

THE LEGAL SYSTEM OF BANKING INSPECTION LEGAL STUDY

DR. HAMZA FAEQ WHEEB

Assistant Professor of commercial law

University of Baghdad / Post-Graduate Institute For Accounting and Financial Studies

Hamzah19567@gmail.com

Abstract: Central banks exercise supervision over banks of all kinds to ensure their compliance with the provisions of the relevant banking laws, regulations and instructions, the integrity of the banking systems in force, the integrity of the procedures taken by them when practicing banking operations and the strength of their financial positions. The Central Bank exercises this control based on the provisions and powers stipulated in its law, the Banking Law and other relevant laws

They are office control After banks implement their obligation to provide the Central Bank with periodic reports and statements, the bank studies and analyzes these documents to ensure their compliance with banking legislation, including the Anti-Money Laundering and Combating the Financing of Terrorism Law, compliance with the decisions and orders issued by the bank, identifying their financial positions and ensuring their safety, and the degree of efficiency with which they exercise their functions, and the second is field control (inspection) to assess the financial condition of banks and the risks associated with their banking business and verify the integrity of internal control systems. in which and commitment to the instructions of banking governance.

The aims of study to clarify the concept of banking inspection and its legal system and includes: the scope of inspection (temporal, objective and personal), those in charge of the inspection, the obligations of the inspector, including conducting the required inspection, commitment to confidentiality and preparing the final report, and a statement of the duties of the inspected bank in providing the required records, books and documents and providing information, a statement of the inspector's responsibility and immunity that he enjoys.

Conclusions:

1. The field supervisory supervision exercised by central banks is a necessity necessitated by the integrity of banking systems and operations and to ensure the extent to which banks comply with laws, regulations and instructions, including the provisions on combating money laundering and terrorist financing.
2. The Basel Committee and legislators in the countries of the world, including the Iraqi legislator, were interested in developing rules governing inspections carried out by the Central Bank in implementation of its duties and to achieve the objectives of the inspection and what is the nature of the inspector's responsibility and immunity.
3. The legal framework for bank inspection defines the temporal and substantive scope of the inspection, the obligations of the inspectors and the duties of the inspected bank.
4. The legislative treatment of banking inspection was general, comprehensive and unified for all types of banks.

The most prominent recommendations:

1. The need to develop detailed legal rules related to the qualifications and powers of the inspector and inspection bodies and the independence of their work
2. Since the banks are diverse (governmental, private, Islamic and specialized), it is necessary to reflect this on the framework regulating inspection in all its aspects.

Keywords: banking inspection, central bank, banking supervision, banking law, commercial law, central bank law.

INTRODUCTION:

The world is witnessing an increasing growth in the number of banks of various types of private, governmental and Islamic, and the banking business itself has witnessed a wide development and diversity, especially after the entry of information technology and electronic payment tools to the



banking industry in the vast majority of countries of the world, as well as the expansion of the geographical area of banks through branches and offices that practice banking business inside the country and outside its borders, all of this led to the growth and diversity of regular and irregular banking risks and the targeting of banks by money launderers and financiers. Terrorism to pass their criminal operations.

This reality prompted countries to issue legislation that guarantees the safety and development of banking work and pay attention to legislation related to central banks to devote their role in supervisory supervision of banks and other financial institutions to ensure their compliance with the provisions of laws, regulations and instructions governing their activities to avoid risks of all kinds and anticipate them before they occur, through the development of legal rules and mechanisms regulating banking supervision of all kinds, internal and external, foremost of which is office control and field control (inspection) practiced by Central banks under their laws and in the light of what is stipulated in the commercial and banking laws and all laws regulating banking activity. The legislators were guided by the findings of the Basel Committee of decisions to regulate the supervisory and banking work when they developed local banking laws as the Basel Committee is the international reference body in this field.

The field supervision of central banks is of particular importance in achieving banking compliance to the safety of banking activity and preserving the rights of depositors, investors and the rest of the financial consumers, as central banks make sure through periodic and sudden inspections conducted by their inspectors that the data provided by banks to central banks through their various reports are real data that can be relied upon to ensure their compliance and the safety of their activity and evaluate their performance according to the regulations adopted for this purpose, foremost of which is the Camels system.

Therefore, this research seeks to identify the legal system of banking inspection in Iraq in particular for the existence of modern regulatory and banking legislation that dealt with inspection intensively in need of more details used by banks and supervisory bodies in the implementation of its work.

The research has been divided into three sections, the first section dealt with the control of banks to indicate their concept, justifications and types, while the second section dealt with banking inspection in terms of its concept, regulations, objective scope, temporal and personal, stages, procedures and conditions to be met in the inspector and the rights it enjoys, and the research ended with the conclusions and recommendations reached.

The first topic: supervision of banks

First: The concept of censorship and its definition

As defined by the goals and standards set by measuring the degree of success of actual performance in achieving the goals and standards for the purpose of correction and evaluation 'and control means that the results achieved are identical to the goals that were decided or contained in the plan ' and therefore it is the process of observing the results of the work that has already been planned and then determine the gap between the targeted results and the actual results and take corrective actions to bridge this gap (Abd-Alnabi, 2010, 30).

Central banks are the backbone of the banking sector and have a prominent impact on financial markets and economic activity in general (Zughayr and Salhi, 2020, 205), and central banks and other bodies practice

Supervisory supervision of banks of all kinds and their owners to ensure the integrity of the banking systems in force and the safety of the procedures taken by them when practicing banking operations and to ensure their compliance with the provisions of the relevant banking laws, regulations and instructions.

Banking supervision is an essential tool to achieve financial stability, build an efficient and effective financial and banking sector, reduce banking risks in a professional manner that reduces their negative effects, preserve the rights of depositors and investors, and ensure the proper implementation of the state's monetary policy (Al-Fawadi, 2019, 1).

To achieve all this, such supervision must be effective and exercised under the conditions set by the Basel Committee within its principles issued in 1997, whose first principle stipulated that the



effective banking supervision system must have specific responsibilities and objectives towards each body working in the supervision of banking institutions and each of these bodies should have independent operational autonomy and adequate resources, and it is also necessary to have an appropriate legal framework for continuous banking supervision and the capabilities required to keep pace with compliance with laws as well as Security and safety of commercial establishments and legal protection for observers.

There should also be arrangements for the exchange of information between auditors and the confidentiality of such information should be properly protected (Basel, 1997, 4).

It should be noted here that the Central Bank of Iraq exercises this control based on the provisions and powers stipulated in its law, the Banking Law and the rest of the other relevant laws, as well as the regulations, decisions and instructions issued by it under the powers vested in it by law, using various means and tools exercised by its specialized technical formations.

Several definitions of banking supervision have been proposed, including:

1- It is the supervision of the Central Bank on the work of banks operating in the banking system of the state, regardless of their nationality, types or size, and it is mandatory control by law to ensure the functioning of banks in accordance with laws and instructions (Al-Suqaili, 2005, 38).

2- It is the process of applying legal controls and standard banking rules aimed at enabling banking institutions to conduct their business in a way that leads to the safety of the national economic situation and to avoid any improper practice by these institutions that may lead to damage to depositors' funds and shareholders' rights (Abd-Alnabi, 2011, 8).

3- A set of rules, controls and systems that govern and restrict the work and operations of banking institutions and regulate the profession with the aim of achieving monetary stability with the best rates of economic growth, and the safety of the financial centers of these institutions to contribute to financing economic development, and finally protecting the interests of savers, investors and shareholders and preserving their rights (Mubarak, 2005, 17).

Second: Justifications for Banking Supervision:

Central banks occupy an essential position in the monetary and banking systems in various countries of the world, as they regulate the monetary and banking side, control and supervise banks (Khodhar Ahmed, 2014, 51) as well as assisting the financial markets in carrying out their work (Dr. Ahmed Safar, 2008, 91).

Supervisory banking supervision is one of the most important requirements for the continuation of banking work (Zubaidi and Zahir, 2019, 198). The issuance of international standards and decisions and other local laws and legislations of different degrees and names to determine the legal framework regulating the supervisory supervision of banks reflects in our opinion the importance and strength of the justifications behind their imposition, which are as follows:

1- The multiplicity and diversity of banks in terms of ownership of their capital, nationalities and the nature of the operations they practice make them subject to different legislations and methods of work and many different risks such as specialized, commercial and Islamic banks.

2- The wide use of information systems and technology in the banking business and the accompanying various challenges and risks that require the presence of a central supervisory and follow-up authority to control the banking environment on a unified basis capable of alerting crises before they occur and alerting them to avoid them early.

3- Banks play the role of mediator between savers and investors, and this requires the existence of clear determinants that are applicable and follow-up that protect the rights and interests of all parties exercised through a specialized central authority.

4- Since the local banking environment is developed and affected by the repercussions of development in the global banking industry, so there is an urgent and continuous need to update and amend the legal rules regulating it, and this is done only through a supervisory authority that studies and proposes this.

5 . The existence of a body responsible for coordination and cooperation with supervisory bodies in other countries in order to enhance international cooperation and the safety of banking work



6. The existence of a supervisory body to grant licenses to open local and foreign banks, their branches and representative offices, activate voluntary and forced banking compliance, take corrective measures, impose penalties and cancel licenses in cases that require it.

7. The need to monitor and follow up the extent of protection available to the rights of the financial consumer (customer and customer) who is associated with the bank in banking operations and financial transactions.

Types of supervisory banking supervision: Third:

The Central Bank of Iraq shall monitor banks inside Iraq on a unified basis, whether local or foreign banks, public or private, commercial, specialized or Islamic. The Iraqi legislator obligated all banks to provide the Central Bank at specific periods with information and statistics on their various accounts and activities, including information on deposits, banking facilities, credit plans, credit or emergency obligations granted to their customers (Article / 41 / I / c of the Banking Law in force).

Type I: Office Control

Central banks exercise this type of control by obliging banks to adopt certain unified forms with fixed fields of statements and reports when submitting data and statistics summarized for their activities and financial positions during a specific period (monthly, quarterly, annually or others). Thus, there is a need for legal texts that guarantee banks the right to enable the Central Bank to view the details of their activities and the secrets of their customers without being held responsible for breaching banking secrecy.

Central banks, through their specialized supervisory units operating in their headquarters, study and analyze these statements and reports to determine the extent to which banks comply with laws, regulations and instructions, the safety of managing their banking activities and operations efficiently, and the extent of commitment to disclose the truth of their financial positions in accordance with the approved standards and indicators.

After the Central Bank studies and analyzes these documents, it will ensure the extent to which banks comply with banking legislation, decisions and orders issued by it, identify their financial positions, ensure their safety, and the degree of efficiency in which they exercise their functions (Mubarak, 2005, 22), and providing the Central Bank with these data enables it to know the developments of the activities of banks individually and collectively (Abd-Alnabi, 2010, 46).

Therefore, the careful implementation by banks of this legal obligation makes office supervision effective in the objective analysis of banks' data and paves the way for field control and subsequent inspections carried out by the Central Bank by virtue of its legal and supervisory duties and effectively as well, so that it is possible to track the types and evolution of risks facing banks and assess the impact of some events on them, as well as the development of an early warning system that allows the Central Bank to take proactive measures to ensure the safety and security of the banking system.

<https://www.cbe.org.eg/ar/BankingSupervision/Pages/OverviewObjectives.aspx>

The effectiveness of this type of control depends primarily on the volume and credibility of the data provided by banks to the supervisory authorities, and this is verified through field control. Office control is useful in analyzing capital, liquidity, etc., but it may not be successful in analyzing other issues such as management strength and operational risks, and this can be covered through field control (Al-Karasneh, 2010, 18).

The Central Bank of Iraq conducts office and field audits of banks and non-banking financial institutions through the Banking Control Department, which includes the following sections: Commercial Banks Control Section, Islamic Banks Control Section, Credit Information Exchange and Public Protection Section, Non-Banking Financial Institutions Control Section, Banks Performance Analysis and Risk Control Section, Foreign Currency Buying and Selling Review Division, and Information Technology Audit Division in Banks and Companies

<https://cbi.iq/news/view/795>

Type II Field Control:

This control is embodied in the field examination conducted by the Central Bank on the banks registered with it, through which it examines the safety of the general situation of the examined bank, determines the size of the risks of its current and future activity, its quality and tools in



confronting it represented in risk management systems, their effectiveness and independence, and the discovery of any violations of the provisions of the law and banking instructions, and follow-up of the bank to take the necessary corrective measures (Shhata, 2009, 394).

The field control exercised by central banks through their inspectors in implementation of their duties stipulated in their laws regulating them aims to ensure the validity of the data and information contained in the reports and statements submitted by banks to central banks by virtue of the law as well, and that their banking operations and activities are carried out in accordance with the relevant laws, regulations, instructions and banking customs.

As well as verifying the integrity of its financial positions and the degree of adequacy of internal control systems and sobriety, evaluating their performance, and alerting to the risks that they may face due to poor compliance with the legislation and controls set for them, and therefore the observations reached by the field control may constitute an early warning bell for those banks to avoid the consequences and risks of poor compliance.

Identifying the health of the work and performance of the institutions of the banking system operating and the safety of their financial centers within the limits of laws, regulations, instructions and banking customs in order to reach the requirements of banking security and monetary stability, enhances confidence in the banking system in general and banks separately in particular.

The above objectives are achieved by preparing and adopting an annual plan for field inspection in accordance with a well-thought-out and appropriate timetable for its implementation. During the inspections, the level of corporate governance of banks is assessed, the adequacy of their internal control and control systems is determined, the risks they face and their management levels are identified, and the necessary corrective procedures are developed to mitigate and hedge these risks.

<https://www.cbj.gov.jo/Pages/viewpage.aspx?pageID=20>

Visit Date 16/7/2021

The banking inspection conducted by the Central Bank enables it to view the bank's records and other documents, and to verify the validity of the information sent to it, which was based on the audit and desk analysis (Dr. Abdullah, 2004, 392).

Field supervision aims to apply the best international practices in banking supervision also through the application of effective and effective control systems based on risk-based supervision, which aims at the following

<https://www.cbe.org.eg/ar/BankingSupervision/OnSite/Pages/OnSiteSupervision.aspx>

1. Assess the state of financial banks and the risks associated with their current and future activities.
2. Evaluate banks' risk management systems in terms of integration and effectiveness.
3. Verifying the soundness of banking internal control systems and compliance with the governance instructions issued by the Central Bank.
4. Discussing the results of the inspection with the departments of banks, taking into account clarity and accuracy in timing.
5. Pushing bank departments to commit to treating their shortcomings in a timely manner.
6. Follow-up banks and ensure the implementation of what has been planned as corrective measures.

The second topic

Bank Inspection

There are those who believe that the inspection is not an audit, but rather an assessment of the validity of the information submitted by banks to

- The Central Bank, analysing its accounts and ensuring that it respects the banking laws relating to its business operations. Mikdashi, 1998, 28
- Field inspection assesses specific risks that cannot be assessed in the office according to the evaluation indicators for each type of financial services institution.
- The field inspection verifies the validity of periodic data and reports provided to the desk control by financial institutions and investment funds, follows up on the treatment of violations, follows up on improving the risk structure and addresses non-moderate risks:-

<http://www.qcb.gov.qa/Arabic/SupervisionandControl/BanksandFinancial/SupervisionApproach/Pages/OnsiteSupervision.aspx>



Visit Date 17/7/2022

In practice, inspection is carried out either by the method of comprehensive inspection of all banking activities, or by the method of qualitative inspection of high-risk aspects of the bank, or by the method of limited inspection with special tasks to determine the extent of the bank's compliance with the instructions of the Central Bank.

In the following, we will try to explain the regulations of the banking inspection, its temporal scope, objective and personal, the conditions and qualifications of the inspector, his duties and rights.

First: Banking Inspection Systems:

The field control in the inspection of banks follows two systems:

1. Risk Assessment System

Risk is defined as the likelihood of obtaining a lower return than required (Roos, 2002, 235).

Risk was also defined as the possibility of the bank being exposed to unexpected and unplanned losses and fluctuations in the expected return on a particular investment (Al-Rawi, 2011, 10). The risk assessment system is based on quantitative analysis of risk by examining the inherent risks of banks (credit, market, operational, legal, reputation, liquidity, and other risks...)

In addition to qualitative risk analysis by evaluating risk management systems, their effectiveness and quality, with the aim of preparing a risk matrix for each bank, which includes the type of risks surrounding the bank, their size (high, medium, low), their direction (escalating, stable, decreasing), their management style (acceptable and weak forces) and the bank's ability to follow them

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<https://www.cbe.org.eg/ar/BankingSupervision/OnSite/Pages/OnSiteSupervision.aspx>

The Central Bank of Egypt, the date of the visit is 10/19/2022

CAMELS 2 SYSTEM

This model was invented by the Federal Financial Institutions Supervisory Board in the United States as a unified system for evaluating and classifying American financial institutions in 1979 and initially relied on five elements and was applied in many countries of the world and in 1997 another element was added, which is the element of sensitivity to market risks resulting from changes in interest rates and exchange rates.

The above elements are re-evaluated through field inspection and modification of the form prepared by the office control based on the results of the field inspection, the effectiveness of the bank's internal control systems and the existing and potential risks.

As a result of the interaction and integration of office and field control, the conditions of banks are analyzed based on capital indicators, asset quality, management, profitability and liquidity, and sensitivity, and a comprehensive composite classification is given to each bank ranging between (1) and (5), so that banks are classified as follows:

,Good 2. Acceptable 3, Weak 4, Very Poor 5. (1): Strong

This classification is taken as a basis for requesting banks to take the necessary measures to address the observations made on the bank concerned, and included in the annual supervisory report prepared around it.

The Central Bank shall continue to deal with the observations by the concerned bank, and the bank shall be subject to the procedures carried out by the Central Bank provided for by law, and these procedures shall range from preventing the concerned bank from carrying out some banking activities to suspending the Director General or the Board of Directors from work, assigning a temporary management committee, up to merging the bank with another bank or canceling the license.

Central Bank of Libya website Date of visit 10/1/2019

Second: Time Range of Inspection

Effective inspection is a means of collecting data and information and identifying the reality of the financial situation of banks and provides an opportunity for the Central Bank to have a close idea of the banks' business and compliance (Al-Ameri, 2014, 157).

Article (53/3) of the Iraqi Banking Law in force ruled that Builder:

((The Central Bank of Iraq inspects all banks continuously and at least once a year, except for representative offices, which are inspected at least once every two years)), and it is clear from the



above that the inspection of banks is a continuous process throughout the year and at least once during the year, as for the banking representation offices, which do not practice any business or banking activities except for the provision of information and mutual functional relations and does not involve their work or exposed to banking risks that require time Continuous verification of the legality of its business and the integrity of its financial position, so it is inspected at least once every two years, but this does not prevent a sudden non-periodic inspection to ensure the safety of the office's conditions or verify the validity of information received in the form of news to the Central Bank that the office practices prohibited business.

The inspection is carried out through three stages :-

This stage acquires special importance, as all the data related to the bank that will be inspected and received by the Central Bank from the bank itself is reviewed, and examined to form a comprehensive picture for the inspector about the bank and its risks, especially the high ones, and review the previous inspection reports, if any, so that the inspector can determine the scope of the inspection and its plan and what the inspector needs to carry out his task to the fullest.

This phase is implemented through cooperation and coordination between the field control and all units of the control and supervision sector. Visit Date 17/7/2022
<https://www.cbe.org.eg/ar/BankingSupervision/Pages/OverviewObjectives.aspx>

2- Field Inspection Phase

During this stage, the bank's activities, internal control systems and information management systems are examined and an assessment of the bank's strategy, the risks resulting therefrom, and the extent of its ability to confront and manage them.

3- Post-inspection phase

During this stage, the inspection report on the bank and the most important results of the inspection are prepared and the meeting with the bank's management to discuss the contents of the inspection report and develop a correction plan for the observations included in the inspection report, which are followed up by the office control, and the office control department is provided with a form after re-evaluating its elements modified with the results of the field inspection to be taken into account when determining the final evaluation of the bank, which is presented to the senior management of the Central Bank (Egyptian BM website).

Banks benefit from the inspection service by taking the necessary corrective measures in the event of any violations of the laws and regulations issued by the Central Bank according to the inspection report (Central Bank of the UAE website visit 11/1/2019

Third: Objective Scope of Inspection:

The objective scope of inspection means the data and information recorded in documents, records, books and bank statements, whether paper or electronic, and the procedures and operations subject to examination and audit, to ensure their authenticity and not involve legal violations, distortion, manipulation or misleading, and to collect the necessary evidence.

It should be noted that Article (53/3) of the Iraqi Banking Law has defined the scope of inspection as follows:

1. Review the Bank's operations to verify its financial position

The operations of the bank shall mean the banking business and services stipulated in Article (27) of the Banking Law, subject to the provisions and conditions of its license or license to practice banking business. The financial position of the bank is verified through the statement of financial position, which is prepared to show the bank's assets and liabilities (liabilities) at a certain moment in time so that the asset accounts appear on one side and the accounts for liabilities and equity on the other hand, and the sum of the two sides must be equal. This is focused on (the operations of the bank) and the effect is that the last phrase contained in the text of Article (53) of the Banking Law expands to a degree that does not include banking operations only, but includes all the business carried out by the bank outside the scope of (banking activities) set forth in Article (27) of the Banking Law.

2. The extent to which the bank complies with the provisions of laws and regulations related to the management of its activities, such as the Banking Law, the Trade Law, the Companies Law, the Anti-

Money Laundering and Combating the Financing of Terrorism Law, and the regulations and instructions issued by the Central Bank of Iraq, including Instructions No. (4) for the year 2010.

3. The extent of the bank's commitment to internal policies, and it is known that each bank has internal policies set or approved by the Board of Directors in light of the provisions of the legislation in force, including the credit policy and policies and action plans that include all the bank's activities, and are in line with the relevant legislation and the adoption of a policy to monitor and review the performance of the executive management, by setting key performance indicators.

Corporate Governance Guide for Banks, Central Bank of Iraq

Third: Personal scope of banking inspection

The personal scope of bank inspection means the persons carrying it out. Article (53/3) of the Banking Law allows the Central Bank of Iraq to conduct at any time an on-site inspection of a bank carried out by one or more officials or by another person or any other persons designated by the Central Bank for this purpose. It is noted on the advanced text that follows:

1- The inspector is an employee of the Central Bank itself. The legislator did not specify the level or job title of the affiliate assigned to do so, and whether this assignment is permanent or temporary, and the taxpayer may be entitled (inspector) originally or assigned to that task and his title is not an inspector, but he possesses qualifications related to the subject of the inspection itself.

2- The task of inspection can be entrusted to non-employees of the Central Bank, and this is in cases where there is no inspector on the bank's staff qualified to carry out that task.

3- The inspection shall be carried out by one person, team or committee consisting of several persons, from inside or outside the Central Bank or from both, i.e. the inspection task is shared between the two at the same time and according to the need for the capabilities and qualifications of those in charge of inspection.

4. The person in charge of inspection shall enjoy immunity from legal proceedings under Article (55) of the same Law in accordance with Article (55) of the same Law for any damages resulting from any conduct or omission carried out during the performance of the inspection duty assigned to him and within its scope.

Fourth: Conditions and qualifications of the inspector

The Iraqi legislator did not specify a special text explicit and specific conditions and qualifications to be available in the banking inspector, and this is what is benefited from the provisions of the laws of the Central Bank of Iraq and banks, as well as that the instructions No. (4) for the year 2010 issued by the Central Bank of Iraq to facilitate the implementation of the provisions of the Banking Law came devoid of provisions dealing with inspection and its aspects, including the conditions and qualifications of the inspector, although Chapter IX of the Banking Law (Control and Inspections) has indicated in paragraphs (3, 4 and 5) of Article (53) To the inspection conducted by the Central Bank of Iraq of banks, its scope, and the duties and powers of the inspector, and it can be said that the inspector must at least enjoy the specifications of (good and decent person) defined in Article () of the Banking Law in force

We believe that the following conditions should be met by the banking inspector

1. He does not own shares in the capital of the bank subject to inspection.
2. He did not obtain any credit or facilities from the bank.
3. Received specialized training in banking and inspection.
4. Holds at least an initial university degree in financial and banking sciences, law or accounting.

It is noted that the instructions of banking supervision in Syria have set several conditions that must be met by the banking inspector that he must be Syrian for more than 5 years and of good conduct and performed the service of knowledge or exempted from it and not to occupy an additional position in the bank subject to his supervision and not to be related to a relationship of kinship or affinity with one of the major shareholders or the board of directors and to take the legal oath set by the Council of Currency and Credit before the Court of First Instance

Banking Supervision Instructions No. 1 dated 13/8/2003 Admission System for Internal Banking Controllers in Banks Operating in the Syrian Arab Republic

Banking Supervision Instructions No. 2 dated 13/8/2003 Articles of Association of Internal Bankers
<https://bokrajobs-sy.org/ar/profDetails.php?classId=9&profId=186> May 25

. Fifth: Duties of the Inspector

The inspector must carry out the task assigned to him, and this is related to the objective scope of the inspection process itself, as the audit may then focus on a specific banking operation in itself to ensure the integrity of its procedures and the extent to which the provisions regulating it are observed.

The purpose of the inspection may be to verify the soundness of the bank's financial position, and this is done by auditing the bank's financial records and statements to ensure that the bank adheres to the ratios specified in the Banking Law, such as liquidity, reserves, credit exposures, loan volumes and credits provided to customers. This is done through the following:

1 Carrying out inspection procedures

A. Inventory of the cash asset and match it with the balance in the general ledger

B. Auditing the credit department includes the following accounts (current accounts receivable, loans of all kinds, discounted bills of exchange, and letters of guarantee) and auditing the files of a sample of customers granted banking facilities and following up the calculation of the provision for doubtful debts and classifying the credit portfolio in accordance with the guidelines.

C Auditing the accounts section includes all accounts followed by this section, especially investments and the application of instructions and laws with regard to investments and ownership of fixed assets of buildings and lands, as well as auditing all sub-accounts

D. Auditing the control department and the work plan of this section, the number of employees and the adequacy of their number with the size of the activity and the reports prepared by this section and their importance, what are the observations raised by this section, what are the treatments and whether they are correct or not.

Auditing other departments of the bank such as current, savings, matching balances with the general ledger record, classifying these accounts, and applying the instructions and law regarding these accounts.

One of the important things that the inspection performs is the classification of banks according to the system () and determine the extent of the bank's compliance with the provisions of laws, regulations, banking instructions and directives stipulated in the inspection and audit reports (the source of the questionnaire) and the extent of compliance with the bank's internal policies such as the credit policy of information. When the field inspection and review work reveals non-compliance with regulatory requirements or serious deviations from the guiding standards of this industry, but it is necessary for the regulator to submit inquiries to the institution in order to clarify or take corrective measures or even carry out follow-up work ... Who is it... From the guide, p. 15

Commitment to banking secrecy

Banking secrecy is one of the safety valves in the banking business, which is constantly witnessing cases of competition to attract the largest number of customers, and Article (53/4) of the Inspector Banking Law has been subjected to the requirements of confidentiality. In this regard, it is noted that the Iraqi legislator has dealt with the provisions relating to confidentiality in articles (49-52) of the Banking Law in terms of determining their personal, temporal and substantive scope.

The inspector, because of his performance of this task, stands on the secrets of the bank and its customers by reviewing the contents of the records and documents of the bank subject to inspection of information and data of banking secrets, and that the preservation of this information and data is not limited to the duration of the inspection mission, but is a continuous commitment after its completion and even after the completion of the inspector's work at the Central Bank. Therefore, the inspector is obligated to maintain banking secrecy during the performance of his mission or after completing it and submitting a report to the Central Bank on the results of the inspection, but his obligation to bank secrecy does not mean his secrecy on the violations that he discovers during the inspection, as he is obligated to report them and this reporting is not a violation of banking secrecy (Waheeb, 2018, 872).

3. Preparation of the report



After the inspector finishes his assigned work in his mission, he must prepare a (report) in which he summarizes his observations and audits, the observations and irregularities he has proved, the errors he has observed, and the findings and recommendations of the aim, and he is supposed to discuss the draft report with the Executive Director nasr.2011;137 of the bank (nasr.2011;137). The discussion will result in finding out whether the bank's management is ready to correct errors, end irregularities and obtain data and information that may not be obtained from other sources, and this meeting may strengthen the inspector's conviction of the accuracy and validity of his findings. The inspector signs that report and delivers it to the inspection department of the Central Bank to send it in turn to the bank's management, asking it to correct the errors and negative results diagnosed by the inspector (Nasser, 2011, 137).

. This report consists mostly of two sections, and the first section of it is presented to officials in the Central Bank and includes detailed notes proven by the inspector about the bank and its impressions and recommendations, while the second section, which is sent to the management of the bank concerned, is a brief report of the most important findings and recommendations, and request the bank to correct errors and violations discovered and notify the Central Bank of this within a specified period (Al-Hindi, 1987: 27) .

Sixth: Inspector's Rights:

Paragraph (4) of Article () of the Banking Law authorizes the inspector to "require any administrator, officer, employee or customer of a bank or its branches or affiliates to provide him with all the necessary books, accounts, records and documents, and any information requested by the inspector which is necessary and timely during the inspection process shall be provided."

It is clear from this text that the following is as follows:

A. In order to accomplish his task fully, the inspector shall be entitled to demand all the information and data he deems necessary for the completion of the inspection.

B. This claim can be directed to any of the employees of the bank, whether they are managers, members of the board of directors, employees and even customers of the bank related to the subject inquired about, and certainly that this claim in general does not go only to those who are still continuing to serve or relationship with the bank, then the truth must be clarified from them about the aspects that took place during the establishment of that relationship or relationship as long as necessary.

But the question arises whether the inspector has the right to seek clarification from the auditor (external auditor) as well? The advanced text did not refer to the inclusion of the permissibility of clarification from it, and we tend to include it as long as it was necessary to obtain the information necessary to complete the inspection, the auditor sees all the bank's records, books and documents and gives his opinion on the integrity of the company's accounts (the bank) and the validity of the data contained in the final accounts (.... (Article 136 of the Iraqi Companies Law in force) and asks about the validity of the data contained in his report as an agent for the bank in the control and audit of its accounts (Article 137 of the Iraqi Companies Law in force), and therefore he has a lot of accounting and auditing information about the bank's business and activities that help the inspector to accomplish his task to the fullest.

C. The scope of the inspector's access to data and information is not limited to the headquarters of the bank, but extends to include all its branches and subsidiaries of companies or offices, as it is envisaged that the bank has subsidiaries established by it or offices, whether they are offices that carry out banking representation or part of its banking business. The accounts of these branches and subsidiaries should be consolidated in accordance with Article () of the Banking Law. Field inspections should include visits to the head office as well as visits to other branches and outlets and even parties entrusted with providing services (such as retail agents). In order to avoid excessive costs due to a large number of yards, the information collected during the desk analysis and visit the main center should be used to determine whether and how many field visits are needed and to focus on the branches with problems or issues raised.



Inspector immunity VII.

Immunity is intended to protect a specific person from prosecution for acts committed by him while performing his official duties, and immunity is determined for the public interest and not for the interest of the person who enjoys it and is considered a matter of public order, so it may not be waived or agreed otherwise, and it can be raised at any time and at any stage of the case, and the court may rule on it on its own initiative (Bishara, 2017, 64)

Immunity is therefore a legal privilege granted to certain persons and recognized by national law that enables them to exercise their function without restrictions or pressures, including legal limitations.

<https://ar.guide-humanitarian-law.org/content/article/5/hsn/>

Article (55) of the Iraqi Banking Law has granted immunity to members of the Board of Directors of the Central Bank of Iraq, its employees and agents, as well as those appointed to carry out inspection based on Article 53 of the law, by not being considered responsible for any damages resulting from any action or negligence during the performance of his duty, and the Central Bank compensates them for any legal costs resulting from the defense against a legal action taken against them and related to the performance of his duty, provided that such compensation does not apply if That person has been convicted of an offence arising out of activities covered by such legal proceeding, any legal costs arising from the defence of a legal proceeding taken against such person and relating to the performance of his duty or concept of performing his official functions within the scope of their employment or employment under this Law. Provided that such compensation shall not apply if that person has been convicted of an offence arising out of activities covered by such legal action.

The granting of such immunity to the inspector shall not preclude the criminalization of the act committed if its elements are available. The purpose of immunity is to facilitate the work of the inspector and to help him accomplish the task of searching as a representative of the Central Bank of Iraq.

It is an exceptional measure followed by criminal proceedings in accordance with certain controls stipulated by law.

CONCLUSIONS:

1. The field supervisory supervision exercised by central banks is a necessity required by the integrity of banking systems and operations and to ensure the extent to which banks comply with laws, regulations and instructions, including the provisions on combating money laundering and terrorist financing.
2. The Basel Committee and legislators in the countries of the world, including the Iraqi legislator, were interested in developing rules governing inspections carried out by the Central Bank in implementation of its duties and to achieve the objectives of the inspection and what is the nature of the inspector's responsibility and immunity.
3. The Iraqi legal framework for banking inspection specified the temporal and substantive scope of the inspection, the obligations of the inspectors and the duties of the bank subject to inspection in a very brief manner.
4. The instructions of the Central Bank of Iraq No. (4) of 2010 did not address the banking inspection.
5. The legislative treatment of banking inspection was general, comprehensive and unified for all types of banks.

Recommendations

1. The need to develop detailed legal rules related to the conditions, qualifications and powers of the inspector and inspection bodies and the independence of their work.
2. Since the banks are diverse (governmental, private, Islamic and specialized), it is necessary to reflect this on the framework regulating inspection in all its aspects.

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