

Total revision of the National Bank Law

In March 2001, the Federal Department of Finance opened the consultation procedure on the total revision of the National Bank Law based on the draft law of the group of experts for the Reform of the monetary order (cf. 93rd Annual Report, page 45). The current National Bank Law dates back to 1953 and has been revised only partially since then. Numerous provisions are therefore outdated. Moreover, after the revision of the article on monetary policy in the Federal Constitution (art. 99 FC), amendments on the legislative level became indispensable. The preliminary draft of the group of experts entails, as the main points of reform, translating the new monetary article of the Constitution into a specific central bank mandate, implementing central bank independence and formal accountability, providing for more flexibility in the scope of the National Bank's transactions, modernising its instruments, adjusting the legal provisions governing its corporate activities and streamlining its organisational structure.

In its comments submitted to the Federal Department of Finance at the end of June, the National Bank supported the planned revision of the National Bank Law. It regarded the preliminary draft law by the group of experts as a useful basis for the message to parliament. In particular, the proposed detailed formulation of the central bank mandate is to be welcomed. The orientation of monetary policy to the primary goal of price stability is one of the characteristic features of a modern central bank law. Pursuant to the draft law, the National Bank shall ensure price stability. The additional provision in the statutory mandate obliging the National Bank to take into account the development of economic activity is appropriate and conforms to established practice. The National Bank would like to see its contribution to the stability of the financial system embodied in the Law in addition to the individual National Bank tasks, which have been updated in the draft law.

From the National Bank's point of view, its constitutional independence has been appropriately defined in the draft law, which obliges the Bank and its bodies to act independent of instructions. In addition to functional independence, the National Bank's institutional and financial independence must, however, also rest on a solid legal foundation. In this context, the National Bank was in favour of retaining the legal form of a joint-stock company. The National Bank also explicitly approved of the accountability and information obligations which are to be defined in detail in the new National Bank Law.

The abolition, proposed by the group of experts, of central bank instruments no longer needed was fully supported by the National Bank. The required cash liquidity of the banks is to be replaced by a minimum reserve requirement. In this connection, the National Bank proposed an addition to the effect that issuers of electronic money and other issuers of payment instruments might also be made subject to minimum reserve requirements by means of an ordinance. Given the rapid change in financial markets, the term "bank" might one day prove too narrow to apply to all enterprises that should be obliged to hold minimum reserves.

Consultation procedure on the draft by the group of experts

Price stability as the goal of monetary policy

National Bank acts independent of instructions

Updated central bank instruments

Setting aside of provisions to be decided by the Bank Council

Furthermore, the National Bank argued in favour of appropriately specifying in the Law the constitutional provision stipulating that currency reserves shall be built up by setting aside provisions from the National Bank's earnings. As regards the question of who is to decide on the amount of the required provisions, the National Bank, unlike the group of experts, was in favour of the Bank Council assuming this responsibility rather than the Governing Board. It is desirable that this decision, which is significant for the calculation of profits, be given broader support. This is in conformity with the intention to vest more extensive supervisory powers in the Bank Council.

Appropriate reduction in the number of bank bodies

Finally, the National Bank supported the streamlining of the organisational structure as proposed in the draft law. It is indispensable for the efficient management of the Bank to reduce the number of bank bodies and to optimise their interaction. An important precondition is the diminution of the Bank Council in terms of number. In this respect, the National Bank would like to go a step further than the group of experts; it considers a total of 11 (instead of the proposed 15) members for the future Bank Council as appropriate. This would strengthen the responsibility of the individual members of the Bank Council in the decision-making process and enhance the working efficiency of this body.

Ensuring a regional presence

In the context of the planned streamlining of the organisation, care should be taken to keep the central bank adequately represented in the regions. The National Bank therefore proposed that the Law spell out the importance of a regional presence of the central bank for the purpose of observing, and maintaining relations with, the local economy. In particular, the National Bank strongly recommended that the observation of economic development in the regions be attended and supported by boards of advisers at the individual bank offices.

Oversight of payment and settlement systems

In the consultation procedure, the oversight of payment systems proposed by the group of experts in principle met with broad support. In December, the National Bank and the Federal Banking Commission, in a joint position paper, proposed to the Federal Department of Finance to make not only payment systems, but also further central installations which might involve risks for the stability of the financial system, subject to oversight by the National Bank. In line with the recommendations of international organisations, notably securities settlement systems are to be included in the oversight of systems. At the same time, coordination between system oversight (by the National Bank) and supervision of institutions (by the Banking Commission) is to be laid down in detail. Aside from additions to the draft of the National Bank Law, this requires a number of specific amendments to the Banking Law and the Stock Exchange Act.