



Survey Effects Legal Collateral in the Banking System in Iran

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Abstract: A wide range of activities in the interest-free banking system in the conventional banking system is used accordingly, allocation of resources. Based on the statutory and regulatory provisions, the main task of wandering and a stagnant community banks attract funds and allocating them to meet the financial needs of individuals and financial institutions in the economic system, the objectives and programs of the society. The present system of banking, and the allocation of resources under legal regulations and on the basis of contracts take place. Most applicants through the grant facility will be provided in the form of legal transactions and contracts are allowed. In order to ensure the return of bank facilities granted to customers attempting to grasp the valid records found in the case of non-payment at maturity of the debt or perform the obligation is due, his quest for a place to demand records. The systems and procedures related to obtaining collateral against the loan, and is worthy of favorable characteristics, in that case, not only reduced the risk of banks.

Keyword: Banking System, Guarantee, Mudaraba, Collateral

INTRODUCTION

The banking system will create better conditions for job growth and economic prosperity of the community will be provided. The purpose of this study is to identify the legal status of documents and the Iranian banking system. The research method is descriptive - analytical comparison of the nature and purpose of the application is. In this study, using books, magazines, and all Databases doctrine of ideas, materials were gathered. Using theoretical analysis and taking the advice of experts and scholars as well as by content analysis, this study will be analyzed.

Until the passage of the first law in banking, law and general banking operations banks did not exist. This means that only the constitution of the bank - both public and private - that would refer to the number of bank transactions with their customers gradually and according to Iran's banking history (which is Thread separate) banking transactions to be custom Grydh banking system was most prevalent in granting loans to customers (that is to say it was a loan or credit summary) forms of this type of facility, which is specified in law no. In Article 2 of the law stipulates that the banks accept deposits and open a checking account and credit can limit the provisions of this Act according to its statutes, one or more fields of operation stipulated in the Act to conduct. But the third

season of interest-free banking law, banking facilities under a variety of headings : participation , Mudaraba , installment sales , lease acquisition condition , loan , is presented , Mzarh , Msaqat and futures outlined and the results determined by each bank⁴ is deduced . Clearly, a complete understanding of the applicant to the bank facilities of various aspects of the contract and its provisions are necessary and useful. No doubt trying to hangup collection in addition to the effective use of resources and the improvement of banks , national markets has significant effect on economic growth and prosperity¹ . Its outstanding collection of resources for the improvement of bank 's ability to provide facilities , a factor for economic growth and dynamism of the country. The outstanding receivables , cash collection levels of society will follow and due to tightened monetary policy and government efforts to rein in inflation , can effectively help to achieve economic objectives of the government. Furthermore, the improvement ratio of its sources and uses of such measures is critical in evaluating and grading the banks is considered . The above tasks can be essential in maintaining the banks of the sources added . Standards and principles of interest-free banking relationship with a bank customer accounts and debt Qrzalhsnh Dainichi and policy concerning bank must be a way to prevent the violation of people's savings . Meanwhile depositors in banks as deposits , investment counsel have a duty to protect the assets and deposits while its clients in employment , adequate and reasonable distribution of the common resources to do their best.

A) Statement of Problem

Today, the banking system plays an important role in the economy . On the one hand, investment banks, small and large individuals, families and organizations that collect , then put them in the hands of powerful economic actors , areas for growth and economic development, providing , of course, occurs when the legal relationship tools and methods of using the bank communication with customers , both depositors and loan applicants , logical , psychological , efficient and proportionate to the goals and objectives of customers. After more than twenty years of ratification and implementation of this Act , an opportunity to be part of the efficiency of resource allocation in the Iranian banking facilities to evaluate the granting of contracts and forms.

B) Lack of integrity and failure of monetary policy instruments used in the

was not a lot of research , so interest-free banking law designers of caution about some of the legal tools such as changes in the legal deposit rates , changes in the discount rate and open market operations further aside from the way Islamic financial instruments , tools on the ambiguity of the concept are brought firstly , secondly do not have the required performance . However, in light of new studies in Islamic banking and finance can be more and more efficient use of the tools that are used in the proposed legislation . The most important of these are:

Legal deposit rates

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One of the common tools of monetary policy changes the legal deposit rates, central banks with excess liquidity when the community is facing increased legal deposit rates, the power of grant the controls reinvestment and institutes noncredit when society is faced with a shortage of cash deposit rates by reducing the statutory grant of power to the facility increases. This tool is nothing wrong legally and lawfully can enter the banking law. Banks and non-bank credit institutions are obliged to say that the proportion of deposits in the central bank's objectives and programs of all types of legal contracts such as deposit, loan, and representation of public deposits to the Depository Bank, It is worth noting tool in the banking law there is no interest, but in practice the central bank to act.

Discount rate of change

Given that famous Shia and the Guardian Council authorized the purchase of religion and permission to use it in the banking system, banks and credit institutions non-banking can documents with the Central Bank of discount and the Central Bank can also change the discount rate in times of need, monetary policy. So, it is also to be added to the monetary policy.

In conventional banking (usury) commercial banks normally its resources are used in two ways.

Loans and credit

The major sources of conventional banking sector banks, including the Bank's own resources and the resources of the deposits as loans and credits short, medium and long term will be given to individuals and businesses. Most of the legal nature of credit agreements, loan interest which is considered usury in Islam, Islamic societies are not applicable.

Investments in securities

In conventional banking, commercial banks are prohibited from investing on physical assets, but also a portion of its resources on securities such as bonds, preferred stock and common stock to invest in certain cases on the market. After the revolution and the counter Sharia law, banking law was changed Iran. Designer's interest-free banking law without Lucre between commercial banks and specialized, other methods have been proposed for resource allocation. Chapter III of the Act, Articles 7 to 17 of these poses.

Eliminating debt with interest from banking operations, interest-free banking designers allowed in Islamic law began to think of ways, And in this respect the principle Fragyrbvbn banking transactions, they regulate the banking laws so that all deposits and all sorts of incentives to be responsive to the demand for banking facilities. Accordingly, any valid legal contract with the lowest proportion of banking operations and was able to supply, the law, and consequently the number of contracts, especially in the allocation of resources, the pen Davazdah reached. There are several contracts and prudential regulations that were written (in many cases more than what the law is careful) and comply with general policies go hand in hand, and the interest-free banking is so complex that it is understandable not only for customers, but also for many

administrators were troubled banks. according to one of the investigation has just 7.29 percent of the clients and 8/55 percent of the bank employees, quick to get acquainted with the banking operations are usury without understanding the complexity of the banking operations, in addition to the cost of training personnel and the cost of the operation, upset the formal and customers of transactions, so that the consumer without understanding and serious intention, written agreement signed and facilities, and in some cases, the works of the effects of usury². of diversity and multiplicity of banking contracts and inappropriateness of many of them with the nature of the commercial banks and objectives and motives for applicants, all facilities and banking experts think mind on the understanding, education and the proper implementation of the banking operations are, and the possibility of innovation and proposals are based on the idea of customer focus from them.

Guarantee and Collateral

Banks to adapt to the provisions of the internal bylaws facilities granted, in front of the payment of the credit facilities, the acceptable collateral will determine the securities in credit facilities and competent authorities. Guarantees and documentation about each applicant can vary depending on the applicant's credentials and qualifications and, as noted, determine the types of collateral in compliance with regulatory and legal norms with the approval authority is the facilities. Regardless of economic policy, the most significant and most reliable of these documents, the immovable property registration and then deposits and bank guarantees and bills next business documents as well as documents are binding. For example, in a civil partnership contracts in housing construction site ownership document issued by the project partners is a place called the plan as collateral good performance of the partner's commitment banks are roa. Or in the case of industrial and productive projects in the implementation of the plan and machinery and mortgage facilities .

Also in the contracts selling in installments machinery that generally as normal and inside the bank will be signed and banks in order to ensure the implementation of the agreement and its receivables property deals with the issue of the instructions to his bail³.

Subject property transaction banking regulations prescribed by the contract during the regular domestic banks will mortgage collateral. It also attaches documentation machinery where documentation Estate (Realty), a regulatory document must be recorded and signed in the home office. Another thing collateral or collateral required, all facilities, plus costs and interest payments to the bank covers or not? And in the absence of covering is required for the desired ceiling collateral to the bank facilities to determine the future face of the collection is not a problem. Documentation related facilities may be movable or immovable property or contracts that involve both together might be irreplaceable documents must be registered at the notary and the notary will be in force. Of the mortgage contract, including interest-free banking transactions is the subject of law, so any document relating to Real Estate Mortgage to secure

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banking facilities granted bail is set. One thing that a legal review of the facility should be considered joint property is discussion . In accordance with Article 30 of the Civil Code , any copyright owners of any of its property is manipulating the principle that the results of joint ownership of property is not applicable because the common property of every particle property, owned by all owners and partners , thus capturing any of the partners in any part of the property by virtue of joint legal ownership and possession of property other than the property without the owner 's permission is not permitted . Although the condominium property Vending negligence or lack of legal is no problem , but according to the criteria of Article 475 of the Civil Code says unity rental condominium property is permitted to surrender but also depend on the permission of partner. Therefore, the bill also (property of the mortgagee) as mortgagee , subject to the consent of the other partners is because they possess the common property without the consent of all partners of a non- occupied property without the owner's permission . Part of the Condominium sell , selling more than her own share than the ratio applicable to the kibitz partner , if the buyer is not aware of the fact , can be invoked to terminate the sales force of cucumber discrimination is also assumed all property is sold.

In each of the contracts in line with the interest-free banking, regulation, and shall be signed and exchanged a series of binding elements that do not observe the basic principles and according to them, the legal nature of the contract the regulatory controvertible, and in some time expired. means that although the contract will be enforceable in all cases mentioned in this section, but if the conditions and the contract is not matched with binding rules and regulations, is authenticity of the marriage question, For example, if the contract amendment civic participation, all issues should be considered and to ensure the return of funds, securities or real estate records Trhyn bank is well enough, but a total waste contract amendment on civic participation, and to be a three-year before setting civil partnerships amendment requires approval of the Central Bank of Iran, based on the agreement with civic participation for a period of three years in case of non-compliance issue, set the legal validity and legitimacy of such an amendment is necessary. For example , in a civil partnership agreements as well as the design , manufacturing, industrial and construction of one of the pillars of the contract , where the project is being unclaimed when the site plan is in conflict must be before the conclusion of the contract , at the consent to contact the copyright holder in writing and subject to the site plan mortgage bank comes or not , or collateral, facilities What not of It's merely civic comes realization clinching . Considering the above discussion of the place of detention plan mortgage or third parties , or other person or persons joint between the applicant facility , the subject is to at the contract civic first ('s roa. place plan) or premises should be jaw- mortgage plan is to be received or written consent of the mortgagee and the second (on the place of detention plan) or is required to be detained or written consent of the site plan to fix the custody (the it is usually a judicial authority) is given in the third (joint location plan) or the owner must

obtain and provide a property deed accomplished The location of the project may proceed or consent of the other joint owner or owners to education ⁴.

Contracts in law enforcement operations without usury bank and its executive regulation of the bank and banking facilities and exchange and, according to Article 15 of the amendment of the law, in official documents and agreements binding to both parties .

So in the accuracy of the contracts is of special importance and failure to comply with legal measures in this case, not only recognize the contract and damaging is possible, but the agreement of the document. The idea that in some cases, observed the domestic bank is incomplete, or with the corrosion pen and or basically parts of the text of the agreement on the remaining white and the lack of attention to the issuance of the executive order through the registration authorities or other legal measures, many problems for banks, which eventually led to the inalienable rights of the bank, so it is necessary to all units of the regulator such agreements, according to the following category points to be addressed.

DISCUSSION

In summarizing the contents of this article, the conclusion is reached that the law regarding the documentation mortgage Article 34 of the Law on Registration of mortgage, Article 34 of the Law on Real Estate Registration Act of 1351 and regulations of the Act of 1355 is of any bank in the case of movable property Unlike a mortgage or immovable about the material and its regulation is moving, it is illegal.

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