



BANKING COMPLIANCE FUNCTION (COMPARATIVE STUDY BETWEEN COMMERCIAL & ISLAMIC BANKS)

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ABSTRACT

Never the less, banking compliance function became one of the most important functions in banking sector according to its characteristics that considered as an interior control tools to control (executive management, departments, subsidiaries...etc) in any bank; and their compliance towards applying rules, recommendations and legislations. In addition to, estimating the risks and limited them; and controlling the anti-money laundering. Thus, these functions that covered the main concept of (Banking Compliance) would avoid the bank to be under the control of any sanctions.

Key words: Banking compliance, interior control tools, anti money laundering, sanctions.

وظيفة الامتثال المصرفي (دراسة مقارنة بين المصارف التجارية والإسلامية)

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الخلاصة

أصبحت وظيفة الامتثال المصرفي واحدة من أهم الوظائف في القطاع المصرفي وفقاً لخصائصها التي تعتبر أدوات رقابة داخلية للرقابة (الإدارة التنفيذية، الإدارات، الشركات التابعة... إلخ) في أي مصرف، والتزامهم بتطبيق القواعد والتوصيات والتشريعات، فضلاً عن تقدير المخاطر والحد منها، ومكافحة غسل الأموال، وبالتالي فإن هذه الوظائف التي غطت المفهوم الرئيسي (الامتثال المصرفي) من شأنها أن تجنب البنك أن يكون تحت سيطرة أي عقوبات. الكلمات المفتاحية: الامتثال المصرفي، أدوات الرقابة الداخلية، مكافحة غسل الأموال، العقوبات.

INTRODUCTION

Banks in general considered as the most essential financial institutes in every country, according to its role and services that submitted to their clients. But never the less, with this high level of importance, there is a high level of risk if the bank does not follow the rules; more over the bank could be punished or loss its reputation towards others either the client is private, company or even country.

With the rapid changes in all economic life in general and in finance in special, the financial institutes and the controlling authority around the world always trying to find a maintenance and developing processes to limit the risk as much as possible towards shareholders, stakeholders, clients, ..etc; by taking the responsibility from the whole level of management in any bank.

MATERIALS AND METHODS OF THE WORK

Methodology of the article

Problem

According to the spared amount of number of banks in Iraq during a short period of time and the new interring of foreign investment in addition to the risk of the resources of these coming money (from where); results in establishing the function of Banking Compliance; because the Iraq Banking law number 94 for 2004 and its rules number 4 for 2010, only define the function of compliance without including the risks of compliance, independence or not, and its relationships with other departments of the bank.

Importance

Discussing one of the most important sectors of banking compliance, and its duties and its relations with other departments of the bank how compliance banking worked a supporter and tool to correct the mistakes and avoiding risks.

Objectives

Understanding the concept of banking compliance in Iraqi banks, and its duties, roles to face risks and sections to avoid its punishments; and selecting the limitations of banking compliance as a function.

Article Model

Using financial model to measure the results only.

Hypothesis

Applying the roles and systems of Central Bank of Iraq CBI as well as applying the law of Anti- money laundering and Terrorism funding No., 39 for 2015; leads to limited the risks and boundaries that could banks faced.

Methodology

Discussing & Analyzing the reports of bank's compliance of both Commercial and Islamic banks of (Cash Credit, Investments, Fixed Assets, Customer Deposits and Benefits).

Boundaries

Two kinds of boundaries:

1. Place Boundaries: Iraq only (Commercial & Islamic banks).
2. Time Boundaries: For the years (2017-2018) according to the CBI reports.

Location of the Study

Iraqi Bank Sector (Commercial & Islamic Banks).

Validity and Reliability of tool and statistical methods used

Analyzing the financial reports of (Commercial and Islamic Banks).

Relevant Pervious Studies

Reviewing the literature and how the bank compliance was used and developed through time; bank compliance is the applying of laws and systems that announced from the central bank according to its importance in doing duties with high level of ethics and responsibilities (Pereira, 2012). Although; it is difficult to measure the added value due to applying the bank's compliance but otherwise, it costs high amount of taxes which leads to bad situation and losing its reputation which is the worst point in business (Al-Asraj, 2013). According to laws and systems, it could be different due to its content, but in all cases, banks have to declare them through their bank's financial reports (Ergys, 2016).

One definition of compliance as Al Kasas define is (verification of the level of adopting the rules, plans and procedures) (Al-Kasas, 2014). Applying bank's compliance leads to effective control to avoid any limitations later (Sloka, 2012).

Another meaning of compliance is being sure of avoiding any kind of cheating or using these rules in a crossing path to be hidden from any law (Hadi, 2014).

By following the International Auditing Standard No.: (250); Management considered as the responsible side of applying the compliance.

Basel Committee on Banking Supervision BCBS defined this function as independent function to assist, select and submitting recommendations; controlling and auditing then applying the regular reports to avoid any bad situation (Ergys, 2016).

Under this job title, the bank compliance applying many duties (Hilal, 2013):

1. Studying the reports of clients.
2. Programing certain systems of bank compliance.
3. Reviewing the Anti-money laundering cases.
4. Supporting the executive management.
5. Advising the executive management with certain standards and laws to apply (Abbas, 2012).
6. Educate the clients and people in general of the risks of non-applying the bank compliance.
7. Documented and define every step to avoid any further compliance; if adding new banking product or service (Enrica, 2006).

And the responsible officer of compliance management should follow the principles of (Systems Guide, 2008), starting with (collecting data, preparing policies, periodic review the whole activities, updating all procedures according the two newest laws and legislations,

submitting every document to the executive management as well as bank's employees, planning for clear plan for auditing and controlling, affiliate the actual process with the planed ones, omitting and/ or adding every services or product of banks; and aligning the whole departments of banks especially the legislation's consultants either from inside/ outside the banks with the policy of bank compliance) (**Victor Livio, 2017**).

As any job function, there are many principles for applying bank compliance (**Amal, 2018**), such as systems, supervision and auditing legislations that related to all bank's activities especially the Anti- money laundering, terrorism's funding and other banking cheating processes. Rules and principles that announced by government such as company system, financial market institute, principles of foreign investment, and other rules (**Al-Asraj, 2013**). In addition to BABS principles that related to bank compliance (**Victor, 2017**), in which BABS limited them as the (10th principles) and any bank or financial institutes should follow (**Ergys, 2016**).

Al Shameri, in 2016 referred to the success of this function in which it should be completely independent from the executive management, and it should be under independent department that achieving its duties effectively and efficiently (**Al Shameri, 2016**).

RESULTS AND DISCUSSION

The distinguished results for the years 2017- 2018 of the Commercial Banks referred to the percentage of liquidity in 2017 was 103% while in 2018 was 98% of the total bank assets, and these percentages referred that the commercial banks are completely applied the bank compliance because its under the CBI selected percentage 30%.

The bank credit of assets was in 2017 around 9% and in 2018 was around 8%, due to the policy of the bank according to the critical political situation of the country.

The percentage of the guarantees in 2017 was 62% and in 2018 was 31% in which the rest of guarantees are funded by real estate guarantees.

The insurance percentage for 2017 was 15% and for 2018 was 13%, these percentages are low with reference with the total credits.

The percentage of cash & pledge credit of the total assets for 2017, 2018 were 64 and 66%, while the CBI required percentage is 800%, so the funded percentages are not as required.

The percentage of saved liquidity for 2017, 2018 were only 1% which reflects a very low percentage that leads to risks of non-applying the bank compliance.

The percentage of capital shares was only 1% for both 2017-2018 according to the common financial crisis which caused the low prices of shares in Iraqi Stock Markets.

The distinguished results for the years 2017-2018 of the Islamic Banks referred to an obvious increasing in capital in which it was 275% for 2017 while for 2018 it was 214%, so they lead to a high level of liquidity that leads to buying the liabilities, and the bank is applying the CBI principles of bank compliance.

The percentage of cash credit of savings was 23889% in 2017 while in 2018 it was 2306%, these percentages lead to high level of risks in capital.

The percentage of insurance of guarantee was 20% in 2017, and 19% in 2018, which referred that the bank follows the CBI principles and there is no letter of credit LC for these years.

The percentage of savings was 247% in 2017 and 237% in 2018 which reflects the wrong usages of investment.

Table (1): Percentages calculated for the years 2017 and 2018.

Indicators	2017 (%)	2018 (%)
Liquidity	103	98

Bank credit	9	8
Guarantees	62	31
Insurance	15	13
Cash & Pledge	64	66
Saved liquidity	1	1
Capital shares	1	1
Increasing in Capital	275	214
Cash credit of saving	23889	2306
Insurance of guarantee	20	19
Saving	247	237

CONCLUSION

With reference to Commercial bank, the liquidity credit consists of two credits of product which was 66525590 ID for 2017 and in 2018 was 88666881 ID, so the bank does not save for facing risks; and the second one was anti-product credit, which was 61555696 ID in 2017 and in 2018 it was 46589344 ID, so the bank follows the principles of CBI. The investments of shares and banking transferring was increasing in 2018 than 2017 around 352510, while the transferring was decreasing around 50% from 2017 to 2018, which refereed to the positive adopting of CBI principles. In addition to the level of depreciation of fixed assets is as CBI required which was around 1846838 ID in 2018. Finally, the bank achieved around 4094163 ID in 2017 as benefits of essential activities and around 22814879 ID as benefits of nonessential activities, while in 2018 the bank achieved around 4799558 ID as benefits of essential activities and around 29659643 ID as benefits of non-essential activities, and with reference to Islamic bank, the liquidity credit was 149590833 ID for 2017 and in 2018 was 195813583 ID, both of these credits were for product accounts, in which the bank save around 1521963 ID to face the product credit for 2017 and around 3916265 ID for 2018. The amount of fixed assets in 2017 was 6971640 ID and in 2018 around 7068006 ID as fixed assets and under construction projects that referred to the level of depreciation is as CBI required.

The deposits of 2017 were 6259772 ID, while in 2018 it was 8490161 ID, so the essential deposits of 2017 were 11% and decreased to 9% in 2018, which lead to many risks in liquidity in addition to the lack of supporting the deposits. While the nonessential deposits of 2017 were 89% and in 2018 was 91% which lead to the lack of facing the client's request. Finally, the bank achieved financial inability around 3254631 ID in 2017, and around 193596ID) in 2018; this financial inability caused the lack of reputation around the foreigners.

The bank compliance becomes one of the most essential function in any banking and financial sectors to avoid the antimoney laundering and terrorism funding and other nonlegislation producers through many systems, rules and legislation that assured the ethical as well as moral financial transactions.

Most of high percentages of the capital adequacy that this study reached are according to the instability of political as well as civil society of the county; although the CBI percentage was 12% but they achieved the double; which means that these banks are lacked in investing while there is a high level of liquidity.

RECOMMENDATIONS

To avoid these results, banks should follow the principles of CBI and going on developing the bank compliance systems to avoid any financial risks or / and crisis, moreover, the liquidity should be generated through many investing projects to reduce the pressure upon the financial budget of the country and trying to find other sources to support the financial budget through the term of participating between the government and the private banks.



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