

# Executive bonuses clawback in the banking sector

**Olga Afanasyeva**

Ph.D., Executive Director of Ukrainian Venture Capital and Private Equity Association, Ukraine.

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## Abstract

The current post-crisis era in most world countries motivates business entities to focus on improving of risk governance functions. It is mostly concerned to banks because of risky nature of their business. Before global financial crisis the executive compensation in most banks was excessive, that, in turn, led to systemic risk growth. According to transaction cost theory corporate governance is focused at effective performance of banking transactions. In connection with the above-stated thesis the important task at the time is improving the system of executive remuneration in order to ensure the moderate bank risk level. With this aim in 2008 Swiss bank UBS has implemented new compensation system that assumes the clawback provision. This clause concerning the deferred awards of senior managers' remuneration was included to increase their accountability for loss-creating or fraud behavior. The paper investigates the aftermath of clawback of executive compensation implementation in the biggest European banks and discusses the specific features of the reformed remuneration system amongst financial institutions. Furthermore, after implementation of the clawback provision in leading banks of Europe similar practice has been started in financial institutions of USA, features of which is researched in the paper.

**Keywords:** risk-adjusted executive compensation, clawback, risk governance, CEO

**JEL Classification:** J30, J33, M12, M52, G21, G30, G32.

## Introduction

One of the key evidences of the global financial crisis is that compensation systems of senior executives must be designed in order to control and mitigate excessive risk-taking. In recent times the necessity of interdependence of executives' remuneration with the results of bank performance is underlined in a range of recommendations developed by European banking associations. Much attention is paid to strengthening the link between compensation and risk governance: banks implement diversified ex-ante and ex-post risk adjustment measures (Afanasyeva, 2011). In this aspect one must specify Basel Committee on Banking Supervision recommendations and EBA Guidelines on Internal Governance (GL 44). The range of reforms in banks' remuneration policies has been made to adjust executive compensation to riskiness. One of the implemented measures was the increase of deferred part of executive payments in equity. The recent trend of ex-post risk adjustment assumes providing of correlation between prospective bank performance and amount of executive payoffs. As a result of mentioned trends and widescale frauds in financial sector, individual global systemically important banks have slightly reformed their compensation schemes for senior executives. The changeable model of remuneration is directed towards promoting long-term incentives for CEO and Board members, as far as shareholders are not aimed to pay for executives' flaws. The topic is of current interest: thus, according to statistical data 84% of the Fortune 100 companies publicly disclosed introduction of clawback provisions in 2011, in contrast to less than 18% in 2006<sup>1</sup>.

The remainder of this paper is structured as follows. Section 1 illustrates the conditions that have caused the changes in banks' remuneration policies. Section 2 analyzes the essence of executive bonuses' clawback provisions in financial institutions. The practical experience of their implementation in individual European banks is specified in section 3, following by section 4 that reviews state regulation of clawback provisions in US banks. section 5 concludes.

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<sup>1</sup> According to provider of executive compensation data Equilar.

## 1. Changes in bank financial performance and executive compensation

Among the recommendations worked out for world and European banks, special attention is paid to the establishment of flexible component of senior executives' compensation. According to Guidelines on remuneration policies and practices introduced by Committee of European Banking Supervisors (CEBS) in 2010 the variable to fixed compensation ratio has to be appropriately balanced.

Table 1 observes ratios of variable-to-fixed remuneration of CEOs in 2006-2011. The represented banks have been selected among largest European banks as ones that have implemented the clawback provisions for executive remuneration during recent years.

Table 1. Ratio of variable-to-fixed remuneration for selected EU banks' CEOs in 2006-2011

Bank	2006	2007	2008	2009	2010	2011
Barclays	2.6	3.3	0.0	0.0	2.5	3.7
Credit Suisse	n/a	n/a	0.0	0.0	4.1	1.33
Deutsche Bank	10.4	11.0	0.0	7.2	2.8	2.8
HSBC	1.6	0.9	0.0	3.7	2.4	3.6
ING Bank	3.1	2.7	0.0	0.0	0.9	0.0
Royal Bank of Scotland	6.3	6.7	5.2	4.4	5.1	5.4
Standard Chartered	1.9	3.6	2.9	3.7	4.0	3.7
UniCredit*	n/a	n/a	n/a	0.2	0.5	0.0

Notes: \* no data available before 2009.

Source: bank annual reports, Murphy (2013).

In most banks the median ratio "variable-to-fixed" compensation for CEO in European banks fell during the crisis period (2008-2009). In Deutsche Bank, ING Bank, Royal Bank of Scotland the ratio currently did not reach its pre-crisis level. Smaller reduction occurred to Standard Chartered, while for CEOs of UniCredit and ING fixed remuneration equals 100%.

During recent years the reforms in compensation policies in banking institutions are motivated by financial difficulties arisen by global crisis. The other reason that has made a significant impact on the activity of observed banks is fraud activity of senior executives. As a result of LIBOR scandal<sup>1</sup> and mis-selling of payment protection insurance<sup>2</sup> to consumers banks were fined by European regulators. In Table 2 we compiled data on the dynamics of total income of individual banks and losses caused by penalties.

Table 2. Total income and regulatory fines (due to LIBOR scandal) of selected systemically important European banks in 2010-2012

Bank	Total income, mln.				Amount of fines, mln. Euro
	Currency	2010	2011	2012	
Barclays	GBP	31.440	32.292	24.691	32
UBS	CHF	31.994	27.788	25.443	10
Credit Suisse	CHF	5.098	1.953	1.349	n/a
HSBC	USD	80.014	83.461	82.545	n/a
Lloyds	GBP	24.868	20.802	20.510	n/a
The Royal Bank of Scotland	GBP	146.072	281.348	224.268	391.1

Source: European Commission, annual reports

The largest reduction has taken place in Barclays bank – the total income decreased for 24%. It is worth to mention that in geographical scale the largest income reduction is observed in United Kingdom – from 49%

<sup>1</sup> LIBOR scandal was a reaction on investigation of fraud activities associated with London Interbank Offered Rate started in 2008. The investigation has been started in 2011 by the U.S. Securities and Exchange Commission and Justice Department, followed by the governments of the United Kingdom, Japan, the European Union and Switzerland. As a result number of senior executives of leading banks has been resigned; banks were fined by regulatory bodies.

<sup>2</sup> More than £10bn now has been returned to payment protection insurance (PPI) policy holders by the banks that have been mis-sold. The total amount that has been compensated by banks is £14bn.

in 2011 to 31% in 2012. It is associated with LIBOR fraud activities of bank's senior executives and mis-selling of Payment Protection Insurance to consumers. The largest amounts of fines had been recorded on Deutsche Bank and Société Générale: 725.4 and 445.9 respectively. In certain cases among observed EU fines can reach up to 10% of bank's global turnover. All these cases refer to managerial misconduct and frauds, which leads to additional costs for banks' shareholders.

Moreover the fraudulent cases obviously made a significant negative impact on banks' reputation. That is especially crucial in case of global systemically important banks, which has been mostly involved in scandals.

Due to this, the need of compensation policy transformation seems to be logical and fair.

In what follows, we research the specific features and the mechanism of new remuneration systems implemented by leading European banks, compensation clawback provisions in particular and their effect. The necessity of the research is explained by the need to define the trends in banks' executive remuneration schemes implementation and the reasons of their motivation.

## 2. Clawback provisions: theoretical and legislative framework

According to Guidelines on Remuneration Policies and Practices published in December 2010, by Committee of European Banking Supervisors clawback is defined as "contractual agreement in which the staff member agrees to return ownership of an amount of remuneration to the institution under certain circumstances". In scientific researches and bank reports the following terms can be used to determine clawbacks: "claw", "forfeit", "recapture", "recover", "recoup", and "reimburse" (Chen, Greene and Owers, 2013).

At the time of the research, there are no many scientific researches on clawing back excessive pay-offs namely in banks, although financial institutions have its specifics among other firms. The other investigations did not evidence practical application of clawbacks after their implementation. The reasons of that is rather new concept of executive compensation forfeiture practice that has been introduced in recent years.

The positive effect of clawback provisions is underlined in researches of Brian, Van Reenen (2010), Chan, Chen, Chen (2013). In the latter paper authors prove that financial institutions introducing bonuses forfeiture for executives demonstrating financial reporting integrity. The clawbacks can be the incentive for executives to pay more attention to long-term risks, as well as short-term (Miller, 2012).

The cons against the clawback clause in bank remuneration codes also exist. Thus, during severe situation in economy and financial market in particular senior executives can be motivated more by short-term compensation, but not long-term. Introduction of bonuses clawback in financial institution can be dejecting for executive employees in such conditions and may force to quite (Randall, Allen, 2009).

The incentives to introduce clawback provision policy in companies can vary. Chen, Greene and Owers (2013) prove that firms are more inclined to voluntary implementation of clawback policy when chief executives face less uncertainty about earnings and compensation. Thus, banking is more risky as a matter of its nature.

Babenko, Bennett et al. (2012) state that the incentives for a company to implement clawback provisions among others are the prior malfeasance of executives; complexity in its detection or there is more scope for malfeasance. Fried and Shilon (2011) determined that very few among S&P 500 firms have voluntarily adopted clawback policy.

At the time there is a lack of publications investigating the specifics of bonuses forfeiture in financial institutions that creates a significant gap in executive remuneration theoretical research.

During recent years in EU countries much attention has been paid to strengthening the efficiency of remuneration systems at financial institutions. The national financial regulatory bodies implemented codes that defined the necessity of deferred pay-offs and bonus clawback provisions. In other member-states executive compensation policy complied with EU guidelines and recommendations. Among legislative regulation of bonus clawbacks there are the following:

1. *Guidelines on Remuneration Policies and Practices* (Committee of European Banking Supervisors, 2010) directed to national regulators of EU countries.
2. *FSF Principles for Sound Compensation Practices* (the Group of Twenty, 2009).

3. *Financial Services Authority* (FSA) Remuneration Code of UK was approved in 2010 after CEBS Guidelines, reflecting its main provisions.
4. FINMA (Switzerland) – in 2009 the remuneration schemes for Swiss banks has been modified by issuing the *FINMA Circular*. The document welcomes clawback provisions for directors' compensation in banks. Therefore, the Swiss Financial Market Supervisory Authority did not define the clear criteria for subjects and occasions when they are implemented<sup>1</sup>.
5. Germany's regulator of financial institutions Bafin in Germany (2009).

The guidelines issued by European regulators, e.g. CEBS and FSF do not have a prescriptive character, but mostly the recommendation is as "one size fits all". But certain national regulators, especially in UK, have followed the new reforms in compensation policy. The rapidity of FSA's response is connected probably with the range of executives' misconduct in financial institutions taken place in UK during last years. They have involved Barclays, Royal Bank of Scotland, Lloyds Banking Group.

In particular, FSA Remuneration Code states the necessity of subjecting executive bonuses to potential clawback arrangements in the following incidents: "there is a reasonable evidence of employee misbehavior or material error, or the firm or the relevant business unit suffers a material downturn in its financial performance, or the firm or the relevant business unit suffers a material failure of risk management".

### 3. The mechanism of executives' bonus clawback implementation in European banks

The new remuneration system of executive directors has been introduced at first by the bank UBS. After events of global financial crisis and in light of Basel III implementation in leading countries it has been an important task to enhance a corporate governance and risk function in financial institutions (Afanasieva, Scherbina, 2013). Previous systems based on correlation of directors' compensation with bank financial performance became questionable. So the Swiss bank became the first to introduce compensation system aimed to incentivized top executives.

Thus in 2012 there had been some changes implemented in the compensation system. The deferral period was prolonged from 3 to 5 years. Moreover, the amount of award that could be clawbacked in case of not achieving the average adjusted pre-tax profit during the period by the bank is equal to 100%. The financial condition is defined by measuring the bank's RoTE (return on tangible equity): if the indicator's level is less than 6%, the bonus can be forfeiture partially or to full extent.

In practice by the end of 2012 UBS demonstrated financial losses. Due to these results executive directors did not receive in cash any part of performance bonus. This entire amount has been deferred with the possibility to forfeiture it in case the performance won't achieve the planned level.

Comparing to Swiss bank, UK's bank Barclays has set different criteria to make a decision concerning compensation clawback. Among the events that can lead to award forfeiture are the following:

1. employee's misconduct that can make significant influence on bank's reputation;
2. frauds (material restatement of bank's financial statements);
3. material failure of risk governance;
4. significant deterioration of financial performance of the bank.

Figure 1 demonstrates the executive compensation mechanism (including CEO) in UBS bank.

<sup>1</sup>Bichsel, A. (2009) FINMA publishes Circular on remuneration schemes. Available at: <http://www.finma.ch/e/aktuell/Pages/mm-rs-verguetungssysteme-20091111.aspx>.

Cooper, D. (2009). Swiss regulators impose new remuneration schemes for financial institutions, Lexology – Association of Corporate Counsel. Available at: <http://www.lexology.com/library/detail.aspx?g=8fbd0f6a-ff77-49b6-b789-6182f25cad5a>

Current year	Equity ownership plan (EOP) 40%	Deferred Contingent Capital Plan (DCCP) 40%	Cash 20%	Base salary
1 <sup>st</sup> year			20%	
2 <sup>nd</sup> year				
3 <sup>d</sup> year	14%	Shares awarded. Up to 100% can be forfeited	Awards in the form of notional bonds. Awards are subject to 20% forfeiture	
4 <sup>th</sup> year	13%			
5 <sup>th</sup> year	13%			40%

Figure 1. Executive directors' compensation mechanism (including CEO) in UBS<sup>1</sup>

In comparison with UBS, Credit Suisse bank pays to executive directors about 40% of deferred award in 3 years and this amount is subject to clawback. The other deferred part (long-term award) vests for 5-year period and payoffs starts from the 3-d year. This amount of shares is not subject to forfeiture, as well as 10% of cash paid after reporting period.

In UBS the deferred awards of executives are formed totally by shares. In comparison, in Barclays, Credit Suisse and Deutsche Bank the deferred bonuses are consist of both – cash and equity (see Table 3).

Table 3. Structure of executives' bonuses subjected to clawing back in individual banks

Criterion		UBS	Barclays	Credit Suisse	Deutsche Bank	HSBC
Structure of award's deferred part	Cash	-	+	+	+	-
	Shares	+	+	+	+	+
Subjected to clawback		About 80% of deferred bonuses	All deferred bonuses	Short-term part of deferred bonuses	All deferred bonuses	All or part of award

Source: Compensation Reports of UBS, Barclays, Credit Suisse, Deutsche Bank, HSBC (2013)

Let's analyze the peculiarities of compensation clawing back executive bonuses (Table 4). The attention must be paid to the following aspects:

- covered employees (CEO, CFO, all executive officers);
- covered compensation (cash, equity, all);
- triggering events.

The events that can lead to claw back of compensation can be measured in different ways. Thus, Schneider (2009) distinguishes three categories of triggering events:

<sup>1</sup>Based on UBS Compensation Report (2013). Available at: [http://www.static-ubs.com/global/en/about\\_ubs/investor\\_relations/annualreporting/2013/\\_jcr\\_content/par/teaserbox\\_6c86/teaser\\_1/linklist/link.1486749471.file/bGluay9wYXRoPS9jb250ZW50L2RhbS9zdGF0aWMvZ2xvYmFsL2ludmVzdG9yX3JlbGF0aW9ucy9hbm51YWwyMDEzL0NSMjAxMy11bi5wZGY=/CR2013-en.pdf](http://www.static-ubs.com/global/en/about_ubs/investor_relations/annualreporting/2013/_jcr_content/par/teaserbox_6c86/teaser_1/linklist/link.1486749471.file/bGluay9wYXRoPS9jb250ZW50L2RhbS9zdGF0aWMvZ2xvYmFsL2ludmVzdG9yX3JlbGF0aW9ucy9hbm51YWwyMDEzL0NSMjAxMy11bi5wZGY=/CR2013-en.pdf)

1. Performance-based when bonuses are clawed back in case of financial misstatements caused by actions of an executive.
2. Fraud-based when bonuses are clawed back in case of executive's fraud activity or misconduct that has negative impact on bank reputation.
3. Other.

Table 4. Specific features of clawback provision in large European banks\*

Bank	Country	Covered employees	Covered compensation	Triggering event for clawback
Barclays**	UK	Executive directors	Cash bonuses, share bonuses	Financial and non-financial indicators: employee misconduct, harm to bank's reputation, financial misstatement, material failure of risk management, significant deterioration in the financial health of bank.
Credit Suisse	Switzerland	Members of Executive Board, CEO	Shares	<ul style="list-style-type: none"> <li>➤ negative bank financial performance</li> <li>➤ actions that lead or can lead to reputational risk</li> </ul>
Deutsche Bank	Germany	Management Board, CEO	Equity	<ul style="list-style-type: none"> <li>➤ negative net income before taxes for any year during vesting term, 20 % of the award are forfeited</li> <li>➤ misconduct, including dishonesty, fraud, misrepresentation or breach of trust</li> </ul>
HSBC**	UK	Senior executives and risk-takers	Shares	Financial and nonfinancial performance measures.
Lloyds Banking Group**	UK	Executive directors	Shares	Economic profit, absolute total shareholder return, customer satisfaction, total costs, non-core assets at the end of 2015, SME lending
Royal Bank of Scotland**	UK	Executive directors	Equity (shares)	Performance measures and relative weightings are: <ul style="list-style-type: none"> <li>➤ bank profit;</li> <li>➤ total shareholder return relative to comparator group of international banks;</li> <li>➤ balance sheet and risk strategic scorecard;</li> <li>➤ financial and risk performance;</li> <li>➤ underpin.</li> </ul>
UBS	Switzerland	Members of Executive Board, CEO	Equity (notional bonds)	<ul style="list-style-type: none"> <li>➤ bank does not achieve adjusted pre-tax profit;</li> <li>➤ Basel III CET1 ratio falls below 7%;</li> <li>➤ viability event occurs.</li> </ul>

Source: Remuneration Codes and Compensation reports of banks

Notes: \*The clawback provisions has also been introduced in Standard Chartered, Commerzbank, ING, Unicredit that are not covered in the table due to absence of practical implications of the new remuneration policy. \*\* In line with the FSA's Remuneration Code.

According to data of Table 4 the most involved banks among the observed ones are originated in UK. The country's financial regulatory body – FSA – was among the first that have introduced new demands in compensation policy, including provision of bonus clawing back. It explains the harmonization of executive remuneration rules of Barclays, Royal Bank of Scotland, Lloyds Banking Group.

By means of Table 4 we can conclude that the clawback clause is applied not only for CEO, but for all members of bank Board of Directors in most banks.

The important task is to define what indicators are used to make a decision to clawback bonuses of executive directors. In Credit Swiss, for instance, aiming to define the clawback amount of short-term incentive awards the negative financial performance of the bank is assessed by the following indicators:

1. In case of negative ROE the award of CEO and Executive Board members heading a shared services function amount is reduced by the same percentage.
2. The triggering event for clawing back bonuses can be variety of situations, e.g. adverse individual, divisional or firm-wide factors, such as any activity that is materially detrimental to the bank, which

causes or could cause reputational risk or a significant downturn in financial performance or capital base, or a significant failure of risk management<sup>1</sup>.

HSBC takes into account both financial and non-financial measures to assess the performance of executives when Board compensation committee makes a decision concerning clawbacks. Among financial measures are the following:

1. Capital strength on the base of Core Tier 1 capital ratio, return on equity, cost efficiency ratio.
2. Dividend payout.

Non-financial measures that are estimated with the aim to define the necessity of award clawback include successful execution of strategy and measures related to risk and compliance.

With the aim to define the amount of long-term incentives in Royal Bank of Scotland the financial indicators are measured over 3 financial years, afterwards the decision concerning the clawing bank is made.

As it was mentioned earlier, bonus clawback clause was firstly introduced in Swiss bank UBS. In some years the observed bank have implemented similar risk-adjusted remuneration policy. During this period due to range of misconducts and fraudulent acts awards of CEOs and Board members in some banks have been clawed back. The cases have been mostly related to LIBOR scandal. Table 5 summarizes some of events.

Table 5. Summary of executive bonuses' clawing back in individual European banks in 2010-2012\*

Bank	Year	Executives subjected to clawback	Clawback amount	Triggering event
Barclays	2012-2013	15 current and former employees	Clawing back £300 mln. of unvested deferred and long term incentive awards and risk adjustments of £860 mln. to bank's 2012 incentives pool.	LIBOR investigation and other risk issues in 2012
HSBC	2012	Former chief executive former - head of the Mexican unit	£2 mln. of unvested shares.	Mis-selling of nearly £300 mln. of long-term care bonds to elderly customers. As a result the bank was fined by the US regulatory body; the executives' bonuses were clawed back
Lloyds Banking Group	2013	Former chief executive and 12 former directors	<ul style="list-style-type: none"> <li>➤ 80% of CEO deferred award (about £1.15 mln.)</li> <li>➤ 40% of director's deferred award.</li> </ul>	Mis-selling of payment protection insurance in 2009
Royal Bank of Scotland	2012	Two executive directors	£112 mln.	Libor scandal
UBS	2011-2012	Investment bankers whose bonuses exceeded \$2 mln.	50% of share-based bonuses awarded. Approximately CHF 60 mln. of unvested deferred performance awards has been forfeited.	Libor scandal (according to regulatory demand to pay \$1.5 bn. in fines).

\* Source: banks' annual reports.

For example, in Barclays due to the LIBOR Employee Investigation Review Committee has been organized in 2012 to define the scale of misconduct and the executives to blame. According to data of Table 5 we may conclude that senior executives can be subjected to clawback despite of the fact they have already been resigned.

<sup>1</sup>Credit Swiss Annual Report (2012). Available at: [https://www.credit-suisse.com/publications/annualreporting/doc/2012/csg\\_ar12\\_com\\_pensation\\_en.pdf](https://www.credit-suisse.com/publications/annualreporting/doc/2012/csg_ar12_com_pensation_en.pdf)

#### 4. Clawback provisions: the case of American banks

Looking back at the past we have to state that in 2002 Sarbanes-Oxley Act (SOX) has been introduced which gave the right to Securities Exchange Commission to forfeiture the executive remuneration in case of misconduct. Both CEO and CFO in term not more than one year are subject to clawback provision according this document.

As we see, in certain cases the implementation of clawback provision in US banks can be forced by the government. For instance, during the global financial crisis 2008-2009 financial institutions have got the financial assistance from the government of USA participating in TARP (Troubled Asset Relief Program). Instead banks have to pay back obligations to the Treasury of USA. Until that time chief executives' remuneration included clawback provisions.

Recently in 2010 under the Dodd-Frank Act (the Dodd-Frank Wall Street Reform and Consumer Protection Act) the requirement to exchange-listed firms (including banks as well) has been included. According to its provisions in case of financial misstatement the compensation has to be forfeited from the executives over three-year period before the date of misstatement accounting.

In comparison with European experience of executives' bonus clawback possibility the US approach is more likely to the UK's one. But still there are some distinctions, as new requirements are broader and stricter for American banks and can be summed up as follows:

1. Applies to all executive officers, but not only to CEO and CFO.
2. The act of "misconduct" is not required.
3. The term of incentive-based parts of compensation restricted to clawback is prolonged: from one-year to three-year period. But still it is less than five-year term of clawing back possibility according to FSA Remuneration Code.

Thus, for example, at US financial institution Morgan Stanley forfeiture refers to the events of substantial loss while trading with excessive risk-taking. Another bank Goldman Sachs can claw back executive compensation in case of "financial restatement or other significant harm" to bank's business or in the event of individual misconduct that worsens reputation or makes legal harm.

#### Conclusions

Still there is range of problems connected with clawback implementation. According to analysis of implementation experience of forfeiture provisions for executive remuneration they can be high-cost to introduce, e.g. costs to enforce may exceed perceived or actual benefit. It also refers to taxes: if executives have paid taxes on awards, the mechanism of their transfer remains a question. Another group of complications may be related to executive employees that have already left the company. In this cases two main questions arise: 1) how the legitimacy of the process should be provided; 2) how to arrange the awards' clawing back act for resigned executives. In some countries state employment legislative acts may prohibit forfeiture of previously paid awards, so the implementation of mentioned compensation policy can be costly and complicated. So for banks these challenges still remain.

Also issue concerning the effectiveness of clawback provision policy remains. Did forfeiture provisions become incentives for CEOs and Board members? What is the probability to identify fraud or misconduct in bank, as well as its direct causers? This issue is especially important when the triggering event for awards clawback is related to deterioration of financial performance – usually it is complicated to define directly responsible executives, as various underlying circumstances can appear as well. One more question remain - isn't the probability to fraud identification and executives' punishment for that lower than the benefits senior executives obtain in case of misconduct?

We do not conduct empirical researches, but observations of clawback provision implementation in compensation practices of leading European banks. Such character of research is explained by insufficient effects of reformed remuneration schemes due to relatively recent implementation. Thus, some consistent patterns can be defined analyzing the interdependence between the character of compensation policy on one side and shareholders' structure on the other. Thus, the research shows that in individual banks executive bonuses forfeiture clauses are stricter (Lloyds Banking Group, Royal Bank of Scotland), while in others – moderate (Deutsche Bank, HSBC, Credit Swiss).

Firstly, conducted analyses of banks' ownership structure and concentration, the following correlation can be stated. The banks with more concentrated ownership structure and financial institutions with prevailing state ownership have implemented stricter provisions concerning bonus clawing back for senior executives, including the former chief executives or board members. For instance, Lloyds and Royal Bank of Scotland, where government's share equals 32.7 and 65% respectively, have been among the first that have implemented clawback clauses. This tendency can also be explained by the fact that during global financial crisis individual large banks have been bailed out by government, thereby it as a major shareholder tends to be ensured of effective financial performance and low reputational risks caused by senior employees' mismanagement and frauds.

In contrast to mentioned banks in Deutsche Bank the only large shareholder (BlackRock Inc., New York) holds 5.14% of bank's shares. The similar ownership structure is in Credit Suisse: there are less than 10 large shareholders owning more than 3%. The maximum stake equals 6.7% (Olayan Group) that is also not considered as influential.

Secondly, the market conditions have certain influence on character of compensation policy and shareholders rights protection. There is certain directly-proportional interdependence between banking market concentration level and "strictness" of compensation policy. According to Deutsche Bank Markets Research devoted to European Banks Strategy (2012) Herfindahl-Hirschman index is relatively high in UK and Switzerland represented by Lloyds Banking Group, Royal Bank of Scotland, UBS in our sample. Thus, top 5 banks (among which UBS) had a 56.4% market share as at end of 2012. In UK the banking market consolidated due to financial crisis that has caused failures at range of banks. By the end of 2012 the five largest UK's financial institutions had about 59 % of the market. In contrast, banking system of Germany remains the most fragmented among European – the Herfindahl-Hirschman index equaled 275 by the end of 2012 (opposed to 787.5 in Switzerland or 601 in United Kingdom). The market share of top 5 banks in Germany has been equal to 29.5%. As it seen, these tendencies are pretty correspond to the character of executive awards clawback policy in banks of our sample – the more concentrated market is, the stricter shareholders' protection should be, as it a way out to minimize losses caused by reputational risks.

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