the board.

Likewise, in an analysis covering Brazilian public companies over the period 1998–2000, Silveira (2002) found the functions of CEO and chairman to be juxtaposed in an average 40% of the companies. However, the study also revealed that the election of the CEO for chairman of the board is most often explained by the CEO's condition as a majority shareholder. Consequently, studies on the segregation of functions will in some scenarios reveal more about power concentration than about the proportion of outsiders on the board.

The fourth edition of the IBGC Code of BPCG recommends that to avoid power concentration and ensure adequate supervision of management, the functions of CEO and chairman of the board should not be exercised by the same individual (IBGC, 2009: 35).

2.3 Independence

The independence of the board is a vital issue in debates on corporate governance. The importance of having a majority of non-executive outsiders on the board is clearly expressed in many codes of corporate governance (including the IBGC code) and even more so in Baysinger and Butler (1985), Fama and Jensen (1983) and Jensen (1993), who studied the correlation between efficiency and board composition with special attention to the question of independence from executive management.

This view is supported by Dutra and Saito (2002), adding that during internal debates the members of the board are free to make decisions within the established legal limits and in accordance with their understanding of the topic. Independent members, who are less subject to pressure from majority shareholders and the CEO, may be expected to make more extensive use of this freedom.

In fact, as explained by Jensen (1993), boards which consist primarily of insiders are less likely to evaluate management critically, especially if the members are directly dependent on the CEO.

However, empirical studies on the contribution of independent members to the board have yielded conflicting results. In an analysis of 169 takeovers between 1989 and 1992, Cotter, Shivdazani and Zenner (1997) observed that boards composed of mostly independent members received takeover bids on the average 20% higher than the offers received by boards with a majority of non-independent members, suggesting that the former were more successful at handling agency issues between shareholders and managers when the company was targeted for takeover.

Similar results were reported for the American market by Bhagat and Black (2000) who found that boards with a majority of independent members tended to

be associated with higher corporate value. Nevertheless, the study also revealed potentially conflicting findings as several of the sampled companies with a majority of independent members on the board had actually decreased in value. The authors concluded that there were no empirical elements unequivocally favoring a super-majority of independent members on the board.

Two Brazilian studies on the topic are worthy of mention. In one, based on the categories outlined by Bhagat and Black (2000), Mônico (2000) sampled 646 public enterprises and found that board members were classifiable as outsiders and insiders in 70.4% and 29.6% of the companies, respectively. This points to a strong tendency for independence of the board in relation to executive management. In the other study, Dutra and Saito (2002) reported that only 21% of a sample of 1,058 board members were classifiable as independent, while 10% were insiders and 49% were controlling members.

Although the two studies focused on the same topic and were conducted in the same country, the results are clearly incompatible. According to Dutra and Saito (2002), the disagreement may be explained by differences in the criteria adopted. Mônico (2000) used criteria derived from American research methods according to which conflicts of agency occur between shareholders and executives. Based on this assumption, a board member belonging to both the control group and the executive staff would be classified as an insider, whereas Dutra and Saito (2002) would classify the same board member as a controlling member, making it impossible to directly compare the results of the two studies.

As for the category of independence, IBGC (2009) recommends a majority of independent members on the board selected through a formal process. The scope of action should be well defined and competences and academic background should be taken into account. In addition, the text in the code (IBGC, 2009, p. 37) states that the number of independent members on the board will depend on the maturity of the organization, its life cycle and special characteristics.

2.4 Remuneration of board members and executives

Defining the remuneration of the CEO and other major executives is one of the most important tasks of the board and constitutes a mechanism of alignment between executives and shareholders. As explained by Andrade and Rossetti (2006), this alignment is usually achieved through the establishment of salaries, bonuses, stock options and other forms of long-term incentives, the purpose of which is to tie executive performance to company share appreciation.

Silveira (2002) sees the crafting of an efficient remuneration model as one of the most complex tasks in corporate governance. Since the time of Berle and Means (1932), when executives rose to power and took control of the board, remuneration models have been used to curb abusive agency costs.

Okimura (2003) claims that the use of remuneration as a mechanism of corporate governance is based on the assumption that the better the remuneration is, the less likely executives are to put their jobs at stake. However, when remuneration is tied up with company performance the contract focus is changed and executives tend to work harder and risk more in order to produce results. Depending on company value, executives with many stock options can quickly multiply their personal gains and are therefore encouraged to maintain company value high at any cost—in fact, some may even commit accounting fraud to do so.

The practice of variable remuneration as a reward of merit for executives gained popularity in the 1990s when the remuneration of American CEOs became directly dependent on company share performance and many companies adopted the policy of awarding executives stock options (Hitt, Ireland & Hoskisson, 2005). As explained by Mano, Gianini and Camargos (2009), the flaws of this policy remained concealed for many years while the actors involved continued benefiting from the arrangement: market analysts recommending investments, banks and companies increasing their revenues and shareholders exulting in the appreciation of their shares.

According to Borgerth (2008), one of the most serious impacts of the accounting scandals involving North-American companies such as Enron and WorldCom was the introduction, following the realization that the shares of these companies had been recommended as excellent investment options by analysts from influential American banks, of new regulatory measures—including the passing in 2002 of the Sarbanes-Oxley Act.

In spite of all precautions and protective devices in US legislation, financial scandals continue to happen. In the recent and widely publicized scandal involving the insurance company AIG, company executives were awarded a bonus of US\$ 165 million after the company had filed for bankruptcy (Bhagat & Romano, 2009). The scandal has refueled the debate on the topic and challenged the ability of the board as an institution to efficiently devise and monitor a remuneration model for top executives.

In order to align the interests of administrators and shareholders, most companies adopt a model which makes remuneration dependent on company performance (Hoskisson, Hitt & Hill, 1993; Conoy & Peck, 1998; Hall & Murphy, 2000; Bhagat & Romano, 2009). According to Andrade and Rossetti (2006), this may be achieved in two general ways: a) awarding bonuses based on the company's financial performance as evidenced in annual audits, meeting short-term objectives (more closely tied up with routine operations; accounting fraud is common), and b) awarding stock options at a predefined price, meeting longer-term objectives.

The recent crisis has made clear the need to redesign executive remuneration models (Bhagat & Romano, 2009) through the introduction of simple and transparent policies focused on the definition and

maintenance of long-term objectives and share value. The new criteria should among other things establish that stock options awarded to executives cannot be exercised until a period of 2-4 years has elapsed.

In an analysis of 184 large US companies, Hoskisson, Hitt and Hill (1993) observed that the search for incentives based on short-term instruments (annual audits) was negatively associated with the total R&D efforts of the company (compared to the average for the sector), company diversification and group size and structure. The authors suggest that the promotion of long-term financial incentives— replacing financial controls with strategic criteria—can reduce the negative relation between incentives and R&D efforts.

The IBGC guidelines (2009) are clear on this point, suggesting board members and executives be differently remunerated in accordance with the nature of each function, and counter-recommends remunerating board members based on short-term results.

Mônaco (2000) reported that 83% of Brazilian public enterprises adopted a model of fixed remuneration, 12% preferred variable remuneration, while 5% had a stock option plan. In a more recent study involving a sample of 29 enterprises, Camargos and Hedal (2007) observed a positive and significant relation between executive remuneration and the company's financial performance, as well as between other variables related to the board, suggesting that in large Brazilian companies executive compensation packages are directly associated with efficiency and with monitoring by the board.

IBGC (2009) recommendations stress the importance of disclosing information on executive remuneration (whether individually or collectively), expounding the mechanisms of variable remuneration and,

if applicable, demonstrating the impact of remuneration policies on company performance. In addition, IBGC (2009) suggests that companies choosing not to disclose executive remuneration make a comprehensive and transparent justification for their decision.

Research Methodology

This was a documental study based on information collected from websites and public documents released by banks traded on the BM&FBovespa stock market, Brazilian Securities and Exchange Commission (CVM) online databases and mandatory information disclosure to BM&FBovespa. Content analysis (Bardin, 1977), a qualitative approach, was used to determine to what extent banks adhered to the corporate governance practices recommended by the IBGC.

3.1 Research population and sampling

The population of the study consisted of banks listed in the banking segment of the BM&FBovespa stock market as of September 10, 2009 (BM&FBovespa, 2009).

On the date of sampling, the BM&FBovespa banking segment featured 30 financial institutions (banks) subdivided into a number of subsegments. To be included in our sample, banks had to belong to one of three subsegments of corporate governance: the "New Market" (NM) or the "Differentiated Level of Corporate Governance" 1 and 2 (NDGC-1 and NDGC-2). Fifteen institutions not pertaining to these subsegments were excluded from the initial population. The remaining 15 banks made up the final sample, as shown in Figure 1.

Corporate name	Trading	Segment
Banco do Brasil S/A	Brasil	New Market
Banco Nossa Caixa	Nossa Caixa	New Market
Banco Bradesco S/A	Bradesco	NDGC-1
Banco Cruzeiro do Sul S/A	Cruzeiro do Sul	NDGC-1
Banco Daycoval S/A	Daycoval	NDGC-1
Banco do Estado do Rio Grande do Sul S/A	Banrisul	NDGC-1
Banco Industrial e Comercial S/A	BicBanco	NDGC-1
Banco Indusval S/A	Indusval	NDGC-1
Banco Panamericano S/A	Panamericano	NDGC-1
Banco Pine S/A	Pine	NDGC-1
Itaú Unibanco Holding	Itaunibanco	NDGC-1
Itaúsa Investimentos Itaú S/A	Itausa	NDGC-1
Paraná Banco S/A	Paraná	NDGC-1
Banco ABC Brasil S/A	ABC Brasil	NDGC-2
Banco Sofisa S/A	Sofisa	NDGC-2

Source: the authors based on BM&FBovespa (2009).

Figure 1. Brazilian banking institutions by listing segments of the BM&FBovespa stock market as of September 10, 2009.

3.2 Data collection and management

The research work and data collection were initiated in September 2009. Once the sample had been defined based on information from the BM&FBovespa website, information on the selected banks was retrieved from public websites maintained by BM&FBovespa, Brazilian Securities and Exchange Commission (CVM) and the banks themselves. Documents of mandatory disclosure were reviewed for information on the composition of the boards and executive management, including individual professional experience. The documents included annual reports (AR), quarterly reports (QR), standard financial reports (SFR), statutes and minutes from ordinary and extraordinary general meetings. Additional information was collected from the websites of the banks under the headings of corporate governance, supervising committees, downloads, etc. Since our analysis included items of non-mandatory disclosure, the data set had to be completed for ten of the fifteen banks in the sample by contacting the respective directors of investor relations by e-mail. Within fifteen days all institutions had provided the desired information.

Based on the September 2009 edition of the IBGC code of BPCG and on the literature on corporate governance, five major board-related categories were chosen for analysis: a) size, b) composition and diversity,

c) segregation of functions, d) independence, and d) remuneration. Subsequently, 32 corporate governance practices belonging to the five categories of analysis were selected from the list of practices recommended by the IBGC (2009) (Table 1).

All retrieved data were submitted to content analysis (Bardin, 1977). Bardin (1977) refers to source material such as the documents used in this study as “corpus”.

The items in the content analysis were scored as either “present” or “absent” (Bardin, 1977) from the subcategories of information disclosed by the banks. Expressed in percentages, the findings indicate the level of adherence to each corporate governance practice listed in the IBGC code of BPCG.

Analysis and Discussion of Results

This section presents the results of the document analysis of 15 financial institutions comprising 104 board members. As shown in Table 1, findings were organized into five categories and 32 subcategories: (a) size: 3 subcategories, (b) composition and diversity: 14 subcategories, (c) segregation of functions: 1 subcategory, (d) independence: 7 subcategories, and (e) remuneration: 7 subcategories. The last column in Table 1 displays the results from the quantitative analysis.

Table 1. Practices of the boards of 15 Brazilian financial institutions studied with results organized by subcategory.

Category	Subcategory	Results
Size	1. Average number of members on boards of directors	6.9
	2. Number of banks with boards served by 5-11 members	11 of 15
	3. Average permanence of members on boards of directors (years)	2.1
Composition and diversity	4. Number of banks with audit committees	10 of 15
	5. Average number of members on audit committees	3.6
	6. Average number of committees per institution	3.3
	7. Number of outsiders on boards	36 of 104
	8. Number of board members with previous board experience	35 of 104
	9. Number of board members with previous experience as CEOs	6 of 104
	10. Number of CEOs serving on boards	97 of 104
	11. Average age of board members (years)	56.7
	12. Number of male board members	99 of 104
	13. Number of board members with previous experience in finances and/or accounting	16 of 104
	14. Number of board members with experience as executives in other countries	20 of 104
	15. Number of board members with postgraduate degrees	26 of 104
	16. Number of board members with master's degrees	16 of 104
	17. Number of board members with doctorate degrees	13 of 104
Segregation of functions	18. Number of companies with segregation of the functions of CEO and chairman	14 of 15
Independence	19. Number of independent board members	26 of 104
	20. Number of banks practicing internal audits	15
	21. Number of independent board members serving on audit committees	67 of 104
	22. Number of banks with boards of supervisors	11 of 15
	23. Number of banks with permanent boards of supervisors	4 of 15
	24. Number of board members indicated by minority shareholders	12 of 104

	25. Proportion of supervisory board members indicated by minority shareholders	5.8%
Remuneration	26. Number of banks with remuneration committees or similar	4 of 15
	27. Average number of members on remuneration committees or similar	4.7
	28. Proportion of independent members serving on remuneration committees or similar	0
	29. Number of banks disclosing the remuneration of board members and executives, whether individually or by group	1 of 15
	30. Number of banks disclosing fixed and variable remuneration of executives	1 of 15
	31. Number of banks disclosing aggregated remuneration figures for administrators	14 of 15
	32. Number of banks justifying non-disclosure of administrators' remuneration	0

Source: composed by the authors with data retrieved from public sources.

4.1 Practices related to board size, composition, diversity and independence

The average number of board members in our sample was 6.9. In 11 of the 15 banks surveyed boards had five to eleven members. On the average, members served on the board for 2.1 years. This is in harmony with the guidelines of the 2009 edition of the IBGC code (2009), which recommends a board size of 5-11 members serving 2-year terms. The previous version of the code (2004) recommended a board size of 5-9 members with one year of permanence only.

In the categories composition, diversity and independence the banks were found to give a considerable amount of attention to bodies of inspection: internal audits, audit committees and the supervisory board. As shown in Table 1, under the category of independence, all 15 banks practiced internal auditing.

Ten of the banks in our sample had an audit committee. Committees were served by 3.6 members on the average, most of whom were independent. This is an encouraging scenario compared to the results of another study led by IBGC (1998) covering 120 large Brazilian enterprises, of which only 13.5% featured an active audit committee. Although Brazilian companies are not obliged to have an audit committee, except large companies authorized to operate in the country (Resolution 3.198, 2004, of the Brazilian Monetary Council), the practice has been consistently advocated by both the Brazilian Securities and Exchange Commission (CVM) and the IBGC, especially in the wake of the recent financial scandals in the US involving companies such as Enron and WorldCom. Due to the considerable responsibility and influence of the audit committee upon the process of corporate governance, the IBGC (2009) recommends the committee be staffed only by independent members of the board. The current figure of most independent members on audit committees may be seen as an advance in terms of adherence to BPCG, although it is still far from the recommended 100%.

Results for the supervisory board were also noteworthy. Eleven of the 15 banks in the sample had a properly functioning supervisory board. In spite of these positive results, two aspects fell far behind IBGC standards: only 4 of the supervisors boards were

permanently active and only few of the members were indicated by minority shareholders, showing that the perception of the importance of the supervisory board—especially in its efforts to monitor fraud prevention—is still at an early stage.

As for the independence of the board—an essential aspect of corporate governance—only 26 of 104 board members (25%) were found to be independent. Moreover, only 12 (11.5%) of the members were indicated by minority shareholders, suggesting minorities are poorly organized in the competition for openings on the board. Although 26 (25%) independent members on the board is not an impressive figure, it is nevertheless above BM&FBovespa requirements (20% for companies listed in the NDGC-2 and New Market segments). The study also revealed that 36 (34.6%) of board members were outsiders—not necessarily independent, but with no current tie with the company—suggesting an increased awareness of the advantage of avoiding the participation of internal executives on the board.

The average age of the board members was 56.7 years. Out of the total sample of 104 directors, 35 (33.7%) had previous experience on boards, 6 (5.8%) had been CEOs in other companies and 20 (19.2%) had worked as executives in other countries. In addition, 16 (15.4%) were experienced in accounting and/or finances. These figures indicate diversified boards. On the other hand, the surveyed boards were far from diversified with regard to gender. Thus, somewhat surprisingly, 99 of 104 (95.2%) of the openings on the boards of the 15 banks in our sample were occupied by men.

Likewise, the large number of CEOs on the boards was incompatible with good practices of corporate governance. Only one of the companies in our sample did not have the CEO on the board. According to the IBGC code 2009, the CEO should not serve on the board but should be invited to participate in board meetings as a guest.

Finally, the results of the analysis of board composition and diversity allow to conclude that when it comes to electing board members, experience counts for more than academic background: only 16 (15%) of the surveyed board members held a master's or a doctorate degree.

4.2 Practices related to segregation of functions

The segregation of the functions of CEO and chairman is one of the most frequent topics in the literature on boards. As demonstrated in the literature review, ownership concentration favors the juxtaposition of functions in many Brazilian enterprises and, in fact, studies on public companies up to the middle of the present decade have shown this arrangement to be highly prevalent. However, the present study points to a significant evolution in segregation over the past few years, considering that in 14 of the 15 sampled banks the functions of CEO and chairman were occupied by different individuals. This is suggestive of an increasing awareness among financial institutions of the essentially different though complementary nature of the attributions of the two functions and the negative impact their juxtaposition can produce on the company's main control mechanisms.

4.3 Practices related to board member remuneration

The last of the five categories—remuneration—is perhaps the most controversial, not only because the topic is permanently in evidence, fuelling the discussion on the perspective of short-term executive remuneration as opposed to long-term company goals, but also because of its complexity inasmuch as long-term performance-based incentives can both help resist the temptation of short-term subinvestments and increase the risk to which executives are exposed in the form of market fluctuations and industry decline, among others.

To deal with such a sensitive issue in corporate governance, the latest edition of the IBGC code 2009 suggests disclosing administrators' salaries individually, or at least for the board and executive management as separate groups. In addition, companies are advised to provide detailed information on fixed and variable quotas. In short, disclosure should include all forms of remuneration, mainly salaries, bonuses, performance-based benefits and supplemental incentives. Our data show that only four of the fifteen banks included in the analysis had a remuneration committee or similar. Furthermore, although these committees were served by 4.7 members on the average, none of these were independent board members. According to the IBGC code 2009, the remuneration committee should be composed entirely of board members; if that is not possible, the committee should at least be headed by an independent board member.

Only one bank in the sample published a list of the individual administrators' and supervisors' salaries in the minutes from ordinary and extraordinary general meetings, along with the representation funds available to the executives. With the exception of a single institution, the collected data on executive remuneration show that the only item disclosed by all the banks was

“administrators' remuneration and participation in company profits” (Annual Reports - item 7), and disclosure was made group-wise for the board and executive management, confirming that the sampled enterprises generally provide only mandatory remuneration information. Finally, none of the banks included in the study attempted to justify the non-disclosure of their executive remuneration policy.

Conclusion

Based on a review of public documents, practices of corporate governance with regard to the board were analyzed according to five categories (size, composition and diversity, segregation of functions, independence and remuneration) and 32 subcategories, as suggested by the IBGC code 2009. The sample consisted of 15 Brazilian banks traded on the “New Market” and “Differentiated Level of Corporate Governance” subsegments of the BM&FBovespa stock market as of September 10, 2009.

The average size of the boards (6.9 members) and the average time of permanence on the board (2.1 years) were within IBGC recommendations. The banks were found to be rigorous with regard to audits and control in the process of corporate governance, as demonstrated by the existence of internal audits in all the sampled institutions. More than half the banks had audit committees, although few committees were composed exclusively of independent board members, as recommended by the IBGC code 2009.

As for the supervisory board, few of the members had been indicated by minority shareholders, a fact which reveals little awareness of the importance of this function within the company structure, especially in the monitoring of fraud prevention.

Only 26 (25%) of board members were independent; however, this figure is above the minimum required (20%) for companies traded in the NDGC-2 and New Market segments of BM&FBovespa. The large proportion (34.6%) of outsiders on the boards suggests an increasing awareness of the importance of avoiding the participation of internal executives on the board. Nevertheless, only 11.5% of the independent board members were found to have been indicated by minority shareholders, indicating that minorities are poorly organized in the competition for openings on the board.

Boards were found to be highly diversified. The average age of 56.7 years was reflected in the members' considerable experience and background: 33.7% had served on other boards, 5.8% had worked as CEOs in other enterprises, 19.2% had been executives in other countries and 15.4% had extensive experience in accounting and/or finances, suggesting a board profile of maturity and diversity. Some findings, however, point in the opposite direction: contrary to IBGC recommendations, the vast majority of board members (up to 95.2%) were male, and in 14 out of 15 banks the board included the CEO as a member.

The present study evidenced a significant evolution

in terms of segregation of the functions of CEO and chairman, compared to findings published in the beginning of this decade when 40% of those functions were juxtaposed. In our study, the two functions were segregated in 14 out of the 15 banks in the sample. These figures reveal a change in corporate behavior and a high level of adherence to the segregation practices recommended by the IBGC.

However, findings for the category of remuneration revealed corporate governance practices at an early stage of development. Only 4 of the 15 banks had a remuneration committee or similar and, although these committees were served by 4.7 members on the average, none of these were independent board members. Overall, disclosure of executive remuneration policies was minimal: a single bank in the sample disclosed the salaries of board members, executives and supervisors individually, but the remaining 14 institutions—in spite of recommendations by the IBGC to the contrary—made no justification for the lack of disclosure of their remuneration policies, by which it may be inferred that the banks in our sample preferred to restrict information disclosure to what is required by law.

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