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A COMPARATIVE STUDY OF THE MECHANISM OF IRAN' S BANKING SUPERVISION SYSTEM AND THE US FEDERAL RESERVE SYSTEM

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Abstract

Background: One of the most important institutions in the field of economy of any country is banks, whose most important product is the production of information. Due to their key role in the field of economics in terms of monetary policy transfer, financial intermediation, maturity conversion, facilitating the flow of payments, allocating credit and maintaining financial order in the economy ..., close, continuous and efficient monitoring of them It is a basic necessity Following that, the independence of the supervisor of the structural independence of the organizations supervising financial independence and the independence of human resources is one of the most important elements of supervision. In fact, both the independence of the central bank and the independence of the supervisory authority are both factors that can be considered to promote banking supervision. **Objective:** To compare the supervisory structure of the banking system in the Central Bank of Iran and the United States Method: The present article has been done by library method and by reviewing the relevant books and articles and laws and regulations related to the field of banking in Iran and the United States. **Finding:** In the opinion of Iran's banking supervisory system, there are gaps such as limitation of the central bank's authority in the form of monetary and banking law and related regulations. **Conclusion:** The mechanism of monitoring banking operations in Iran and the United States in terms of structure, regulatory impact, regulatory scope, etc. is severe and weak, and the three mechanisms of the Federal Reserve, the Office of Monetary Control and the State Audit Office in comparison with bank supervision Central Iran has applied a more effective mechanism in the banking system.

Keywords: Monitoring, Basel System, Supervisor, Iran, USA

1. INTRODUCTION

Banks are one of the institutions that provide financial services. In addition, they are among the service institutions that deal with the vital pulse of society, ie the economy, and most of the people in the society are directly or indirectly connected with the services of banks. Banks are able to provide economic development and growth or economic stagnation with their decisions and credit policies. They can facilitate industrial development by providing production, industrial, and commercial loans. On the other hand, it can be argued that the bank operates in the field of asset management; managing money generated through people's deposits or other debts comes. In most countries of the world, the banking system is very important due to its key role in the mechanism of monetary policy transfer, financial intermediation, and maturity conversion, facilitation of payment flows, credit allocation and maintaining financial order in the economy. These financial institutions, on the one hand, have become irreplaceable institutions in the economy due to the collection of savings, resource allocation and directing

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liquidity to economic activities, and on the other hand, due to the lack of development of other financial institutions in developing economies, Provide financial information and diversify the financial portfolio needed to convert maturities and reduce related risks. But despite the key role in the financial system of countries, banks are among the institutions that have been exposed to losses due to lack of customer trust due to information asymmetry, high leverage, lack of liquidity compared to the total volume of debts and variety of products. And the resulting vulnerability makes them deserve special attention and supervision. (Tehranfar, 2012, 338) Now the question that arises is what is necessary to monitor the operations of banks? And unlike other organizations, what added value do banks have and products that should be closely monitored? In response, it should be noted that the most important and main product and result of the banking system is the production of information. In fact, this information by the banking system allows the economy to achieve an optimal distribution of capital. Although the information produced is always useful to society, banks do not necessarily work to maximize welfare in society. This is where the need to monitor the performance of banks is raised (Zafarpour, Massoud, 2016, 72) In fact, monitoring the operations of banks, if real, continuous, continuous and serious, both prevents the waste of resources and dries up the roots of administrative and financial corruption. But another important issue besides the continuity of the issue of supervision is the type of supervision, efficiency, and effectiveness, independence of the supervisor in the form of structural independence of supervisory organizations, financial independence and independence of its human resources. In all banking systems, there is at least one supervisor and regulator, and the position, structure, executive and regulatory powers and specific responsibilities of each regulator are different. Differences in the regulatory systems of different countries are usually due to the regulatory and economic environment and their common practices, but in some cases the decisions of regulatory and regulatory authorities are made for political purposes. As mentioned earlier, in most countries of the world, the banking sector regulates and supervises the banking sector. Supervision requires observers to be accountable for their goals and principles and to have sufficient independence and judicial immunity. In fact, the first of the 25 principles of Basel emphasizes that an effective banking system that is involved in the supervision of banking units has specific goals and responsibilities. In most regulatory bodies, the responsibility of supervising banks usually includes the following: issuance and revocation of banking licenses based on specific principles and criteria, issuance and implementation of precautionary rules and standards, issuance and implementation of precautionary rules and standards, assessment of crimes and violations, actions Urgent and urgent issues such as issuing stop and close orders, suspending and dismissing management orders and imposing precautionary conditions on supervised banks, termination and settlement of banks, power and authority to prepare and compile periodic reports for face-to-face inspections, preparation and Setting organizational rules and regulations for effective banking supervision, continuous monitoring of the financial position of banks and credit institutions through receiving information, continuous monitoring of the risk situation of institutions and preventing banking crises, and improving and improving the legal and regulatory environment based on feedback. Received from the supervision of banks. Therefore, the supervisory authority must have adequate executive power and authority to perform its duties and exercise effective oversight. This independence and authority is essential

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to counter government pressures on banks, shareholders, depositors, as well as all users of banking services such as lenders and borrowers. In addition, the first principle emphasizes operational independence and sufficient resources and considers the existence of an appropriate legal framework for banking supervision necessary. Also, supervisory authorities must have sufficient resources such as staff, financial resources and information technology to achieve supervisory objectives. In this regard, banking supervisors should not have any personal or organizational commitment to others to perform their responsibilities properly. Regulators should also warn of the dangers of undermining public confidence in the financial system when military issues arise and prevent them from spreading to healthy banks. In such circumstances, it is the responsibility of banking supervisors to adopt and organize appropriate policies to overcome the critical situation and minimize the damage caused by it. In such circumstances, the strategies and methods used by regulatory authorities should minimize the consequences of market fluctuations and establish discipline in the market. (Tehranfar, 2012, 349-350) According to what was said, when A comparative study discusses the purpose of examining and comparing the challenges, advantages and disadvantages of the two systems. Based on this, it can be said that the main challenge of Iran's banking system compared to the United States is the limitation of central bank supervision in the form of monetary and banking law and only on state-owned banks. So the main question is what are the limitations and challenges of supervising banking operations in Iran and the United States? And in fact, which system as a successful system has been able to methods and methods of banking supervision, in order to advance the principles and Is the basics of banking supervision applied in both systems?

2. THEORETICAL FOUNDATIONS OF RESEARCH

Undoubtedly, every organization and institution that operates in the structure of the economy of any country and provides services needs order, rules and principles that regulate the manner of operation, activities and goals for which it is established. Banks are no exception to this rule, and banking activities and banking supervision over their performance are impossible without the adoption of laws and regulations that regulate their performance and activities. On the other hand, a committee called the Basel Committee, established by the G10 countries in Basel, Switzerland, also has an important position in the field of banking supervision. Banking Regulations in Iran and the United States The position of the Basel Banking Supervisory Committee and its guidelines, as well as the importance of banking supervision, are examined.

2.1 A brief history of banking laws and regulations and supervision of banks' performance in Iran and the United States

The first banking law of Iran was approved by the joint commissions of the National Assembly and the Senate in 1334 AH, and for the first time, special regulations were implemented in order to form a bank and conduct banking operations. According to this law, the bank must be established in accordance with the general regulations of the formation of companies and the commercial law. In addition, a committee called the Banking Supervisory Board was set up to oversee law enforcement and control the organization and credit operations of banks. Permission to establish a bank, closure of a bank after its establishment, implementation of the

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country's monetary and credit policy, permission to conduct foreign exchange transactions of banks and regulation of special regulations governing the relations between banks and their customers were assigned to this board. The law consisted of five parts, namely the establishment of a bank, the capital and reserves of domestic and foreign banks, the limits of bank operations with reference to prohibited operations and legal reserves, the Board of Supervisors of Banks, regulations governing compliance with existing banking laws and regulations. Related to the liquidation of allocated banks. In 1339 AH, another law that was more comprehensive than the original law, called the country's banking and monetary law, was approved by two parliaments. This law was implemented until July 9, 1972, and on that date, the new monetary and banking law of the country was approved and the previous law was abrogated. Today, major parts of the law passed in 1351 are used today. 1334 has been raised. From 1334 to 1339, this collection has covered topics related to banking and banking supervision. This law discusses the Board of Supervisors of Banks, which is responsible for overseeing the accuracy and soundness of banking operations. Compared to the subsequent laws in this field, this law has been really an advanced law and the way of looking at it in the sense of supervision has been a more expert and accurate look. In 1339, the Banking and Monetary Law was passed, which is in fact the basis for the establishment of the Central Bank. In this law, we are introduced to the strange concept that when the Monetary and Credit Council is mentioned as one of the pillars of the Central Bank, one of the tasks of this council is to supervise the banks; In other words, the council that is supposed to do the policy-making work of the central bank will also be in charge of supervising the banks. It seems that such a composition determined by the legislator was not in the field of executive banking supervision, and for this reason, the same Board of Supervision of Banks was appointed in Law 1334, to continue its activities to monitor the performance of the banking system in the Central Bank. have given. In the country's monetary and banking law approved in 1351, changes were made again in the field of supervision, which is considered a step forward. In this law, the notion that banking supervision is the responsibility of the Monetary and Credit Council was abandoned and banking supervision was left to the Central Bank, but in practice it is emphasized that the framework of this issue is still approved by the Monetary and Credit Council. . The problem with this law is that many of the actions that the supervisory board must take to oversee banking are not enforceable in the form of council work or council approval, and this is not the case anywhere in the world. In fact, it is not possible to appoint a council with the position of monetary and credit policy, and at the same time, all supervisory measures can be defined in the framework of obtaining approval from this council. After the revolution in 1978, we have faced the nationalization of banks. In this new framework, it can be said that the concept of banking supervision is practically eliminated, because the legislator's view is that all banks are state-owned and under government supervision; The General Assembly of State-Owned Banks is also convened by the Government; The central bank is also a government institution, and as a result, the issue of banking supervision is practically diminished. Therefore, in this state-owned banking system, there is practically no trace of the concept of supervision (within the framework of international standards in the 1360s and 1370s). In the late 1370s, two important events took place, one was the establishment of the first non-bank credit institution with the approval of the Monetary and Credit Council and the other was the permission to establish non-

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governmental banks according to the law approved in 1379. These two events create a new approach to the banking debate. After two decades, the legislator comes to the view that state banking does not have the beneficial effect that the legislator intended in 1979, and there is a need for new blood to flow in the veins of the banking system.

With the creation of private banks and the expansion of private banking and its wide differences with state banking, the concept of supervision of the banking system entered a new phase and sensitivities were created that what is supervision and its goals and how should the banking system be supervised? This collection is a topic that has been discussed since the beginning of the 1380s. Some of them are theoretical issues and some of them are operational. But the effects of these debates on banking laws have been minimal. The point of fundamental change in the legislature's view of oversight may be seen in the Fifth Development Plan Act. In this law, the legislator has given authority to the central bank for the process of establishing institutions active in the money market, establishing a deposit guarantee fund and similar issues. In addition, we have the law regulating the unorganized money market. In order to implement this law, efforts were made to classify unorganized money market institutions and to be supervised by the Central Bank, and these efforts continue. In general, in the current situation, because the legislator in the field of banking supervision does not have a clear definition of the concept of supervision and its objectives, regarding the concept of supervision, supervision objectives, supervisory unit, powers and powers of supervisory unit and whether the supervisory unit is only obliged to monitor the market. And there is disagreement as to whether to report to the competent authorities, or whether it has the authority and power to punish erring banks and prevent improper operations. (Zafarpour, Massoud, 2016, 76-77)

In the United States, banks are established at both the federal and state levels. There are many federal and state banking regulations, and in the United States, unlike in Switzerland and the United Kingdom, which have outsourced banking supervision to an agency. The US Constitution explicitly states the federal system and provides for a specific division of labor between the federal and state governments, which, of course, has increased the responsibility of the federal government in economic matters over two centuries, including the establishment of the bank. At this time in many small towns across the United States, local banks were the only suppliers of foreign exchange, and a sudden increase in demand often led to a lack of cash for the local economy. It should be remembered that this was before the widespread availability of credit, so businesses and consumers both relied on cash to pay their bills and provide for their families. Currency shortages were one of the real problems that sometimes even led to overpayments, bankruptcies of individuals and companies and other serious problems in the economy. In response to this and other problems in the system, the US Federal Congress passed a law that led to the creation of the Federal Reserve for the United States. The purpose of the Federal Reserve Act was to establish the Federal Reserve, to make the currency more flexible, to provide the means to reduce the price of securities again, to establish more effective oversight of the US banking system, and so on. When Congress first considered establishing a Federal Reserve, one of the top priorities was to ensure its representation in all parts of the country. To provide this, the central agency offers a prominent approach with strong oversight of a range of regional federal banks. According to the statute, this structure is the Board of

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Governors, which is composed of members of the Federal Reserve Banks. The Federal Reserve Board consists of seven members, all of whom are appointed by the President of the United States for a term of 14 years. The Board of Governors also oversees the banking industry and has about 900 members in the Federal Reserve System. In addition, there are more than 5,000 banking companies overseeing Bank Melli that are required by law to operate under the jurisdiction of the Federal Reserve.[1]

The Federal Reserve publishes a summary of the region's economic situation in what was originally known as the "Red Book." This book was designed for use by the Federal Reserve Board of Governors and was not intended for the public. However, in 1983, information in the Red Book became available to the public. The report was published in different colours as a sign of a change in policy and is now known as the "Beige Book"[2]. As for the Federal Reserve's monetary policy, it should be noted that the Federal Reserve's decree, as described by the Federal Reserve in 1913, contains a directive that the US Federal Reserve must effectively set targets for maximum employment, price stability and Improve long-term interest rate balance. While the overview of these guidelines is relatively vague, the reality is that the national economy has evolved to become highly complex systems with a set of identifiable interdependencies. This interdependence between central banks, as a financial instrument, enables them to focus on managing one aspect of the economy while expecting to achieve certain results in other areas of the economy. In general, the US Federal Reserve has three main monetary instruments: a) the Federal Reserve's open market operations; B) Discount window program; C) Federal Reserve Deposit Terms. Labonte, 2017, p 3)). Banking regulations in the United States are fragmented compared to other countries where most countries have only one banking regulator. In other words, in the United States, banking is regulated at both the federal and state levels. Depending on the type of banking organization charter and its organizational structure, it may be subject to multiple federal and state banking regulations. Unlike Japan and the United Kingdom, the United States maintains securities at the federal and state levels, apart from banking regulators, securities, commodities, and regulatory agencies (in the United Kingdom and Japan, banking, securities, and industry regulators). Insurance is combined into a single financial unit (bank inspectors) are generally used to monitor banks and ensure compliance.

2.2 Position of Basel Banking Supervision Committee and its guidelines

In the case of banking supervision, the position of a committee called the Basel Banking Supervisory Committee and its guidelines are very important. The Basel Committee on Banking Supervision, or Basel Committee for short, is a very important and active international reference in the field of banking supervision. The committee was established in 1974 by the central bank governors of the G10 countries. The Basel Committee is organizationally a subsidiary of the Bank for International Settlements and is headquartered in Basel, Switzerland. Although the views of the Basel Committee on its oversight issues are not binding on countries, it should be noted that the Committee's oversight recommendations are strongly supported by international financial institutions such as the International Monetary Fund (IMF) and the World Bank (WB). The Basel Committee responds to a global need for cooperation in the field

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of banking supervision, including the provision of regulatory guidance and recommendations, encouraging convergence in the use of banking supervision standards and practices in member countries and other interested countries, to ensure the health and safety of the banking sector. Came.[3]

The annual meeting of central banks with the presence of representatives: China, Thailand, Japan, Iran, India, Pakistan, Bangladesh, Singapore, Hong Kong, Malaysia, Indonesia, New Guinea, Philippines, Nepal, Macau, South Korea and New Zealand Located:

One of the goals of the Basel Banking Supervisory Committee is that no banking institution should be able to escape oversight: the supervisory authority should evaluate the bank's policies and instructions regarding lending and investment.

The Basic Principles on Efficient and Effective Banking Supervision, published by the Basel Committee in 1997, set out in principle one the preconditions for effective supervision. (Rajabi, February 2011: 24-22)

2.3 Basic principles of the Basel Committee:

- The monitoring unit should have clear and transparent goals and responsibilities.

- The supervisory unit must have a well-equipped, experienced workforce and operational independence. 2.3- Supervision of banks, its importance and goals

Despite their key role in the financial system of countries, banks are among the institutions that are able to attract and allocate resources in their intermediary role based on the trust of the whole people, especially depositors and borrowers. Therefore, these institutions in playing their mediation role are always vulnerable due to information[4] asymmetry and are exposed to various risks. Second, in the financial system of countries, more than 90% of the resources of banks and credit institutions belong to depositors, and the resources of shareholders rarely reach 10%. Therefore, due to the high degree of leverage, these institutions are always exposed to losses due to customer trust and the resulting vulnerability makes them deserve special attention and supervision. In addition, the nature of the banks' activities is such that they do not seem to show any signs of crisis or bankruptcy, but they can carry hidden crises in various forms. (Tehranfar, Gholi Begloo, 342)

In short, the purpose of banking supervision is to help the optimal allocation of capital in society, reduce the market power of large banks, reduce distortions in banks and the risks of monetary crises, and ultimately eliminate corruption in the banking system. The question is what kind of oversight will be appropriate for countries? In most Western countries, due to the competitive performance of banks, the main concern of observers is to ensure banking stability. For example, Canada is mentioned as one of the most successful banking systems. The main reason for this was the immunity of Canadian banks to the recent crisis, and at the same time one of the factors for such performance is the strong and centralized regulatory body in Canada. (Zafarpour, 2016, 74) According to what has been said, in the following section, while looking at the concept of banking supervision, the objectives of this supervision and different methods and methods of monitoring the performance of banks are analyzed.

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2.3.1 The concept of monitoring the performance of banks

Today, when discussing banking supervision, it refers to the range of powers of a supervisory authority, which covers the pre-establishment of the institutions that perform banking operations until the complete exit of these institutions from the market. (Zafarpour, Massoud, 2016, 76)

In the concept of supervision, it can be stated that it is not easy to provide a clear definition in this field, because banking supervision covers various areas of complex banking activities in the world today. There are many definitions in the field under discussion, but it can be boldly stated that maintaining the stability and health of financial institutions, following the rules and safeguarding the interests of depositors are the common points of the existing definitions. Due to the complexity of the fabric of modern financial institutions and the constant need to adapt the legal framework to fundamental change and innovation, legislators often give limited power to regulators to oversee and regulate the activities of financial institutions.

The importance of oversight in this area lies in the fact that banks and financial institutions are intermediaries between savers and end users of financial resources or savings in general in society. In other words, through their branches, banks are not only the main holders of private sector deposits and primary credit and investment channels in the economy, but also the main regulators of society's payment mechanism. In addition, these activities have a direct impact on the supply of monetary and credit resources of the country, because banks are institutions that have the power to create money through the provision of facilities. (Najmabadi, 1372, 20-25)

Preventing the spread of harmful effects of problems and failures of banks to other sections of society is another issue that clarifies the importance of monitoring banks. In this regard, in order to achieve monetary policy goals, banks are always controlled through macroeconomic controls such as open market operations, interest rates, credit ceilings, direct controls and rebates. (Meaning, 87, 1390-98)- The monitoring unit should have an appropriate legal framework for licensing and monitoring and have access to information (Arjmandpour, 1385-43)

2.3.2 Objectives of monitoring the performance of banks

Under conventional standards, banking supervision objectives have two main axes; Maintaining the stability and health of the banking system and protecting the interests of depositors. It is around these two main axes that the framework of banking system supervision laws is formed. In most countries, this framework of banking system supervision laws is very detailed, explicit and precise. (Zafarpour, 2016, 76) But in short, banking supervision has the following main objectives:

1. To promote and develop a wide range of financial services to meet the needs of the economy;
2. Ensuring the efficiency, security and responsiveness of consumers' needs and complaints;

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3. Ensuring compliance with laws and regulations leading to the strengthening of high banking standards and professional practices;
4. To ensure that the conduct of the banking system is consistent with monetary policy and credit allocation policies, due to this point, prudent regulations sometimes contradict monetary policy (Sheng, 1990: 13).

Bank supervision is:

1- Reducing systemic risk and reducing the influx of depositors, 2- Supervising the procedure and executive process of regulations and instructions of supervisory authorities, 3- Ensuring the observance of precautionary and adaptive regulations, 4- Reducing and controlling the entry of fraudulent transactions And detection of criminal transactions, 5. Ensuring the establishment and effectiveness of management and internal controls. (Tehranfar, 2012, 349)

2.3.3 Methods of supervising banks

Each company uses different monitoring methods to do its business and evaluate the activities performed in it with the strategy defined for that company. Simply put, the stakeholders of public companies such as shareholders, board members, board of directors, etc. have different regulatory levers. For example, shareholders protect and protect their expected benefits by appointing a statutory auditor and auditor (in addition to board members). Given what has been said, the nature of the activity of commercial banks is different from the activity of general and specific commercial companies due to the existence of deposit interests and depositors. In banking institutions, in most cases, the interests of depositors are at least 10 times the interests of shareholders and other stakeholders, but they do not play any role in the management of the bank. Thus, if sections of society or depositors conclude that their interests are not being served in banks and credit institutions for any reason; their untimely decisions may have adverse effects on the financial systems of countries. Sometimes there is a rumour in the market that indicates that there are some problems for a particular bank. The same rumour, which may or may not be properly rooted, alarmed the bank's depositors and created a situation for depositors to flock to that bank. In such a situation, due to the crisis of distrust in the banking system, all depositors demand cash, while in the best case, banks have only 20 to 25 percent of deposits in cash and close to cash. Therefore, in order to protect the interests of depositors and prevent banking crises in order to maintain the stability of the banking system or at least control and reduce its adverse effects, Article 16 of the 25 principles of the Basel Supervisory Committee emphasizes that an effective banking supervision system must Consists of both face-to-face and non-face-to-face monitoring methods. (Tehranfar, 2012, 360)

In some countries, the above methods are performed in one part of the central bank, but in most central banks, such as the central banks of Malaysia and Japan, these two tasks are performed in two separate parts.

1. Direct monitoring method (on-site inspection)
2. Indirect monitoring method (off-site inspection)
3. Other monitoring methods

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2.3.1.1 Direct monitoring method:

This is usually done by inspection teams who closely monitor the bank being inspected to evaluate information received from offices, or to interview their staff. The number of inspectors or the duration of the inspection can vary depending on the size and complexity of the institution and the inspection plan. For example, where inspection resources are limited, inspectors may inspect the institutions or activities that pose the greatest risk to the banking network and the bank under inspection. The goals of direct oversight vary from country to country. In some countries, direct oversight only considers the implementation of a set of regulations in which security and stability have been neglected or have been relegated. This example of banking supervision is seen in most of the former socialist countries, and banks are primarily a channel for allocating credit to key projects and manufacturing sectors. In most countries, the method of direct supervision is done in a pre-determined program, and in addition, direct supervision is done randomly and the selection of branches on a case-by-case basis is also common. Most of the direct supervision includes steps such as: evaluating the bank's management by receiving information about it, examining the bank's financial situation in paying debts and fulfilling obligations, examining the quality of banking operations, examining the bank's performance in dealing with various risks and examining asset quality Are. (Bank of Japan, 1992)

2.3.1.2 Indirect monitoring method:

All monitoring systems rely on varying degrees of regular receipt of information data to monitor the financial performance of the audited entities. The type of this information varies depending on the number and characteristics of the mentioned institutions and especially in relation to the activities covered by them. The use of this method covers a wide range of operations. Most countries use the system in question based on periodic reports (weekly, monthly, etc.) and annual reports (such as balance sheets and profit and loss statements). In this method of monitoring, the central bank supervisors analyze and evaluate the mentioned information and statistics and prepare the necessary reports for the central bank's decisions. In most countries, due to the mechanization of banks' operations and the timely and regular submission of statistics by them, the analysis and reflection of the results and finally the decisions are done quickly. From this point of view, the application of this method of supervision is constantly increasing and is increasing day by day in all countries. Asset quality is monitored by capital adequacy, coordination and sharing. (21-16: Sheng, 1990)

2.3.1.3 Other monitoring methods:

In addition to the methods mentioned, there are other methods that are not very comprehensive, but in many cases have been used and useful results have been obtained. Ethical persuasion or advice from bank managers is one that is used by many central banks (Tan Sri Jaffar, 1986: 8-13).

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2.3.1.4 The role of supervision in the correct implementation of monetary and credit policies:

The main goal of the central bank in expanding the structure with monetary and financial stability is part of the macroeconomic goals that are achieved to achieve growth in total supply, employment, investment and consumption. In this regard, the existence of a sound and strong financial structure is necessary for the implementation of monetary policy because a weak and inactive banking network limits the effects of monetary policy in improving the country's economic situation. To evaluate this role of supervision, using a series of banks 'financial ratios can be useful and examine the banks' compliance with monetary policy directives.

In general, several factors can be considered to evaluate the success of supervision in maintaining the health of the banking system and expanding competition. The competition must also be accompanied by a strict monitoring framework to prevent the creation of an unhealthy environment. Supporting banking supervision over the proper implementation of monetary and credit policies is another important criterion that can be used in evaluating supervision. Banks can provide growth and development or stagnation with their decisions and credit policies.

Banks are one of the types of institutions that usually provide financial services in cities and most citizens use the services of these institutions in some way. They are also one of the service institutions that deal with the vital pulse of society, ie the economy, and most people in the society are directly or indirectly connected with the services of banks. Banks are able to provide economic development and growth or economic stagnation with their decisions and credit policies. They can provide industrial development by granting production, industrial and commercial loans, or by causing non-granting of credits and limitation of credit facilities, cause interruptions, stagnation and bankruptcy of industrial, commercial and economic institutions (Barzegar, 1350: 11).)

3. PRINCIPLES AND BASES OF BANKING SUPERVISION IN IRAN AND THE UNITED STATES

In general, effective banking supervision has prerequisites and requirements, which include:

a. **Effective and appropriate macroeconomic policies:** Appropriate and effective macroeconomic policies constitute the main framework of stability and health of the financial system. Banking supervisors have no role in the formulation and design of such policies and have no authority in this regard, but they must convey their views and opinions regarding the potential effects of these policies on the stability of the banking system to the competent authorities. Banking supervisors should also try to minimize the negative effects of macro policies.

b. **Fully developed public infrastructure:** The requirements of a country's infrastructure include corporate law, bankruptcy law, consumer protection law, private property law, etc., which must be implemented in a consistent and coordinated manner. Also, comprehensive accounting principles and rules that are widely accepted and auditing professions that are

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well-regulated alongside an efficient and independent judiciary are among the public infrastructure. If the preconditions and requirements mentioned in this field are not sufficiently met, it will lead to the weakening and inefficiency of financial markets.

c. **Effective market discipline:** Effective market discipline largely depends on the sufficient flow of available information available to market participants. Accurate, transparent, valuable and timely information needs must flow well between different market participants such as investors, depositors, lenders, etc.

d. **Public safety net:** In this regard, there should be mechanisms to provide an appropriate level of systematic protection for the general public. Decisions and policies regarding the comprehensive safety net should be made by the competent authorities (such as the central bank), especially when it comes to creating a commitment to public funds. In this regard, banking supervisors have played a prominent role due to their deep knowledge and understanding of the relevant institutions, and in dealing with systemic issues, it is necessary to prioritize risks that undermine public confidence in the financial system and spread to the entire network. In many countries, the accurate design of deposit insurance is the main framework of systematic protection and this strengthens public confidence in the financial system. In this regard, the basic features of an effective banking supervision system can be summarized as follows:

e. Comparative evaluation with laws and regulations and support for safe and sound banking practices, sensitive to macroeconomic changes and regulations, attention and response to emerging risks in each bank, clear recognition of each bank's risk index and encouraging banks to have a system Appropriate risk management with strong internal controls and independent auditor mechanism, guidance and management of banks supervision based on a combination that properly assesses the risk of the main activities of banks and has good cooperation with other regulatory bodies, effective use of regulatory resources Available by allocating more resources to the risk of specific areas and maintaining a sufficient number of trained supervisory staff with a range of skills. In view of the above, both the banking systems of Iran and the United States are subject to certain principles and foundations, which will be examined in the following section:

3.1 Principles and bases of banking supervision in Iranian laws and regulations

In general, in Iran, the organizations supervising the activities of banks can be the Central Bank and Bank Inspection Offices, the General Inspection Organization, the Audit Organization, the Islamic Consultative Assembly, the Ministry of Economic Affairs and Finance, the Court of Accounts, and the Court of Administrative Justice affiliated with the Judiciary. Mentioned.

Considering Article 44 of the Constitution of the Islamic Republic of Iran, which places banking in the public sector and stipulates that banking is also in the form of public property and owned by the government on the one hand, and with regard to paragraph 8 of Article 2 of the Banking Operations Law Usury, which has considered attracting people's funds in the form of current accounts, savings and investment as part of the duties of the banking system, in addition, according to Note (b) of Article 3 of the said law and Article 9 of the third chapter of

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the regulations, investment deposits Terms are used on behalf of depositors in the form of granting facilities, and according to Article 11 of the same regulation, banks will give priority to depositor resources in providing the necessary resources for granting facilities for operations subject to Article 9. On the other hand, the need to protect the public property and deposits of individuals is fully felt. Achieving this requires that the functioning of the country's banking system, inspired by the above-mentioned regulations, be such that the public rights and the rights of depositors are fully protected, and this cannot be achieved unless the administrative structure of banks is free. Be of the drawbacks and objections.

As mentioned earlier, according to Article 44 of the Constitution, banking is in the public sector and according to the Articles of Association; the capital of banks belongs to the government. On the other hand, banks can open current accounts, savings and long-term investment deposits for the public and collect customer funds, according to Article 8, paragraph 2 of the Law on Interest-Free Banking. Therefore, the affiliation of banks to the government on the one hand, and the existence of personal deposits with banks on the other hand, require that the administrative structure and organization of banks be such that the rights of the government and depositors in the bank are preserved. To achieve this, a method of monitoring the actions and performance of banks is needed:

Supervision of the actions and performance of banks can be divided into two types within and outside the organization. In internal or internal supervision, each bank has an inspection and supervision department in its organization, whether in the central office or in the departments, and in external or external supervision, according to the monetary and banking law of the country, the Central Bank of the Islamic Republic has responsibilities. Which are referred to below?

1) Reviewing the accounts and obligations of the Central Bank regarding the accuracy of these accounts by the Supervisory Board.
2) According to paragraph "b" of Article 11 of the second chapter of the law, the supervision of banks and credit institutions, according to the provisions of this law, is within the duties and powers of the Central Bank, ie it is both a duty and a authority of the Central Bank.
3) According to paragraph 10 of Article 14 of the same law, reviewing the operations and accounts and documents of banks and obtaining any information and statistics from banks, due to the need to maintain professional secrets, are among the cases that according to Article 14 The Central Bank may intervene in the proper implementation of the country's monetary system in monetary and banking matters.
4) According to Article 37 of the above law, banks are obliged to comply with the provisions of this law and the regulations based on it and the orders of the Central Bank issued under this law or the regulations based on it, as well as the provisions of its approved articles of association.

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5) Article 44 of the Monetary and Banking Law states that violation of other provisions of this law and its regulations and the orders of the Central Bank issued in accordance with this law or regulations shall result in disciplinary penalties. The reviewing authority is the disciplinary board of the banks, which according to the amendment dated 12/18/59 AH, consists of the following persons: Representative and Attorney General, one member of the Monetary and Credit Council elected by the council, one member of the Supreme Council of the bank Elected by the Supreme Council of Banks, the Secretary General of the Bank will also be the Prosecutor of the Board.

This article has a regulation, which, at the same time, after the nationalization of banks and the establishment of banking in the public sector (Article 44), an amendment was made on 12/18/59 AH, which means that state-owned banks They are known to be subject to the above provisions, but Article 44 is obsolete and does not apply.

With regard to the Banking Administration Law and the Law on Interest-Free Banking Operations, the provisions that deprived this bank of its powers have not been considered. Article 26 of the Law on Interest-Free Banking Operations stipulates that after the adoption of this law, all laws and regulations contrary to the repeal and powers and duties mentioned in the Monetary and Banking Law and the bill on the management of banking affairs and its amendment, which in this law Other competent authorities have been deposited, the previous authorities will be removed. However, the law repealing the powers of the Central Bank did not appear to be due to the monetary and banking law. It does not exist as a public joint stock company. Such a notion, that is, the lack of monetary and banking law governing current state-owned banks, creates a legal vacuum. On the other hand, the general provision of the Monetary and Banking Law on the supervision and exercise of powers over banks must inevitably apply to existing banks.

In any case, what has been said about the supervision and intervention of the central bank about other banks are the issues that have been mentioned and the authority of the central bank cannot go beyond them. In other words, the powers of the central bank are only within the scope of the monetary and banking law and related regulations. What is mentioned in paragraph 10 of Article 14 and is:

a. The lack of monetary and banking law over the current state-owned banks creates a legal vacuum.

b. Currently, the main problem of the banking system in the field of non-return of bank resources is the issue of insufficient security.

Examining the operations and accounts and documents of banks and obtaining any information and statistics from them is within the normal and ordinary affairs of any bank, which is mostly banking. For matters outside this range, the central bank does not have the authority to decide and exercise power, while issues that need to be monitored and addressed are sensitive and important issues.

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1. Central bank supervision of the banking system has the following advantages:
2. Reviewing the general situation of the economy with regard to the interrelationship between monetary policies and banking supervision
3. Supporting the payment system and helping to reduce and control risk
4. Systematic stability of the financial system

   4.1 Access to essential information, especially in times of financial crises (Ghanbari, 23-24)

Principles and bases of banking supervision in the laws and regulations of the United States of America

The Federal Reserve, along with the OCC[5] and the GAO Audit Office, are the most important regulatory and regulatory bodies in the US banking sector, which are discussed below:

A. The Federal Reserve System

Among the important supervisory tasks of the Federal Reserve in the field of banking are the following:

1) Continuous supervision of banks and depository institutions
2) Annual supervision of banks
3) Limited supervision on determining the minimum required capital of holding companies and banks

The Office of Monetary Control in the US banking regulatory system also pursues the following goals:

1) Evaluating the efficiency and effectiveness of banks' risk management system
2) Evaluating how to comply with the rules and regulations
3) Reflecting the supervisory findings along with providing the necessary guidelines to the management of the banks and obliging the banks to take corrective measures.
4) Evaluating the effectiveness of corrective measures in solving the problems of banks (MASON, 2015: 40-42)

In fact, inspection and planning and interaction with banks are the spectrum of the Federal Reserve. The United States' problems in financial crises stem from the regulatory system. In the United States, oversight is provided by the Federal Reserve, which is overseen by the State Audit Office, which oversees Congress.

B- GAO[6] State Audit Office

Gao has been described as the guardian of Congress, and Gao's mission is to support Congress in carrying out its constitutional duties and to help improve performance and ensure that the federal government is accountable to the American people.

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Gao's focus on the Federal Reserve over time depends on congressional priorities. The GAO typically completes and initiates several Federal Reserve audits each year. However, the federal statute limits the scope of these audits[7]. Article 31 of the US Constitution, Section 714, gives the organization the necessary powers to audit and oversee, but it also faces limitations, including:

Reviewing government transactions with foreign banks

- Transactions of private international financial institutions, transactions that are supported by the Federal Open Market Committee. An overview of the types of regulation and supervision in the US banking system is provided by the Federal Reserve, according to which the Board of Directors or the Board of Directors of the Federal Reserve have a number of supervisory responsibilities and regulations in the banking system. It oversees the US banking system and oversees the official state-owned banks that are members of the Federal Reserve, and oversees the foreign operations of US banks, agreements between financial associations and holding corporations.

Banking regulations in the United States are fragmented compared to other countries where most countries have only one banking regulator. In the United States, banking is regulated at both the federal and state levels. Depending on the type of banking organization charter and its organizational structure, it may be subject to multiple federal and state banking regulations. Apart from banking regulators, the United States maintains securities, commodities, and insurance regulatory agencies at the federal and state levels, unlike Japan and the United Kingdom (which have regulatory powers over the banking, securities, and insurance industries in a single financial unit.) Is combined.)[8]

US banking regulations protect privacy, disclosure of information, prevent fraud, anti-money laundering, counter-terrorism, anti-interest loans, and promote low-income lending. The main regulator of the Federal Reserve can be the Federal Deposit Insurance Company, the board of the Federal Reserve or the currency control office.

Within the Federal Reserve System, there are 12 regions centered on the 12 Federal Reserve Central Banks, each of which performs the oversight functions of the Federal Reserve Council in its respective region. Credit unions are subject to most banking regulations and are overseen by the National Credit Union. An example of the control of the Financial Institutions Regulatory and Interest Rate Act was the 1978 Federal Financial Institutions Audit Council, established by the Principles (FFIEC, the Federal Financial Institutions Supervision Council). (MASON, 2015, pp. 50-52)

4. MATTERS THAT REQUIRE SUPERVISION IN THE BANKING SUPERVISION PROCESS

In this section, he refers to a part of the banks 'affairs that are important from the point of view of the bank and depositors' interests, and it seems necessary to supervise and handle them:

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a. **Distribution of bank credits and facilities and their documents:** According to Article 6 of the regulations of the second chapter of the law on interest-free banking operations, it is stipulated in granting bank facilities that: "The bank and the proper implementation of the relevant contracts."Two things can be deduced from this article: First, in the matter of facilities, it is up to the bank to determine whether or not to grant it, which means that the bank is not required to provide facilities to any applicant. The second point, which is very important, is to obtain sufficient collateral, which means that in granting the facility, collateral or guarantee with sufficient support must be taken from the customer so that if the facility is not repaid by the customer, the bank can provide collateral and collateral. The applicant shall exercise his / her rights. This is the most important issue in providing facilities to the customer, which can be said that not enough attention and attention is paid to this, and the main problem of the banking system is the lack of sufficient supply of bank resources. The regulations do not specify the type of security, but insist on its adequacy. In addition, the Monetary and Credit Council guidelines emphasize securing.

b. **Bank overdue receivables:** When the facility granted to a customer is not repaid at maturity, the bank transfers it to the overdue receivables account chapter. Judicial or executive proceedings are also instituted to collect the receivables, these claims remain in the account for a reasonable period of time, and if they are not collected for any reason, there are two cases: . The next case is when the bank has no hope of receiving it and the demand is considered uncollectible or unsettled and ultimately should be considered to the detriment of the bank. Why has the grant facility not been repaid? Eligible or unjustified agent or agents may be present. Reasonable factors can be said to have been unpredictable or preventable by the bank and the bank has exercised due diligence in granting facilities. But unjustified factors can be due to the performance of the bank itself, which has not been able to meet its demand. These factors can be addressed and monitored. In general, the directions and causes of deferral of bank claims should be considered and rooted out.

c. **Purchased and leased property:** The bank needs property to develop the banking network and provides the required property in two ways: one, buying and the other renting the property in both cases should be the interests of the bank. In the purchase, the property must be six dong and registered and have a title deed so that it has no objections and can be purchased at a fair price for the day. Deviation from this rule and stating things such as the location and quality of the property, etc., can not be justified and acceptable. In rented real estate, the ownership of the landlord or tenants must be fixed in relation to the six dongs of the property, and whenever goodwill is paid, the amount must be in accordance with the current quote. In any case, compliance with the provisions of the Bank's Transactions Regulations, approved by the General Assembly of Banks, is mandatory.

d. **Bank Procurement Transactions:** The bank buys objects and supplies to meet the needs of its collective chapters. The purchase criteria are specified and determined by the bank's transaction regulations, which must be observed. These purchases represent a significant amount of bank costs. Paying attention to the bank's materials and avoiding unnecessary purchases and full and long-term use of bank furniture should be the duty of every bank.

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Repairable equipment should be used as much as possible instead of buying it and they should not be delivered to the warehouse of unusable and scrapped objects and equipment.

e. **The behavior and treatment of bank employees with the client:** The main thing that can be said with regret that it is not considered, is the behavior and treatment of bank employees with customers. Unlike other government agencies, the bank needs to attract customers. For this reason, bank employees who have direct and face-to-face contact with the client play an important role in this regard. Polite and courteous behavior attracts customers and, conversely, causes people to be pessimistic about the banking system. There used to be an extremist slogan in the past that said, "Right is always with the customer." Even if we take the middle ground, the bank employee is obliged to treat the customer well. Of course, the other party does not have the right to disrespect the bank staff. If he has a complaint of any kind, he can file it with the relevant department in the bank, and the bank is obliged to investigate. Creating dissatisfaction in the client or not doing or delaying in performing their legal affairs without a reason is one of the administrative violations provided in the relevant law (paragraph 3 of Article 8 of the Law on Administrative Violations). With the above consideration, monitoring the behavior of bank employees will be effective in the development of bank affairs.

f. **Banks-affiliated industries:** In 1979 and 1980, the Industrial Protection and Development Law of Iran was approved. They have received that if their total debt is higher than their net assets, it belongs to the government and the rest of their debt will be collected as the government and the people demand in any way that is appropriate. If the assets of these units are more than the claims of the banks and the people, the government, as the owner of the banks, will share in the ownership of that unit in proportion to its claims and the people.Article 3 of the 1980 Law also stipulated: "Such institutions should participate by increasing capital."

Thus, commercial banks inadvertently and unconsciously entered the country's industry and production, while they did not have specialized and experienced staff in this field. These industries are now known as bank-affiliated or bank-affiliated factories. In 1373, a law was passed, according to Article 1 of which, banks were also obliged to give priority to veterans, fighters and Basijis when transferring shares of companies and factories. The law does not require banks to transfer their shares. According to Circular No. 6139 dated 8/8/1375 of the Central Bank, based on the theory of the Guardian Council, the law does not include shares that belong to the people and are owned by the bank on their behalf.

5. RESULT

To ensure the proper implementation of interest-free banking operations in the country's banking system, monitoring the performance of the banking system and commenting on common procedures and tools, operating methods, instructions, directives, framework of contracts and how to implement them is essential. . To achieve this, different countries have different mechanisms in their banking laws. The laws of some countries are based on intra-organizational supervision, in which only the banking system supervises banking operations,

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but in some countries, in addition to central bank supervision, public institutions also supervise the banking system as a whole. It has various advantages and disadvantages. In the banking laws of the Islamic Republic of Iran, in addition to the supervision of the Central Bank, public institutions also have the right to supervise according to the powers assigned by the legislator. According to Article 76 of the Constitution, the Islamic Consultative Assembly has the right to investigate all matters in the country, and members of the Assembly, as observer members, are members of some of the Central Bank councils. According to the principles of the Constitution, the Court of Audit has the right to supervise the Central Bank in order to review the budget of the Central Bank and evaluate and analyze the budget disbursement report. The National Inspection Agency, as the representative of the judiciary, has the right to monitor the proper conduct of affairs and the proper implementation of laws. Due to the need to explain the correct objectives, provide appropriate monetary policy tools, provide independence from the budget policymaker and accuracy in applying the central bank control mechanisms, the legislature in recent years seeks to review banking laws that result in the approval of the Republic Banking Plan. Islamic Republic of Iran with the integration of several plans and bills in the Economic Commission of the Islamic Consultative Assembly, which if approved, some problems of the banking system, especially the regulatory sector will be solved.

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