Evaluation of fiscal authority: the IFI case in the Federal Senate

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ABSTRACT

This paper evaluates the creation and form of operation of the Independent Fiscal Institution (IFI), which is linked to the Federal Senate and was created in 2016. The evaluation is done based on the existing definitions and standards for entities that carry out this kind of function, recommended by academics and by the international organizations International Monetary Fund (IMF), Organization for Economic Cooperation and Development (OECD), and European Union European Commission (EU). This Brazilian case study uses bibliographic research of scientific articles and official international publications with theoretical discussions, comparative studies, and analyses of case studies about independent fiscal entities in several countries of the world. The results obtained show that, considering the form in which the IFI was instituted in Brazil, there is room for strengthening it with regard to appropriateness to the legal framework in effect, enhancement of actual independence, better relations with the Parliament in terms of accountability and rendering of information, participation and opinion on the elaboration of budgetary laws, among others. There is still a need to ponder and define the field of action of the IFI to avoid overlap of mandates regarding other agencies, such as the Legislative Consultancies of the two Houses of the National Congress and the Fiscal Management Council, provided for in the Fiscal Responsibility Law. Examination of the matter also shows that the relationship of the

IFI to the press and society is one of the greatest virtues of the fiscal institution, playing effectively a role that is typical of these types of institutions.

Keywords: *Accountability*; Fiscal policy; Independent Fiscal Institution

1. INTRODUCTION

The importance of countries maintain a budget that is balanced and sustainable in the long term is well known. However, in practice, this is not always confirmed and can generates successive deficits, growth of debt, and economic crises in countries that are not managed with fiscal responsibility (BEETSMA; DEBRUN, 2016; KOVACS; CSUKA, 2012). Both academia and supranational organizations research and develop continuously new methods and tools that can help in the appropriate fiscal management of countries (CALMFORS, 2011; DEBRUN et al., 2013; EUROPE COMISSION, 2016a; ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT, 2014).

One of these tools is an entity that has autonomy in relation to all Branches and would have the mandate to carry out studies and estimates on the fiscal situation of the country and to influence budgetary discussions. In the past decades, implementation of this type of entity has grown in all continents, particularly in Europe because of the European Union requirements. (DEBRUN et. al., 2013).

Brazil seems to have followed this global trend. In 2016, it created the so-called Independent Fiscal Institution (IFI), linked to the Federal Senate, whose purpose is to elaborate estimates for fiscal variables and analyze compliance with the budgetary goals, among others (FEDERAL SENATE, 2017a).

This paper aims to evaluate the creation and form of operation of this entity based on the definitions and standards recommended by academia and by international organizations. These institutions can bring several benefits to fiscal management in a country, as long as minimum principles and standards are followed, since the performance of an institution and the political-economic scenario in which it is inserted are more determinant for the effectiveness of its activities than the mere decision to create the institution (BEETSMA; DEBRUN, 2016; POSEN, 1995).

The method used was bibliographic research, followed by normative evaluation of the creation and performance of the IFI, inspired on the methodology of theory-based evaluation (EUROPE COMISSION, 2013). The first development section deals with the context in which the IFI was created. The second describes the definitions and standards established by international organizations and the academia. The third section is a comparison between the normative criteria identified and what is being implemented in the Country through the IFI. Finally, we have the conclusion that summarizes the results obtained and points out suggestions for possible studies and future developments regarding this topic.

2. THE BRAZILIAN IFI AND ITS RELATIONSHIP WITH THE OTHER FISCAL AND BUDGETARY INSTITUTIONS

2.1 CRATION BACKGROUND AND MANDATES CONFERRED TO THE IFI

Article 67 of the Fiscal Responsibility Law (LRF), Complementary Law 101/2000 (FEDERATIVE REPUBLIC OF BRAZIL, 2000), provides for the creation of the Fiscal Management Council (CGF), which could be a fiscal council like entity for the country. However, the necessary regulation was not approved even after 16 years of publication of the LRF. Some people say that the main difficulty to materialize the institution CGF is its excessively comprehensive composition (BIJOS, 2015).

The possibility of creation and effective installation of another type of independent fiscal authority in Brazil was the topic of some theoretical studies. Bijos (Id.) defended that instituting an entity following the model of independent Parliamentary Budget Office, but linked to the Federal Legislative Branch, like the Congressional Budget Office (2016) – CBO –, in the United States of America (USA) since 1975, would be positive for the strengthening of national budgetary governance.

However, Bittencourt (2015) was of a contrary opinion when analyzing Constitutional Amendment Proposal (PEC) 83/2015, aimed at creating the Independent Fiscal Authority (IFA), considered as independent despite being linked to the National Congress (FEDERAL SENATE, 2015b). According to the author, the mandates foreseen for the IFA are already carried out by other bodies such as the Federal Legislative Aides Offices and the Federal Court of Accounts (TCU), and with a greater degree of technical capacity, independence, and nonpartisanship than what was established for the IFA in the PEC.

This PEC was rejected in a first vote and, on December 15, 2015, a proposal for creation of the Independent Fiscal Institution (IFI), which would be linked only to the Senate, was presented by means of Senate Resolution Project (PRS) 61/2015. The rationale for the mentioned project (FEDERAL SENATE, 2015a) was essentially identical to that of PEC (Id., 2015b) and affirmed that the purpose of this institution would be to "improve the mechanisms for evaluation and social control of the fiscal policy, favoring consistent macroeconomic stability to promote economic growth, with social justice" (Id., 2015a).

The text itself stresses that the issue is the creation of an institution different from the CGF and approaches the difference between the mandates of the future IFI and other public agents, since the "IFI will not be allowed to regulate fiscal police nor judge government accounts. Its mandates, on the contrary, are aimed at diagnosing the quality of fiscal policy and of government programs" (Ibid., p. 4).

Creation of the IFI only occurred on November 1st, 2016, when Federal Senate Resolution 42/2016 was published, a result of the approval of PRS 61/2015, by the Senate Plenary, on March 23, 2016 (Id., 2017a).

According to article 1 of the Resolution, the IFI is an institution that exists within the scope of the Senate, presided over by an executive director nominated by the president of the Legislative House and directed by a Board of Directors comprised of a president director and two other directors nominated by two Senate committees. All the reports produced are published after approval by the majority of the Board of Directors (§§ 11 and 12). IFI also has a Technical Advisory Council, made up of up to five Brazilians nominated by the executive director, indefinitely, who will have periodical meetings (§ 9°). Because it does not have its own staff, Senate civil servants will give support to the IFI (art. 2°).

Finally, article 3 of the Resolution establishes the obligation of the "competent official institutions" to "provide all information necessary for the full and appropriate performance of the mandates of the Independent Fiscal Institution" (Id., 2017a, p. 3). Paragraph 10 of article 1 of the Resolution also establishes that the IFI can forward, through the Senate Board of Directors, requests for information to the "Cabinet Ministers and any other heads of bodies directly subordinated to the Presidency of the Republic. Refusal to do so, noncompliance with the request within thirty (30) days or providing false information will be considered an impeachable offense" (Ibid., p. 3).

We note that, according to item 4 of article 13, Law 1.079/1950, the Cabinet Ministers commit an impeachable offense if they do not provide "within thirty days and without good reason, to, to any of the Chambers of the National Congress, information requested in writing or provide false information" (FEDERATIVE REPUBLIC OF BRAZIL, 1950, art. 13, item 4). Thus, we presume that the resolution that created the IFI bases itself on this legal provision to discipline the occurrence of an impeachable offense in the case mentioned in its paragraph 10 of article 1.

2.2 RELATIONSHIP BETWEEN THE IFI AND THE OTHER GOVERNMENTAL BODIES AND AGANCIES AND WITH PLAYERS IN SOCIETY

Monthly, the IFI has published on its page on the Senate portal its fiscal monitoring reports (RAF) that show their analysis of the trajectory of the main fiscal and economic indicators[1] and on fiscal topics such as the social security reform. The IFI has also given collective interviews to the press (SENADO AGENCY, 2017c), in addition to promoting events designed specifically for the financial market (Id., 2017b).

According to the IFI executive director, the intention is for the institution to also produce technical notes, data banks, and economic projections on its own initiative or by specific demands from senators, in addition to giving opinions on the draft bills and government measures, in order to support decisions by Senators (Ibid.).

The Resolution is silent regarding the relationship of the IFI to those in charge of fiscal policy, since it only mentions these bodies and entities when it establishes the obligation they have to answer IFI's questions. It is probable that the bodies that receive requests, such as the National Treasury Secretariat (STN) and the Federal Budget Secretariat (SOF), have knowledge of the reports and analyses published by the IFI. However, there is no legal obligation regarding this knowledge, much less regarding complying with this institution's recommendation. The expected effect of IFI's performance is to give greater transparency to the budgetary information and to be a source of independent estimates for fiscal parameters, as emphasized by the IFI executive director (Id., 2016a).

As for IFI's relationship with the other bodies and entities, which have similar mandates, Senate Resolution 42/2016 is succinct, limiting itself to stating in its article 1, paragraph 1, that the mandates of IFI "do not exclude nor limit themselves to those conferred to the jurisdictional, normative or control bodies" (FEDERAL SENATE, 2016, art. 1, paragraph 1). The TCU Full Court approved sending to IFI Court Decision 938/2017 – Full Court (FEDERAL COURT OF ACCOUNTS, 2017), which assessed revenue estimates, establishment of expenditures, and fiscal targets of the 2017 Annual Budgetary Draft Bill (PLOA 2017), as per Chapters III to VII of the LRF and article 3, item III, of TCU Resolution 142/2001 (Id., 2001).

Note that the IFI executive director was invited to participate in public hearings, such as the one in the Parliamentary Inquiry Committee (CPI) of Social Security, as per Request 134/2017 (FEDERAL SENATE, 2017d). At the international level, the IFI intends to establish partnerships with the OECD (SENATE AGENCY, 2017a). Furthermore, its representatives have participated in events as lecturers (INDEPENDENT FISCAL INSTITUTION, 2017).

3. INTERNATIONAL STANDARDS ESTABLISHED FOR THE IFAS

From the second half of the 20th century, we observed an increase in the number of countries, especially those that are part of the OECD, who presented successive fiscal deficits (BEETSMA; DEBRUN, 2016; KOVACS; CSUKA, 2012). Specialists point to several possible causes, with emphasis on the existence of inappropriate fiscal discipline and weak fiscal management motivated by problems such as insufficient comprehension of the impact and consequences of budgetary decisions of current fiscal policy on future solvency of the state, both on the part of citizens and politicians. (CALMFORS, 2011; DEBRUN et. al., 2013).

Several mechanisms were proposed to guide and control fiscal policy in order to reduce such deficits. Particularly from the 1990 decade on, the strategy most recommended and adopted was the creation of fiscal rules, which established parameters to be achieved or avoided. That is, targets or limits, respectively (CALMFORS, 2011). Opting for one or another model of fiscal rule is at the discretion of government leaders, because there

is no consensus on which model of fiscal rule is more effective, nor if there is a need for fiscal rules for fiscal policy to be adequate. (EUROPE COMISSION, 2014).

According to Beetsma and Debrun (2016), the very decision by a government to institute a fiscal rule would already denote that this government has greater predisposition to follow a more responsible fiscal policy. Furthermore, depending on how the established fiscal rule is calculated there is the possibility of using methods to distort and hide the actual result of the rule, which is called creative accounting. This is observed in practice, for example, in France, Greece, and Italy in the decade of 1990, during the transition to join the European Union (MILESI-FERRETTI, 2000; VON HAGEN; WOLFF, 2004).

Considering that this whole scenario weakens the effectiveness of the fiscal rule tool and the very credibility of fiscal results, since the end of the 90s, those who study the topic have proposed other institutional mechanisms to promote a fiscal policy that is more responsible, sustainable and aligned with the well-being of the country in the long term: technical entities dedicated exclusively to overseeing governmental fiscal policy (CALMFORS; WREN-LEWIS, 2011; DEBRUN; HAUNER; KUMAR, 2009; DEBRUN et. al., 2013).

We note that bodies with mandates that are identical or similar to this have been around for decades in countries all over the world. Some examples are Belgium, created in 1936; Netherlands, in 1945; Denmark, in 1962; Austria, in 1970; and United States, in 1974 (ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT, 2014).

However, there is a significant increase in the number of these institutions, which are being created by countries in all continents, especially during the first two decades of the 21st century, such as Austria, in 2002, South Korea, in 2003, Canada, in 2008, Kenya, 2009, United Kingdom, in 2010, Portugal, in 2010, Australia, in 2012, Chile, in 2013, and South Africa, in 2014 (DEBRUN et. al., 2013).

Nonetheless, there is no generic nomenclature adopted consensually by all authors and international organizations for these entities. The following expressions are used as synonyms: independent fiscal institutions, fiscal councils, congressional budget offices, and independent fiscal authorities (Ibid.). In this article, they will all be called collectively by the expression **independent fiscal authorities** (IFA).

3.1 CONCEPT AND CHARACTERISTICS OF IFAS IN INTERNATIONAL LITERATURE

In the international literature, some make an analogy between monetary and fiscal policies, that is, between the role of central banks and IFAs. In this context, delegation to a technical and independent institution of part of or all decisions regarding the respective policy would make it possible to avoid or at least reduce the risk of this policy being hindered due to economic or political incentives that benefit only a small group at the expense of stability of the State as a whole (Id., 2011).

Some scholars defend delegation of the fiscal policy decisions themselves, as occurs with the monetary policy; others propose that only the activities of forecasts, analyses, and evaluation be delegated (CALMFORS; WREN-LEWIS, 2011).

However, Debrun, Hauner and Kumar (2009) highlight that there is a fundamental difference between these institutions, due to the fact that the monetary policy can be delegated to a technical body and commanded by representatives that are not elected by citizens, whilst fiscal policy cannot be totally subject to this same delegation. This applies especially regarding the aspects preferentially aimed at the distributive objectives.

The opposite occurs with the aspects of fiscal policy in which the criteria for good performance can be easily described *ex ante* and are stable over time, in which there is a need for specialized technical knowledge to carry out evaluations, and in which political incentives end up distorted due to temporal inconsistency, according to Alesina and Tabellini (2005). These authors defend that it is more effective to delegate such decisions to bureaucrats, instead of assigning these competencies to elected agents.

According to an official document of the International Monetary Fund (IMF), it is possible to conceptualize an independent fiscal authority as “independent agencies aimed at promoting sound fiscal policies” and that “do not have the discretionary power to define public policy tools” (DEBRUN et. al., 2013, p. 5).

On the other hand, the OECD established the following concept for IFIs: “publicly funded, independent bodies under the statutory authority of the executive or the legislature, which provide non-partisan oversight and analysis of, and in some cases advice on, fiscal policy and performance” (ORGANISATION

FOR ECONOMIC CO-OPERATION AND DEVELOPMENT, 2014, p. 5).

Since 2006, The European Commission has carried out annual studies on the competencies and activities of agencies that perform as IFIs in European countries, based on a more comprehensive definition of these institutions "non-partisan agencies that […] prepare macroeconomic scenarios for budget, monitor fiscal performance and/or giver recommendations to the Government regarding fiscal policy" (EUROPE COMISSION, 2016a). As a result, these studies have identified an overlap of entities performing some of the tasks that are assigned to the IFIs, including audit institutions, economic research institutes, and several types of committees and councils linked to the Executive Power and Legislature. For example, in addition to the agency identified as an IFI, in Austria there are four more such institutions with similar mandates and, in Germany, there are five other entities (Id., 2016b).

One of the initiatives by the European Union (EU) to improve economic governance after the 2008 crises was Directive 2011/85/EU. This directive mentions explicitly the need for effective and timely monitoring of compliance with fiscal rules, based on "reliable and independent analysis carried out by independent bodies or bodies endowed with functional autonomy vis-à-vis the fiscal authorities of the Member States." (Id., 2014).

In 2012, the Commission established rules and principles on the tasks and the institutional form that such independent bodies should have, in its Communication COM(2012)342. In 2013, the European Union inserted these requirements in Regulation (Europe Union – EU) 473/2013, which was part of a series of legislation aimed at improving fiscal governance in euro zone countries (Ibid.). Thus, we note that each author and each organization defines IFIs differently.

The IMF study concluded, based on a research about IFIs worldwide, that the functions of IFIs differ, according to the characteristics of each country. In places like Portugal, Austria and Belgium, the IFIs also have a legal mandate to examine matters related to state-owned companies and state and local governments. In the USA, some states have their own IFIs (DEBRUN et. al., 2013).

However, at the same time, we note the requirement of some basic characteristics for the performance of the IFIs to be truly effective and capable of improving the fiscal situation of the country where it operates, according to the summary of in Chart 1. It is also necessary to ensure that the entities maintain their operational independence, to make it difficult for IFIs to be subject to retaliation or external pressure in its work due to its opinions. This was the case with the IFI of Belgium, that had a two-year delay in its financing, and with the Hungarian institution, which was practically extinguished in its second year of operation (Ibid.; DEBRUN; TAKAHASHI, 2011).

According to the IMF study, the size of the staff of IFIs varies significantly. At one extreme, there are cases such as Sweden, where the IFI has five employees and a budget of one million dollars to perform the fiscal policies evaluations. On the other extreme, there are countries like the United States, where the IFI has 240 employees and a 45 million dollar budget to perform tasks such as costing of legislative proposals and outline scenarios of long term fiscal sustainability (DEBRUN et. al., 2013).

Chart 1:

Synthesis of minimum characteristics recommended by the IMF for IFIs

Typical activities	• Independent analysis, review, and monitoring of fiscal policies, plans, and performance of the government; • Development or revision of budgetary or macroeconomic projections; • Costing of political proposals, including electoral platforms; • Give advice to managers and legislators on the options available for public policies.
Target audience	• Press; • Society; • Parliament.
Independence criteria	• Independence of party and political influences; • Legal requirement regarding professional experience and qualification • Operational autonomy in relation to financial, human, and material resources; • External evaluation
Legal form	• According to the political-economic and legal characteristics of each country and the context in which the entity was created.

Source: elaborated by author based on information contained in a publication by Debrun et. al. (2013).

In turn, the OECD established 22 principles for IFIs, which were gruped into nine categories. Local ownership; Independence and non-partisanship; \ mandate; Resources; Relationship with the legislature; Access to information; Transparency; Communications; and External Evaluation (ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT, 2014). Chart 2 summarizes the minimum criteria contained of these principles.

Chart 2:

Synthesis of minimum characteristics recommended by the OECD for IFIs

Typical activities	• Functions that are relevant within the fiscal framework of the country; • Fiscal and economic projections; • Analysis of the executive's budget proposal; • Monitoring compliance with fiscal rules or official targets; • Costing of major legislative proposals; • Analytical studies on selected issues.
Target audience	• Press; • Society; • Parliament; • Financial market; • Local and international specialists.
Independence criteria	• Objectivity and professional excellence, without conducting studies with a political-partisan bias; • Employees who have qualification in economy, public finances, and public budget, in addition to being selected according to criteria similar to civil servants of the executive and legislative Powers; • Access to necessary information; • External evaluation; • Transparency.
Legal form	• *Accountability* of the entity before the legislature; • Must be created based on the reality of each country without importing a ready model from other countries; • Foreseen in law.

Source: elaborated by author based on information contained in a publication by the Organisation for Economic Co-Operation and Development (2014).

The EU legislation established minimum criteria and a set of progressive tasks similar to those of IFAs, as described in Chart 3 (EUROPE COMISSION, 2014).

Chart 3:

Synthesis of minimum characteristics recommended by the European Commission for IFIs

Typical activities	• At least, monitoring compliance with fiscal rules should go beyond mere assessment and involve monitoring the very functioning of the rule, in a continuing relationship between agencies, as opposed to the traditional view of *ex post* specific assessments; • Produce or endorse macroeconomic forecasts used in the annual budgets and in the medium term fiscal plans.
Target audience	• Press; • Society; • Executive Power; • European Commission.
Independence criteria	• Not receive instructions from other agencies; • Communication capacity of reports; • Leaders with experience and competence; • Appropriate resources; • Appropriate access to information.
Legal form	• Can be different autonomous bodies, respecting the characteristics of the legal framework in each country; • Foreseen in law

Source: elaborated by author based on information contained in a publication by the European Commission (2014).

3.2 CRITICISM AND QUESTIONS APPLICABLE TO THE IFIS

Beetsma and Debrun (2016) show that the world trend in this century is to encourage both the creation of new institutions and reform of old ones, in pursuit of fiscal credibility, based on the questions raised decades ago by several researchers regarding the actual impact that these institutional arrangements have on the outcomes of policies. The mere existence of an institution does not ensure its credibility nor its effectiveness. Such parameters are influenced by the incentives leaders have to maintain these institutions operating soundly and by the political and legal costs that will be imputed on these

leaders in case they disrespect or interfere with these institutions (BEETSMA; DEBRUN, 2016).

In one of his papers dedicated to analyzing effectiveness of the acclaimed independence of central banks in monetary policy, Posen (1995) concluded that, although institutional factors may determine some of the results, especially in the short and medium terms, consistent results over time depend, to the same extent, on both the existence of consistent political contexts for these institutions and on the institutions themselves. Therefore, it is not enough to have a central bank with formal independence, there needs to be awareness and commitment by all of society regarding the need to actually maintain this independence to reach the objectives of the monetary policy (Ibid.).

This understanding is also valid for other types of independent institutions, such as IFIs, because the effectiveness of the performance of these entities does not depend solely on the existence of norms that explicit their duties. It is essential that there be external conditions that ensure and strengthen the effectiveness of the actions carried out by these agencies.

Likewise, Caruso, Scartascini and Tommasi (2013) show that there are situations in which formulation and decisions on public policies are influenced mainly by non-institutionalized factors, such as street demonstrations, performance of the press, and threats of violent disturbances or economic unbalance. The lower the level of institutionalization of a country, the greater the impact these factors will have on public policies, reducing significantly the effectiveness of the performance of formal bodies provided for in law, in the three Powers (Ibid.).

Schacter (2005) highlights that the performance of independent state institutions will be more effective and sustainable the better the control exercised by voters individually and by organized society. That is, a greater vertical control of government leads to a better horizontal control, because the desire of society for improvement of the oversight tools becomes a positive incentive for leaders to act in this direction and thus gather more political support from voters. On the other hand, weak horizontal controls increase the transnational costs of the vertical controls (BITTENCOURT, 2009; SHACTER, 2005).

In this regard, the IMF publication shows that, in countries such as Canada, Sweden, and the Netherlands, there is a consensus by the population on the importance of having a robust fiscal policy with a balanced budget. Thus, the recommendations and alerts by the local IFIs are widely disseminated by the press and are respected by government leader. Now in Belgium, over time, the local institution lost this credibility and influence before voters. This resulted in a lower level of effectiveness of their work (DEBRUN et. al., 2013).

3.3 SYNTHESIS OF CRITERIA CHOSEN TO EVALUATE THE BRAZILIAN IFI

With regard to the typical activities, it is considered more appropriate that the Brazilian entity restrict its performance to the specialized topic that justifies its creation. That is, elaboration of macroeconomic and fiscal studies and scenarios, especially medium and long term ones. Therefore, it can give quality opinions while, at the same time, manifest itself with an independence of an entity that is not, at any time, part of the decision making process. This alone reduces significantly the pressures and possible negative incentives to produce reports that would justify a posteriori pre-established decisions.

With relation to the target audience of the communications and work of IFIs, it is an international consensus that the press and society should be a part of this group. Due to the control and oversight role constitutionally assigned to the Legislative Power in Brazil, with or without the assistance of TCU (BITTENCOURT, 2009), it is reasonable for the IFIs to interact with and cater to the needs of this player. The financial market and local and international specialists were also included since greater transparency and interlocution can contribute significantly to improve credibility of the Brazilian fiscal policy, having a positive impact on the macroeconomic context.

The independence criteria were chosen based on the basic characteristics of the agencies and entities that have some degree of autonomy or independence such as TCU, the Office of the Comptroller General of the Union (CGU), the regulating agencies, and even Central Bank, which is copared so much to IFIs in specialized international literature.

Finally, the recommended legal form repeats what is widely accepted by international specialists: every IFI should be created respecting the legal framework of the country, without importing models that make no sense in the Brazilian context. In other words, this means that the IFI must be instituted only after close analysis of the agencies and entities that already exist in the country, paying special attention to the legal mandates of such entities. This has the purpose of avoiding duplication of efforts, invasion of competencies or even incompatibility of functions. This also implies that the institutional structure chosen for the IFI should be compatible with the Brazilian legal framework itself, avoiding legal questions regarding the legality of its existence or constitutionality of its mandates.

The last criteria included was the duty of *accountability* to the Parliament, once more in view of the role the Federal Legislative Houses carry out in the control and oversight of the public agencies, with the representatives elected by the people, added to the perspective that the IFI remain linked to the Legislative. It should be noted that this does not have the power of removing the IFI duty to be accountable to the TCU in the quality of an entity that receives public resources.

The parameters selected in this section, summarized in Chart 4, were used as a tool to evaluate the IFI, as discussed in the next section.

4. EVALUATION OF BRAZILIAN IFI COMPARED TO INTERNATIONAL STANDARDS

4.1 LEVEL OF ADHERENCE OF IFI TO INTERNATIONAL STANDARDS

The rationale for creation of the IFI, in 2016, was the need to establish in the country an IFI that could work effectively towards fiscal improvement. However, the legal instrument chosen to constitute the IFI was a Federal Senate Resolution. This implied in the insertion of the institution in the organizational structure of this Legislative House, at the same hierarchical level as sectors such as the Office of the Ombudsman and the Parliamentary Office of Internal Affairs (SENADO FEDERAL, 2017c), in disagreement with recommendations by the OECD and the EU.

We should note that this is not the exception mentioned by the IMF regarding IFIs created within the scope of agencies as a way to accelerate their development and increase their reputation and credibility from the beginning. Examples of this are the IFIs of Austria, linked to its Central Bank; of France, linked to its Court that carries out the mandates of a Supreme Audit Institution (SAI)[2] and shares magistrates and the independence provided for in the law (DEBRUN et al., 2013); and Finland, which was the SAI itself, the National Audit Office (NATIONAL AUDIT OFFICE OF FINLAND, [201-]).

If this model were adopted in Brazil, the IFI would be linked to agencies such as the Institute for Applied Economics Research (Ipea), Ministry of Labor, and CGU, or Legislative Advisories and the TCU, to mention some of the possibilities.

Likewise, the IFI competencies were defined in this resolution, which, according to legislative technique, regulates internal topics or topics that are under the exclusive jurisdiction of the house. In turn, the material, financial, and human resources of the IFI were conferred by the Senate, while its board of directors was selected among specialists in the area, by the Committees of Economic Affairs (CAE) and of Transparency, Governance, Oversight, and Control and Consumer Defense (CTFC)[3].

The fact that it is subject to commands from a non-statutory act may weaken the IFI, insofar as there are few juridical obstacles to an eventual undue intervention in its performance. Neither does a resolution have the same level of transparency for society, of enforcement for the demanded agencies, and of legal competence to define the rights and duties of the IFI nor of the agencies with whom it interacts.

It is worth remembering criticisms by Bittencourt (2015, p. 16): "giving prerogatives and status of an independent agency to bodies that are no more than delegates of the circumstantial majority like all others represents, clearly, a severe institution involution".

Furthermore, it is understood that participation of the minorities from the Legislative Houses in nominating one or more participants to the entity could be a way of ensuring a counter-majoritarianism that benefits execution of the duties of a fiscal authority, as expected in moder democracies.

Additionally, the resolution only sets forth general lines and guiding principles as the purposes of performance of IFIs. It does not specify exactly which are the products the entity should elaborate nor with what frequency. Likewise, there is no provision regarding the relationship between such analyses and the budgetary process or even who would be the recipients of the studies, which is in disagreement with recommendations by the OECD, by the IMF, and by the EU.

We also need to remember that the LRF provides for the establishment of the CGF. a LRF. In spite of the difficulties and contrary opinions regarding implementation of this council (BIJOS, 2015), the provision remains legally valid and there are several proposals underway for its implementation. We highlight PL 3.744/2000, by the Executive Power, which presented a favorable opinion at the Committee on Finance and Taxation (CFT) on July 11, 2017 (CHAMBER OF DEPUTIES, 2017).

Thus, it would be prudent to analyze to what extent there can occur overlap of competencies, especially because the CGF results from a provision of a complementary federal law, while a Federal Senate Resolution created the IFI.

As mentioned earlier, it should be noted that the Resolution that created the IFI establishes that, when Executive Power agencies do not answer the requests for information made by the IFI, this implies in the hypothesis of an impeachable offense. This is provided for in Law 1.079/1950, which addresses noncompliance with requests by the Federal Senate and Chamber of Deputies.

The mentioned provision reveals how a norm such as a resolution is not enough to ensure its own enforcement tools for the IFI, leading it to resort to existing mechanisms that belong to the Senate. This limitation is even greater in the case of private entities, agencies that are not linked to the Federal Executive Power, and those belonging to other federated spheres. The Senate competency that is used by the IFI to request information does not reach such players.

This means that, although planning and execution of the fiscal policy require participation of all Powers and federal independent agencies, the IFI can only require information and data directly from the Federal Executive Power. They have no competence to request aggregated data from state or municipal agencies, from private institutions or from those not linked to a Ministry, even if such institutions have the information needed by IFI to perform its work.

Nevertheless, even in the case of the obligation imposed to Cabinet Ministers based on the law that defines impeachable offenses, it should be noted that there is reasonable doubt regarding the legality and constitutionality of assigning such prerogatives to an institution like the IFI, especially through a resolution. Among other questions, there is the fact that legal prerogatives resulting from the political power of Congressmen were allegedly being extended to an entity that, in addition to have different purposes and performance, should be technical and independent.

Another issue that is not compatible with mentioned international standards is that IFI is linked only to one of the Legislative Houses and the absence of any mention to a relationship between the IFI and the CMO. This goes against the principle of the relationship with the Legislature, recommended by the OECD as being relevant because the Legislative Power, in any democratic country, performs functions that are essential to accountability in the fiscal area.

It is understood that the mandate assigned to the IFI by the resolution is substantially vague and generic, especially when compared to the international standards pointed out by the IMF, by the OECD and by the EU. For this reason, to evaluate the IFI in relation to its level of compliance with the criteria of the typical activities, the actions considered were those actually adopted by the entity during its first eight months of operation and not only its normative competences.

Here it is worth mentioning the need to define explicitly and appropriately the duties of the IFI so as not to collide with the competences foreseen for the Legislative Advisory offices of the two Houses, which have a consolidated role in the budgetary process, especially in the stages the PLOA goes through the legislative process. This becomes even more important in face of the possibility of the IFI being linked only to the Federal Senate, since, in some moments, its form of participation and advisory to the proceedings of this House can be redundant with the work already developed by the Senate Advisory office (BITTENCOURT, 2015).

Lack of a more precise definition of the limits for the performance of the IFI in thesis could also create conflicts with the mandates of the TCU, especially in its role of analysis and examination of fiscal management in compliance with the LRF, which is regulated by TCU Resolution 142/2001 (Ibid.).

For example, the Court has the legal duty of monitoring fiscal management and issuing alerts whenever it sees the possibility of one of the fiscal targets not being met. This task is similar to the one carried out currently by the IFI in its monthly reports. However, there are different characteristics in the elaboration of this product: TCU's evaluation has greater enforcement power because it has a legal basis that allows it to apply sanctions and issue determinations, while the work of IFI is timelier since it is a much smaller institution and with less organizational and decision-making levels than the Court. Finally, the form and scope of dissemination of the results obtained are different because the press is part of the main target audience of IFI.

Therefore, considering the current constitution of IFI and what is recommended according to international best practices, we envisage less possibility of conflict between its performance and that of TCU since they can perform complementary activities. In spite of this, the resolution that created the IFI does not establish any parameters or conditions for relationship or interlocution between the entity and TCU, which should occur according to recommendation by the OECD.

Although an advisory committee that is external to the IFI was established, we observe that the tasks assigned to the committee are not clear. It is also not clear how these external agents will influence the work of IFI. That is why it is understood that there is no provision for external independent evaluation, national or international, of the work carried out by the IFI. According to the OECD and to the IMF, this kind of evaluation contributes to enhance the credibility and reliability of the reports issued by the entity.

We must also highlight the positives. The IFI did not receive any delegation for decision-making in fiscal policy, acting only as a state audit institution that also promotes social control, in line with what is recommended ty the IMF and the OECD. The initial cooperation actions and relationship with similar institutions from other countries and with the press, economists, and financial market agents are also virtues of this new entity (SENATE AGENCY, 2017b; INDEPENDENT FISCAL INSTITUTION, 2017).

Evaluation of the Brazilian IFI is summarized in Chart 4. We attributed "high" level to the aspects in which there is greater compliance than what is recommended, even if all requirements were not totally fulfilled. The "low" level was assigned to the aspects that failed to achieve satisfactorily even the minimum criteria required by the IMF, OECD, and EU. The other items were assigned "medium."

Chart 4:

Evaluation of the Brazilian Independent Fiscal Institution

Types of criteria	Selected criteria	Proponent	IFI level of achievement
Typical activities	Monitoring of compliance with the fiscal rules and goals, and monitoring of the very functioning of these rules	IMF; OECD; EU	Medium
	Produce or endorse estimates of macroeconomic scenarios used in the budgetary guidelines laws (LDO), pluriannual plans (PPA), and annual budgets (LOA)	IMF; OECD; EU	Low
	Analytical studies on macroeconomic and/or fiscal aspects of topics selected by the Parliament or by the IFI themselves	OECD	Medium
Target audience	Press	IMF; OECD; EU	Alto
	Society	IMF; OECD; EU	Medium
	Parliament	FMI; OCDE	Low
	Financial market	OCDE	High
	Local and international specialists	OCDE	Medium
Independence criteria	Independence from partisan and political influences	FMI; OCDE	Low
	Legal requirement for professional experience and qualification in Economy, Public Finances, and Public Budget	IMF; OECD; EU	Medium
	Operational independence, both in relation to financial resources and human and material resources	IMF; OECD; EU	Low
	Access to necessary information	OCDE; UE	Medium
	External evaluation	FMI; OCDE	Low
	Transparency regarding making reports available	OCDE; UE	Alto
Legal form	Accountability of entity before the Legislature	OECD	Low
	Respect to characteristics of legal framework of the country, without purely and merely importing external models	IMF; OECD; EU	Low
	Legal provision	OECD; EU	Low

Source: elaborated by the author based on information contained in publications by Debrun et. al. (2013), Organisation for Economic Co-Operation and Development (2014), and Europe Commission (2014).

The IFI evaluation was consolidated in only one quantitative concept for each type of criteria and for the institution as a whole. This kind of analysis was also carried out in other works found in literature, such as Beetsma and Debrun (2016). Considering this work convers standards and recommendations from other organizations besides the IMF, it was not possible to use the same indicator. However, the methodology shown here is similar. The main difference is the proposal of an indicator capable of measuring with more sensibility the degree of achievement of each criteria by the entities.

To preserve the conceptual numerical scale, the equivalencies were adopted: score 2 for the “low” level; 5 for “medium”, and 8 for “high”. To calculate averages, we used simple arithmetic mean and weight mean of each criterion according to the quantity of international organizations that recommend it. The results obtained are not significantly different, as seen in Table 1.

Table 1:

Brazilian IFI evaluation in numerical scale

Type of criteria	IFI level of achievement	
	Simple mean	Weighted mean
Typical activities	4,00	3,71
Target audience	5,6	5,6
Independence criteria	4,00	3,93
Legal form	2,00	2,00
All	3,90	4,03

Source: elaborated by author

We find that the values encountered are compatible with what is pointed out in the qualitative analysis. We verify that the level of achievement of the Brazilian IFI in relation to what is recommended by the IMF, OECD, and EU is close to 4, in a scale from 0 to 10, and to medium-low, in a conceptual scale. We note that calculation of the mean in any case is only an approximation. With this in mind, we conclude that the Brazilian IFI needs improvements in order to be considered satisfactorily aligned with the standards and best practices supported by the IMF, the OECD, and the EU.

4.2 SUGGESTIONS FOR ALTERATIONS IN THE IFI TO IMPROVE ITS ROLE IN THE BRAZLIAN FISCAL SCENARIO

The most pressing change seems to be a more precise definition of the role of the IFI within the Brazilian institutional framework, considering a provision in the LRF that establishes the creation of the CGF and the current competences of the Legislative Advisory Offices of the Legislative Houses, of the CMO and of TCU. Therefore, it is recommended that legislative proposals be made to evaluate the existence of an IFI with the provision of creation of the CGF contained in the LRF, because, depending on the chosen configuration and on the changes implemented, it is possible to extinguish one of them and strengthen the performance of the other.

This definition should include both what are the duties of the IFI, to avoid overlap of its activities with the several other institutions, and how the relationship between the IFI and the other agencies will take place. This should occur in a way that each of them will assist the others in carrying out their mandates and, at the same time, receiving the information produced by others as input to develop their own work.

It is necessary that all institutions involved have total awareness of the fact that independence does not mean being hermetic nor isolation. On the contrary. All the agencies can and should coexist in harmony, collaborating mutually to achieve their objectives, which ultimately converge to a single greater purpose: fiscal management that is sustainable and responsible enough to ensure the well-being of society.

We can include in this topic the discussion concerning the convenience and appropriateness of foreseeing among the IFI competences analysis and evaluation of fiscal policies of the subnational agencies, especially the states. This type of relationship was already provided for with regard to the CGF of the LRF, despite being much more comprehensive and necessary than the usual role of the IFI. In addition, in some countries, control of fiscal policy of the other units of the federation is one of the responsibilities of the federal institution.

It is imperative that a stricto sensu law, which defines explicitly its duties and responsibilities, eliminating the need for the entity to appropriate the enforcement tools that are typical of the Senate, establish such entity.

If the model that links the IFI to the Legislative Power is maintained, which is appropriate to the Brazilian reality and in line with the best international practices, it is essential for the entity to have the same level of relationship with both Houses. This includes choice of leaders, the prerogative to request information, the power to oversee activities, and the obligation to contribute financially to the maintenance of the IFI. Another weakness to be corrected is the low level of relationship between the IFI and the CMO.

We reiterate that the creation of an IFI should not weaken other institutions or duplicate unnecessary efforts. Because, if there are specific problems with the functioning of an agency, this should be corrected through the appropriate measures and not by creating new institutions to replace the duties that this agency no longer carries out satisfactorily.

Thus, the greater purpose in creating the IFI should be to strengthen all the agencies and institutions that exist in all the branches of Power so that each one can develop its work more and more effectively, aiming to improve fiscal management in the country.

As highlighted by the authors mentioned in the previous section, particularly Posen (1995), it is not enough to formally create one more institution and hope that it will be effective in itself. It is necessary to give the institution the appropriate tools to carry out its mandates and promote the adequate conditions in the external environment so it can develop its work with effectiveness, efficacy, and efficiency.

When we remember that only some of these conditions result directly from the actions of the state, we find it is fundamental that there be greater involvement of society in these issues of fiscal policy since strengthening this vertical control implies in better horizontal control.

5. CONCLUSION

In the past decades, we observed that scholars proposed several tools to improve fiscal management of countries and ensure sustainability of their fiscal policy, especially in the medium and long terms. In this context, the IFIs arise: national institutions belonging to the state apparatus, who measure fiscal performance of the government and elaborate macroeconomic scenario estimates to assist and/or guide the performance of the respective Executive and Legislative Powers.

This paper focused on reporting the main standards and criteria defined by the IMF, the OECD, and the EU for independent fiscal entities, with the purpose of delimitating which aspects recommended were complied with in the creation and functioning of the Brazilian Independent Fiscal Institution.

We found that each organization prioritizes a certain set of characteristics, although there are some common issues, such as the fiscal entity should be established by means of a law and in a way that is coherent with the national legal framework; trio; it should have operational independence and independence from political influences; it should disseminate its reports widely to society and to the press; and be active during the budgetary process in its country, particularly with regard to estimating macroeconomic parameters.

Considering how the IFI was established in Brazil, the evaluation showed that there is room for strengthening it in the aspects of compliance with the current legal order, enhancement of effective independence, better relationship with the Parliament in terms of accountability and providing information, giving opinion in the elaboration of budget laws, among others. There is also the need to consider and define the field of action of the IFI to avoid overlap of duties in relation to other agencies, such as the Legislative Advisory Offices of the two Houses and the CGF, whose creation is provided for in the LRF.

The study also showed that the relationship between the IFI and the press and society is one of the greatest virtues of the Fiscal Institution, which occupies a role that is appropriate and does not conflict with the mandates of the other agencies linked to fiscal policy.

Based on the analysis, we conclude that, despite the fact that the IFI can promote better fiscal management in the country at the federal level, we identified several normative gaps and inconsistencies that can produce antinomies in the application of the existing norms. This can hinder the good functioning of the institutions that work with fiscal issues, at best, or render ineffective the work of these institutions, at worst.

It should be noted that the scope of this research did not include discussing the convenience, appropriateness and/or cost-benefit of the State creating and/or maintaining a state agency like the IFI in a scenario of fiscal crises caused by successive deficits or of restricted resources due to the expenditure limit in force since the approval of Constitutional Amendment 95/2016. Neither was it our objective to discuss the positive impact on fiscal policy that effective performance by this institution could generate.

As suggestions for possible future studies, we envisage other research that will analyze the IFI based solely on IMF criteria that will compare its performance with that of other IFIs and that evaluate empirically its results on Brazilian fiscal policy.

NOTES

1 Available at: <http://bit.ly/2oy5Ziz>. Access on 6 Jun 2017.

2 Entidades Fiscalizadoras Superiores (EFS) são instituições presentes na maioria dos países, usualmente criadas pelas Cartas Constitucionais e que possuem atribuições de fiscalização sobre os demais órgãos e entidades estatais. Os dois modelos de estruturação mais comuns são como Tribunal de Contas, vinculado ao Poder Legislativo ou ao Judiciário, e como Controladoria ou Auditoria-Geral, ligada a um Poder que possa gerar força coercitiva para suas decisões. No Brasil, a EFS é o Tribunal de Contas da União (RIBEIRO, 2002).

3 The Resolution that created the IFI mentions the former Committee on Environment, Consumer Defense, and Oversight and Control (CMA), which was divided into two committees, as per Federal Senate Resolution n 3/2017: the CTFC and the Environment Committee.

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