

The role of the law and instructions of the Central Bank of Iraq in the establishment of branches of foreign banks in Iraq and control over them

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Abstract:

The central banks, including the Central Bank of Iraq, have been concerned with setting up regulations and formation to regulate the establishment of such branches and control them. The study reviewed a section of the Iraqi laws, including the Central Bank of Iraq Law No. 56 of 2004, law of banking No. 94 of 2004, and the Iraqi Companies Law No. 21 of 1997.

In the light of his study in this research has been connected to conclusions, including the most important:

1. The Iraqi laws and regulations and the instructions of the Central Bank of Iraq are sufficient at the present time to establish branches of foreign banks in Iraq in particular and investment banking in general
2. There is weakness in the understanding of Iraqi banking legislation and laws by the employees who are working in branches of foreign banks.

The study came out with recommendations:

- Review the Iraqi banking legislation of different degrees in light of the data of the application of such legislation since 2004 and so far to Iraqi and foreign banks.

The first requirement: methodology of research

First: Research problem

In order to allowing the Central Bank of Iraq to establish and establish branches of foreign banks in Iraq, and the emergence of different branches in terms of type (commercial, Islamic and other) and different in terms of the mother country (UAE, Lebanon, Iran, Turkey), it became necessary to emphasize the role of supervisory supervision To the Central Bank of Iraq in terms of compliance with the laws and

instructions issued in this regard and degree of compliance with them as well as control the performance of those branches.

So there are a number of questions about the above mentioned:

- Is the law and instructions of the Central Bank of Iraq is unified and there is no difference between the establishment of an Iraqi or foreign bank and do they distinguish between the different branches of foreign banks?
- Are Iraqi laws on this subject sufficient to control and regulate foreign branches?

Second: The importance of research

The study shall study a part of the laws, instructions and legislations related to the establishment of branches of foreign banks in addition to the knowledge of the supervisory supervision mechanism.

Third: Research objectives

The research aims to show the following:

1. Presentation of the laws and regulations for the establishment of foreign branches in Iraq.
2. The concept of supervisory supervision of the Central Bank of Iraq on the branches of foreign banks in Iraq.

Fourth: The hypothesis of research

(There are no significant differences between the banks of the research sample of supervisory supervision axis of the Central Bank of Iraq)

Fifth: Time limits: from 2011 to 2016.

Spatial boundaries: branches of foreign banks.

Sixth: Methods of data collection and information

To prove the validity of the research hypothesis, it is necessary to rely on sources where they are divided into two aspects

1) Theoretical side: Its sources were as follows:

a. Iraqi laws, regulations and instructions.

B. Books

C. Internet, reports and research.

2) The practical aspect: Its sources were as follows:

a. Questionnaire form as a tool to obtain the data and information needed for the research. The form was distributed as shown below:

Table (1) Distribution of questionnaire forms as shown in the table

Percentage of returned	Returned	Distributed	Bank
%90	45	50	CBI
%100	10	10	Abu Dhabi Islamic Bank
%100	10	10	Beirut and the Arab country
%100	10	10	Persian of Iran

The table is prepared by the researcher

Questionnaires were distributed to branches of foreign banks by:

Abu Dhabi Islamic Branch (5 Arabic, 5 English).

- Beirut and Arab Countries Branch (5, 5, English).

- Parsian branch (10 English only).

Table (2) The questionnaire used the five-dimensional Likert scale

Strongly disagree	Do not agree	Neutral	agreement	Strongly agree	Scale
1	2	3	4	5	

The table is prepared by the researcher

B. Field visits of banks Sample research and interviews with officials, as a complementary tool, to identify their views on the different aspects of the subject.

Eighth: Research Methodology:

The descriptive method was adopted in accomplishing the theoretical side of the research.

The analytical method was adopted in the practical aspect of research.

Ninth: Society and sample research

Research community

Central Bank of Iraq / Banking Control Department.

A group of branches of foreign banks in Iraq (17 branches)

The research sample:

Banking Supervision Department of the Central Bank of Iraq.

Sample of the branches of foreign banks number (3) banks are: -

1. Abu Dhabi Islamic Bank.
2. Iranian Parsian Bank.
3. The Bank of Beirut and the Arab countries.

It was selected because of the availability of adequate data and the extent of its activity.

Second requirement / previous studies

1. Study (Giacomo Calzolari, 2017)

Nature of study	Discussion paper - University of London / Published in scientific journal
Study Title	Multinational banks and supervision at the national level Multinational Banks and Supranational Supervision_ Giacomo Calzolariy Jean-Edouard Colliardz Gy }ongyi L_or_anthx January 4, 2017
Purpose of the study	<ul style="list-style-type: none"> • Presentation of how to delegate national supervision to multinational and foreign banks (host country control) • Ensuring that national supervision facilitates the process of coordination between States and the expansion of the control of this type of bank. • The introduction of centralized external control unambiguously leads to increased monitoring of sub-structure banks. • Focus on central supervision does not lead to a difference in decisions related to the structure of banks with branches (foreign.(<p>Clarify why the Ministry of National Economy internalize all the concerned parties in the control because they take</p>

	decisions concerning the units and pay them to depositors in both countries.
Study Conclusions	<ul style="list-style-type: none"> • The results suggest that supervisory supervision of central banks can, in some cases, reduce the desire of banks to expand abroad (opening branches), which is clearly contrary to the goal of any banking union. • External supervision gives a competitive advantage to branches on parent companies. Since both types of foreign units may be used in their lending technologies, this may also have undesirable consequences for external supervision.
Recommendations of the study	<ul style="list-style-type: none"> • Return to purely local activity and improve its level of foreign activities. • The supervisor and the national inspector must understand the fact that monitoring the foreign unit is valuable for the parent unit and is a desired result of transnational supervision and control.

The second topic / Central Bank of Iraq legislation and regulations of establishment

First demand / Central Bank of Iraq

First: The establishment of the Central Bank of Iraq and its development

The banks' history dates back to the Babylonian era. The group of money changers and the priests of the temples began to start lending and depositing until Hammurabi came to set instructions for banking and financial transactions, as well as other transactions (Al-Douri and Al-Samurai, 1999: 11).

The Central Bank of Iraq is one of the oldest central banks in the Arab region. It was established in 1947. It is one of the oldest institutions of the Iraqi state. It is the official institution responsible for setting monetary policy in Iraq, issuing and managing the national currency and foreign reserves. In the country and monitor the work and audit, and the Central Bank is the official body that represents Iraq in international financial and monetary institutions, including the World Bank, the International Monetary Fund and the Arab Monetary Fund, and represents Iraq in all forums The central bank has many functions, the most important of which is controlling and determining the supply and demand of money through the determination of interest rates and other monetary instruments to achieve low inflation rates and stimulate economic growth at a stable pace. To achieve this, the Central Bank sets its monitoring and analysis tools for indicators

Economic, financial and banking systems, achieving complementarity and consistency between the monetary and financial policies, providing an efficient, efficient and integrated payments system to manage remittances, monitor liquidity in banks and implement retail payment systems (mobile and credit cards) (Strategic Plan, 2016: 1)

Iraq is one of the first countries to establish a central bank in 1947 under Law No. 43 (Al-Obeidi and Mashhadani, 2013: 83-84). The Central Bank of Iraq is the mainstay of the modern banking system for the process of determining the total supply of money (Samhan, .wayamen ,2011:131) .

Second: The Central Bank knows as a governmental monetary institution that controls the monetary and banking system in the country and takes responsibility for issuing the currency and monitoring the banking system. It directs credit to increase economic growth and maintain the country's monetary stability by providing the appropriate amounts of money within the economy and linking them to the needs of economic activity . (Abu Hamad and Kadouri, 2005: 77).

Third: The objectives of the Central Bank of Iraq

1. Ensure currency stability and achieve internal and external balance.
2. Drawing up foreign exchange policy and monitoring the planning of foreign exchange.
3. Adding more stability in the balance of payments and exchange rate.
4. Regulation of credit and control of banking and intermediary financial institutions.
5. Contribute to the treatment of cash crises, and achieve higher levels of employment of human resources.
6. Contribute to accelerate economic growth and raise the level of living by providing financial and monetary resources for development plans according to available possibilities. (Shammari, 2008: 122)

Fourth: Characteristics of the Central Bank

The Central Bank has certain characteristics that are unique not like the rest of the banking system. These characteristics are as follows:

1. It is a bank or non-ordinary financial institution, an institution capable of converting real assets into cash (Hassanat, 2014: 34). It is at the forefront of the banking system. The Bank, with its ability to create and destroy legal money on the one hand, and the ability to influence the ability of commercial banks to create deposit money on the other hand, is the supreme supervisory authority over other banks, the First Class Bank. (Publisher, 2010: 256)

2. A single monetary institution in each country, working on the principle of unity, ie, the existence of one central bank as in most countries, but this does not prevent the multiplicity of central banks, as is the case in the United States of America (Hassanat, 2014: 34). Problems as large as before the unification of the issuers of money in Europe. (Galby, 2015: 61)
3. A monetary institution with public ownership. The State should administer and supervise it through the laws and regulations it approves, according to which its purposes and duties are determined. (Abu Muhammad and Kadouri, 2005: 79)
4. Non-profit institutions, where central banks focus their work with the government and other banking and financial institutions and do not deal with individuals except Mandir. (Said, 2013: 20-21).

The second requirement / laws and instructions for the establishment of branches of foreign banks in Iraq

First: Axis of the foundation

The Banking Law No. (94) For the year 2004 provides for the fourth chapter Article (5) Granting the license to establish a branch of a foreign bank on:

"First: The licenses are granted to foreign banks subject to unified and comprehensive control by a supervisory authority in the country where the foreign head office is located.

Second: Applications should be submitted in the writing form to the Central Bank of Iraq for the purpose of obtaining the license to establish a branch of a foreign bank accompanied by information and data in the forms numbered (6) and (7) accompanying these instructions.

Third: Inform the applicant within ninety (90) days if his application meets the requirements. The period may be extended provided that the applicant bank informs the bank of the reasons for delay before the deadline.

Fourth: The Central Bank of Iraq would approve the request and grant the license application within (6) six months from the date of informing the bank (the applicant) that his application meets the requirements and all the requirements of the Central Bank of Iraq.

Fifth: If the bank finds that the application is not meeting the requirements, it must reject it and send a written report to the applicant with a statement of reasons for rejection.

Sixth: The decision to approve the granting of license in the Official journals or in general publications with wide readers and the owner should pay for them, the bank should be registered in the banks list that deal with Central Bank of Iraq.

Second: the focus of supervision on branches of foreign banks

Article (40) of the Central Bank of Iraq Law No. 56 of 2004 stipulates that:

The Central Bank of Iraq only must have the authority to take all necessary measures to license, regulate and supervise the work of banks and their branches in order to comply with the provisions of this Law and the Banking Law. It must also have the authority to inspect outside the Bank's head offices and its branches and the authority to inspect and check licensees and their branches at their work, in the way and time chosen by the CBI. As the Central Bank of Iraq is the only one allow to to ask banks and affiliates to provide all information related to the affairs of the Bank and its affiliates and clients that may be needed by the Central Bank of Iraq. In addition, it is also have the power to carry out corrective action in accordance with the provisions of this Law and the Banking Law in order to apply such laws to the Licensed Bodies and their subsidiaries and comply with any regulations, standards, guidelines or prudential directives that the Central Bank of Iraq has issued in respect of its implementation of such laws. Any action taken by any government agency other than the Central Bank of Iraq regarding the regulation of lending and credit activities of banks shall not be of any legal character.

Article (41) of the Central Bank of Iraq Law No. 56 of 2004 stipulate as follows:

1. Banks and other entities subject to the supervision of the Central Bank of Iraq, in accordance with this law or the banking law, shall provide information or data to it at the request thereof and when the Central Bank of Iraq considers it necessary to:

- A) Follow-up developments in foreign exchange, credit, deposits, capital markets and capital.
- (B) Preparation and dissemination of cash statistics.
- (C) Prepare and publish balance of payments statistics.
- (D) Collection and preparation of financial statements that reflect the risk centers of banks or any other entities subject to the supervision of the Central Bank of Iraq.
- (E) Compile and publish any other financial statistics provided that this does not imply disclosure of any confidential business relationship.

- The Central Bank of Iraq shall endeavor to carry out its responsibilities under this Law and in other legislations to develop and implement policies in line with international standards and the best practices of central banks.

Article (125) of the Companies Law No. 21 of 1997

First: The supervision aims to ensure that the company implement the provisions of this law and the decisions of administrative planning and rationalize and direct its activities to play its role in the development process.

Second: The competent sector concerned with the activity specified in the company contract follow up the implementation of the activities mentioned therein.

Article (128) of the Companies Law No. 21 of 1997

The Registrar and the Sector Entity may request any data, clarifications or documents from the Company under the provisions of this Law and Central Planning Decisions.

Control of the Central Bank of Iraq on foreign branches

The Central Bank of Iraq has a unified control over all banks (local and foreign). There is no difference between an Iraqi or a foreign bank where everyone is subject to the law and instructions of the Central Bank of Iraq and is bound by the same degree. Therefore, the Central Bank of Iraq controls the branches of foreign banks. :

1. The Banking Control Department / Commercial Banks Section (Audit and Inspection Division - Division of Issuing Instructions and Licenses - Compliance Division, each having control over a specific part by jurisdiction) is responsible for oversight of foreign branches.
2. The supervision of the branch shall commence since the granting of the license and establishment of the branch of the foreign bank. The bank shall follow the method of supervision of the offices and field inspection visits on a quarterly basis in addition to exceptional field visits.
3. The control shall be carried out in accordance with a plan prepared by the Commercial Banks Department on a regular and exceptional basis, following the sampling method and taking the following procedures:

Obtaining a copy of the latest reports issued by the compliance officer of the branch and the unit of money laundering and internal control of the branch.

(B) To review the financial statements for the purpose of determining the details and disclosures to be made for the purpose of auditing and reviewing them;

4. Each branch of a foreign bank shall provide the requirements of the Central Bank of Iraq to facilitate the task of controlling it:

A. Report of the last field visit.

A copy of the financial statements of the branch and sent to the Audit Division.

C- Attach all circulars issued by the Central Bank of Iraq regarding foreign branches.

5. The supervision of the branches is done every six months or annually for the field supervision.

6. The Central Bank of Iraq requests reports and disclosures from the foreign branch for the supervision of them:

A. The quarterly budget, the balance of the audit, the income statement.

Capital adequacy reports.

C) Liquidity calculation tables.

(D) Local and external matches of the branch.

7. The branch of the violating foreign bank shall be referred by the Central Bank of Iraq to the Commission for imposing sanctions if it does not comply with the following:

(A) The case of non-compliance with the law and instructions of the Central Bank of Iraq.

(B) the case of misuse of the license (license);

(C) The state of non-response to official books and correspondence.

The Committee shall prepare a report to the Inspection and Inspection Commission, including the reason for the penalties (type of violation), the type of punishment imposed on the branch, the opinion of the Committee and the Committee's recommendations.

8. penalties imposed on offending section:

a-fine.

B-administrative penalties.

C-penalty re-evaluate section (for the purpose of entering into the window). Depending upon the type of punishment a violation type by foreign branch. (Central Bank/Banking Control Department – Department commercial banks meet).

Definition of the research sample

The researcher seeks to give a brief description of the research samples as follows:

Abu Dhabi Islamic Bank Baghdad Branch

The Abu Dhabi Islamic Bank / Baghdad Branch (Research Sample) was established in 2010 with a capital of (16,310) million dollars and was increased to (24,647) million dollars (Abdul Nabi, 2017: 4).

The bank offers various banking services, including free telephone services and opening of investment savings accounts, which provides facilities and modern services including:

1. Withdrawals from any of the ATM's distributed at the most important locations, as well as withdrawals and deposits with any branch of the Bank.
2. Exchange and conversion of foreign currencies
3. Fixed instructions for accounts.
4. Periodic statement of account. (www.adib.ae)

Branch of the Bank of Beirut and the Arab countries

The branch of the Bank of Beirut and the Arab countries was established in Baghdad in 2009 with a capital of \$ 16.380 million.

first: Services provided by the bank:

- The bank provides banking services to small, medium and large companies.
- The bank offers a diversified portfolio of loans. <http://bdacbank.com>.
- Parsian Bank branch
- The branch of Barisan Bank, Baghdad Branch, was established in 2011 with a capital of JD 8,190 million.

Second: The objectives of the bank: The Persian Bank provides all banking and financial services in accordance with the requirements of customers, using advanced banking tools and rely on specialized human resources

Test search hypotheses

First: Kruskal Wallis test

To find out if there are differences between the study sample banks and each axis, we will use the Kruskal Wallis test. This test is used to compare several averages of different education type communities. In the case of differences, banks will be analyzed separately

and compared. In this case we will analyze the banks together and the hypothesis of the test will be as follows:

- ☐ Ho:
- ☐ H1: At least two different averages
- ☐ **1. The main hypothesis which states:**
 - ☐ Zero hypothesis: (There are no differences of significant significance between the sample study banks for the supervisory supervision of central banks)
 - ☐ Alternative Hypothesis: (There are significant differences between the banks of the study sample for the supervisory supervision of central banks)

Table (17) The Kruskal Wallis test shows the central supervisory control axis of central banks

Bank name	Sample size	Average grade	Value of Kruskal Wallis	p-value	Significance
Abu Dhabi Islamic Bank	10	39,40	4,91	0,179	No
Beirut Bank	10	47,00			
Iran's Parsian Bank	10	25,80			
Central Bank of Iraq	45	38,40			

The value of (p-value) for the Kruskal Wallis (0.179) is greater than the value of the significance level (0.05). This means accepting the zero hypothesis, that is, there are no significant differences between the banks of the study sample for the supervisory supervision of the central banks. Deals with the branches of foreign banks the principle of unity of control and not one branch to another and no state to another.

Recommendations:

1. The Iraqi laws and legislation and the instructions of the Central Bank of Iraq is sufficient at the meantime to establish branches of foreign banks in Iraq in particular and investment banking in general.
2. The supervision of the Central Bank of Iraq shall be subject to the supervision of the branches of foreign banks.

3. There is a weakness in the understanding of Iraqi banking legislation and laws by the cadres operating in branches of foreign banks.

CONCLUSIONS:

1. Review the Iraqi banking legislation of different degrees in light of the data of the application of such legislation since 2004 and so far on Iraqi and foreign banks.
2. Providing new opportunities for direct banking investment with a formula that includes high-quality features that are given to investors and adequate guarantees.

Sources in Arabic

First: Iraqi laws, regulations and instructions

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2. The Central Bank of Iraq Law No. 56 of 2004.
3. The Iraqi Banks Law No. 94 of 2004

Second: Banknotes and reports

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