

LEGAL AND ECONOMIC REQUIREMENTS FOR DETERMINING INTEREST RATES AND AUTHORITIES DETERMINING IT IN THE IRANIAN BANKING SYSTEM

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Abstract

Bank profit rates are among the variables that play a very important and key role in monetary policy and economic relations of societies. During the past years, the need for comprehensive studies and a comprehensive and comprehensive view in the theoretical and practical field, on the issue of bank profit rates has always been felt. In early 1999, after proposals for adjusting bank profit rates by some experts and economic policymakers and the discussion of some unprofessional issues and a combination of specialized and non-specialized analysis in some newspapers, it was necessary to prevent any previous decision. Start conducting studies in this field by conducting comprehensive studies. Due to the theoretical aspects of the subject, studies were conducted. After these steps, the studies continued by focusing on the practical aspects of the matter and considering the requirements of the law on interest-free banking operations and the conditions of the Iranian economy, and for this purpose, some economic indicators and criteria were used to determine profit rates. In addition, in order to be more aware of the consequences of the decisions taken, extensive studies were conducted on the impact of changes in interest rates on production units and the financial structure of banks, and finally during the years of the Third Development Plan, The Monetary and Credit Council and the Central Bank made changes to profit rates on deposits and facilities.

Keywords: Central Bank, interest, bank profit, banking system

1. Introduction

The economies of most countries in the world in the 50s and 60s were influenced by the views of economists in favour of financial repression. Financial repression is characterized by regulations that cause price distortions in financial markets. These regulations include setting nominal interest rates on deposits, interest rates on loans, high legal reserves for commercial banks, and credit allocation. From the point of view of economists in favour of financial liberalization, financial repression leads to a shrinking financial sector compared to the real sector of the economy and reduced economic growth (Komijani et al., 2009: 8-29). Interest and investment objected. They believed that raising interest rates would lead to increased savings and increased bank financing, and ultimately increased investment. McInnon and Shaw (1973) recommend the financial models to get out of the financial repression situation in developing countries, increase interest rates to real equilibrium rates and reduce inflation, which increases savings and investment and ultimately economic growth. Research in Iran has shown that over the past few decades, the financial system has suffered from many limitations, the most important of which is to determine profit rates on a mandatory basis for both deposits and

banking facilities. (Ghaffari et al., 2016: 113-111) A study of the history of banking in Iran shows that bank profit rates, both before and after the revolution, were determined by the Central Bank and this has caused bank rates at no time. Iran should not be market equilibrium rates and should always be decided on the basis of cross-cutting profits. Therefore, in determining monetary policy, the central bank has the least power to exercise sovereignty (Jalali Naeini and Hemmati, 1392: 30-30). Only liquidity and monetary base are out of the control of the central bank, but the policymaker cannot control the profit rate (Mahdavi et al., 1397). In this study, we seek to answer the question, the impact of changes in bank profit rates through the collection and collection of information in a library.

2. DEFINITIONS AND THE DIFFERENCE BETWEEN INTEREST AND PROFIT

2.1 "Interest" is the share or rent of capital from the output of which this capital has been profitable. This item includes not only the interest on the employer's monetary capital, but also the interest on the borrowed capital. In economics, the interest on productive and commercial investments is called natural interest, and in more technical texts it is called the ultimate efficiency of capital. Interest on cash is called monetary interest.

2.2 "usury" is a predetermined interest. If money or property is lent to someone and it is stipulated that the borrower pays a certain amount or percentage in addition to the principal at maturity, the usurious loan is made and according to the explicit text of the Holy Quran, this transaction is haram and void.

2.3 "Profit" is the share of the employer. Service wages and employer risks are called profits. Therefore, it should not be confused with interest, which is the share of capital. However, due to the negative and unfavorable mentality that existed towards the word interest from the beginning of the revolution, in the text of the law on interest-free banking operations and banking directives, the word interest was used instead of interest. People's deposits with banks were considered profit, while people's deposits were given interest (on account). Applicants for bank facilities must also pay profit to the banks in exchange for using the facility, while what they are paying is nothing but interest. Instead of helping to confuse the issue, which was caused by depopulation, the country's banking system should have clearly explained the implications of economics that what is forbidden in Islam is a bond that is synonymous with pre-determined interest rates. Interest that has not been conditioned in advance is legally free of problems. (Amiri, 2009: 44-46)

Therefore, at the beginning of this article, it should be noted that there are four differences between interest rates and profit rates:

The first difference is that the interest rate is one of the variables of the cost of capital; Therefore, it has the opposite relationship with investment; But profit is the difference between income and expenses.

The second difference is that interest rates are set in the money market; While profits are determined in the real market of goods and services.

The third difference is in the type of legal relationship. In interest, when the owner of a certain resource provides it to the applicant in exchange for a surplus, it has severed its legal relationship with the property in question and is indifferent to how it is used; But the higher the profit, the higher the profit of the participant.

The fourth difference refers to the issue of risk. The interest rate is risk-free due to the nature of the loan; But in profit, due to its nature, it is a risky phenomenon.

Wixel believes that although the two are different, interest rates and profit rates are equal in the long run; But because these two rates are set in two completely different markets and are affected by various situations and factors, it is not possible to theoretically equate these two rates in the long run.

Keynes argues that interest rates are in the financial market, while profit rates are set in the real market. Profit is affected by factors such as the expected return on the economic structure project, etc .; While interest rates are influenced by accelerating and transient factors; So he believes that it is rare for these two rates to be equal. Thus it is concluded that profit and interest are of a completely dual nature; So the bill designers' argument for calculating profits from investment cost items is, in fact, equating profits and interest. And this is a confession that what has been done so far has been the same interest. (Saki, 1397: 72-75)

3. Legal and economic requirements affecting the level of profit rates on deposits

Given the existence of important economic phenomena and variables related to the fundamental actions of the banking system, including the determination and regulation of bank profit rates (deposits and bank facilities) in relation to the impact of these two types of bank rates on basic economic indicators, this We examine the section in two discussions: legal and economic requirements on the profit rate level of deposits and legal and economic requirements on the profit rate level of facilities.

3.1 Reducing profit rates on deposits of state-owned banks and withdrawing capital from the f account.

Given that depositors are cautious and conservative people and are willing to invest even at low rates due to risk aversion, there will be no need to reduce profit rates on deposits in Iran. If the profit rate is lower than the inflation rate, the result will be the outflow of people's capital from the banks and their shift to profitable markets. The purpose of private banks is to make a profit from investment. By transferring funds to private banks, we will see the outflow of capital from the country through these (private) banks. The large difference in bank profit rates between public and private banks will lead to the attraction of capital to private banks, and this, if there is not enough control over the cash flow in society, may create problems for the public sector in the future and cause capital movement. The private sector is moving to private banks. However, this issue can lead to good conditions for the country's economy if the government implements full and accurate supervision, which, of course, is not possible at the moment. It is believed that government oversight should have the right and logical framework and criteria. We have problems both in the right framework and rules and in banking performance. Due to

these two problems, the difference in bank interest rates between public and private banks causes the transfer of capital in a direction that is not necessarily in the interest of the country. Two elements necessary for monitoring; One is to set the framework and the other is to use pen and thought. This means that there must be a precise framework that precisely determines the context and amount of investment for banks, and this is something that is done all over the world. Of course, monitoring the implementation of these laws by banks is another issue that can complement the first step. In terms of economic principles, after the reduction of bank profit rates, we should see a decrease in inflation in society, but with the research conducted, especially during the last year (2008), no connection between these two cases has been observed in our country. In addition, it is important to note that the facilities granted by banks with low profit rates should only be used to generate productive investments and purchase capital goods, including factories, buildings, machinery and equipment for manufacturing, industrial and agricultural activities. Bank loans should be allocated in this way to raise the level of capital and production in the whole economy. Other solutions to deal with the deviation in the money market balance, rationing loans or setting the credit ceiling by allocating loans and facilities at low profit rates to the economically efficient sectors to avoid this. Not only does the balance in the money market not be upset and the economy does not enter into an imbalance, but also the quality of the allocation of loans and credits is taken into account. (Zamanzadeh, 1384: 32-3)

3.2 The effect of bank profit changes on deposits

In recent years, we have witnessed the decisions of the Monetary and Credit Council to reduce profit rates on bank deposits, a policy that has been criticized by economists for attracting parallel markets such as currency, housing and cars. The group believed that with the reduction of bank profit rates, we would actually see the outflow of deposits from banks and move to speculative markets such as currency. At other times, we also saw decisions to raise profit rates, in which critics criticized the lack of support for banks' production and business. However, criticizing the reduction of interest rates, referring to the possibility of deciding to reduce bank profit rates, it should be noted that "if this rate decreases further, in addition to the effects of severe inflation, it may reduce profit rates on bank deposits, but "Banks do not lower profit rates because of their monopoly power, because they can offset losses with high interest rates." It can also be said: "If the rate of profit announcement in the interbank market is declining, it is a good thing for the capital market and we can not expect to change interest rates to support a sector of the economy such as the capital market and other sectors remain unchanged. In fact, this will cause prices to change in other markets as well. In other words, this action will affect prices in the stock market, currency, housing and all household consumption decisions. "(Bonuri, 1392: 52-23)

Therefore, the issue of lowering bank profit rates, even if aimed at supporting the capital market, will be associated with negative effects such as rising inflation due to the attractiveness of fluctuations in parallel markets. Of course, lowering bank profit rates requires creating a platform to support domestic production and direct liquidity to boom in production and small and large enterprises, otherwise, if profits in speculative markets such as currency are booming, we can not expect the injection of deposit resources. It had a bank to produce. On the other

hand, one of the requirements for reducing bank interest rates in the economy is to reduce inflation expectations. An issue that, if realized, could gradually reduce bank profit rates in line with economic prosperity. But in the meantime, a one-sided view of the need to increase bank profit rates will also have negative consequences on the country's production cycle. Because in the current situation of Iran's economy, which is facing the growth of liquidity, attracting bank deposits with the aim of paying interest rates higher than current rates, can intensify the injection of liquidity in the banking and economic system. An issue that could eventually lead to a devaluation of the national currency. As a result, the decision to increase interest rates necessitates the banking system to support production.

Therefore, in the Iranian economy, which on the one hand is facing an upward trend in liquidity and inflation, and on the other hand we are witnessing the prosperity and attractiveness of speculative markets such as housing, currency and cars, any decision to reduce or increase profit rates significantly. Banking will have its effects and consequences. As a result, economists advise monetary policymakers to change profit rates by examining all available aspects of Iran's economy (from rising liquidity in recent years to fluctuations and speculation in parallel markets). If it is due to the reduction of profit rates, first the grounds for strengthening production and reduction and finally eliminating the attractiveness of speculative markets should be provided to direct the liquidity of deposits to production and then the decision to reduce profit rates should be made. Banking is one of the future options of policymakers. Be an upward trend in the volume of liquidity and inflation in society.

3.3 Bank profit rates and inflation

From the point of view of investors and enterprises (production point of view), the interest rate is the input price of the capital product and is directly one of the production costs in the cost price of the product. Thus, a decrease (increase) in interest rates can cause a decrease (increase) in the cost price of the product and, consequently, the price of the product, thereby affecting the general level of prices. Accordingly, many believe that lower interest rates could lead to lower inflation. On the other hand, the interest rate is the price of borrowable funds, which the suppliers of funds take into account the expected inflation in determining the interest rate, taking into account market conditions and demand. From this perspective (economic point of view), inflation is an expectation that raises or lowers interest rates. Economists have shown in their studies that in the long run interest rates are affected by expected inflation, but this effect is not a proportionate and one-time relationship, but interest rate changes are less than expected inflation changes. (Safari, Rafti, 1398: 213-200) Therefore, the real interest rate has changes in line with inflation and the trend between these two variables expresses a more proportional trend of the nominal interest rate with the expected inflation rate. This relationship in different countries depends on the control of the capital market and the regulations governing it by governments. Also, market constituents, monetary sector structure and government performance have an effective role in the relationship between interest rates and inflation. The experimental results obtained from fitting the econometric model for Iran also show that there is a positive relationship between real profit rates and the general level of prices, but its sensitivity is low. (Movahedinejad, 2001: 11-20) Therefore, it can be said that the causal

relationship between inflation and interest rates is stronger than the causal relationship between interest rates and inflation rates, stating that the sensitivity of interest rate changes to changes in inflation rates is more than sensitivity Inflation rate changes relative to interest rates. Accepting this result, inflation must be lowered to reduce interest rates. According to some economic experts, inflation is the most important factor in high bank profit rates in Iran. Studies also show that in the last two decades, inflation in Iran comes from two sources: inflation due to demand pressure and inflation due to cost pressure. Inflation due to demand pressure is related to the increase in liquidity due to the increase in the monetary base through the increase in public sector debt to the central bank (which is itself due to the government's structural budget deficit). Inflation due to cost pressure due to high cost of production due to low production technology, inefficiency of large enterprises, which are often state-owned, weak corporate governance structure in enterprises, disregard for new methods of resource management in enterprises, lack of competition. It is an investment. Therefore, any interest rate reduction policy should be adopted taking into account the inflationary factors of the economy, because if the main causes of inflation are not eliminated, the reduction of interest rates will not have the effect of reducing inflation or increasing investment.

4. Legal and economic requirements affecting the profit rate of the facility

According to the law on interest-free banking operations, the profit rate on banking facilities is determined by the Monetary and Credit Council based on the expected rate of return in each of the country's economic sectors. In comparing this rate with the rates of other countries (assuming the same function as interest rates and profit rates), the result is a high profit rate on facilities in Iran. Accordingly, the Islamic Consultative Assembly, with the aim of expanding investment and reducing the costs of producers, has approved a plan to reduce the profit rate of facilities under the title "Plan to rationalize the interest rate of facilities This action of the Islamic Consultative Assembly, regardless of the criticisms made in the discussion of violating the independence of the Central Bank and ignoring the powers of the Monetary and Credit Council - which we will mention in the relevant sections - has been discussed among banking and economic circles regarding profit rates. Has raised the following, which are mentioned:

4.1 Reducing the profit rate of facilities and improving the level of the whole economy

According to most development scholars, the role of capital in the process of economic growth is fundamental and the increase of capital is also dependent on investment. Investment itself is inversely related to interest rates, so based on the relationship of aggression, economic growth is inversely related to interest rates. This means that an increase (decrease) in interest rates will reduce (increase) the economic growth rate through the effect on investment. But what matters is the sensitivity of the economic growth rate to interest rate changes. Experimental results obtained from fitting the econometric model for Iran show that the relationship between real profit rates and economic growth is negative, this relationship is stronger in the long run, but the elasticity of production is lower than bank profit rates. This shows that production is inflexible to real profit rate reactions and is evidence for the claim that production and investment in the Iranian economy are affected by other factors such as oil and other external

factors (Baseri, 2003: 29-21). In the long run, the relationship between earnings and real profit rates is low.

4.2 The effect of facility profit rates to increase the competitiveness of enterprises

Reducing and single-digit profit rates on bank facilities is one of the requirements of the Fourth Development Plan, and according to the announced policy of the government, the possibility of reducing it in the coming years seems high. According to some, the recipients of banking facilities are mainly economic enterprises that are seriously looking to reduce profit rates and evaluate it in order to improve their competitiveness. For example, in the automotive industry, one of the factors that has caused domestic automakers not to have a competitive advantage over their foreign competitors is the existence of high interest rates in the use of banking facilities. have been; To reduce the interest rate on bank facilities to 14%. Meanwhile, in this industry, Iranian carmakers have to compete in the market with large and small car companies that have entered the field of competition with zero to 4% interest rates. In addition, it seems economical to use foreign and international banking resources such as the Islamic Development Bank or one of the European banks. However, it is still more appropriate than domestic banking resources. The economic situation of the country has existed in many different periods of time in the conditions of inflation stagnation and the stabilization of the bank profit rate in the conditions of inflation will mean the real decrease of the profit rate. Although encouraging investors to invest, create jobs and improve the recession, even an increase in investment in the country in the above conditions will further exacerbate the current recession and lower rates will not benefit the economic goals. Had. What matters is the real interest rate, in the sense that the interest rate minus the inflation rate. When the interest rate is lower than the inflation rate, it becomes the real interest rate, so when inflation is higher than the interest rate, banks' lending facilities are questioned, for example, 25% per year inflation rate, 19% real interest rate and non-term facilities It is also offered at a rate of 9%. But in some accounts that do not pay interest, ie short-term investment accounts that also receive interest on these accounts, the value of money is reduced by about 16 percent and the accountant sees the most loss. In such a situation, borrowers who receive low-interest loans from banks with special "rent" and "communications" should be called "lucky". Another effect of low interest rates is capital flight. When inflation is high and bank interest rates are low, capital is automatically driven out of the economy, because wherever there is more profit, capital will move in the same direction and profit. In general, the losses that arise from the high profit rate of bank facilities can be listed as follows: 1- High profit rate of bank facilities actually increases the real cost of financing. This, along with the real sector of the economy, has led to disruptions in the activities of the country's industries, especially small and medium-sized enterprises that have low returns. This is an issue that in the long run will lead to the closure of some small and medium-sized enterprises, which provide part of their profits at a formal interest rate and another part through borrowing from informal markets. It is quite reasonable to finance with a heavy financial burden, so it seems quite reasonable to reduce the profit rate on lending facilities of the banking system, which will reduce the cost of credit in other sectors. 2- The high profit rate of the facilities granted by the banks causes the economic justification of investment projects in the production sectors, which generally have lower returns than the commercial and service sectors, to decrease. 3- The high

profit rate of bank lending facilities has become a criterion for pre-selling many goods in the country, the profit of which is not commensurate with the realities of the economy, while putting a lot of liquidity in the speculation cycle and increasing the price. The final goods are delivered to the real consumers. 4- The high profit rate of the facilities granted by the banks has become a criterion for the decision of the free investor in the private sector. The high level of profit makes it impossible to invest in many real sectors and people prefer to allocate their cash capital in non-monetary markets whose rate is affected by 139 facility profit rates. (Islamic Consultative Assembly, Research Center - Previous Source - p. 9)

5. Reducing profit rates on facilities and deviating liquidity in non-target sectors

When the profit rate on the facility decreases, the money supply and liquidity increase. Because the economy does not face a shortage of money and liquidity, and the economic environment for investment is uncertain, the amount of money and liquidity in society does not turn into productive investments, and people prefer the available liquidity. Keep themselves for speculative motives, or instead of investing in the process of producing goods and services, devote themselves to buying durable consumer goods as an accumulation of wealth, or turn their liquidity into capital goods and Or in foreign currencies and take 140 out of the country. (Akbari, 1381: 44) Reduction of profit rates on facilities, intensification of rent-seeking due to limited resources of banks and also the involvement of most of these resources in mandatory facilities, with the reduction of profit rates, rent will increase because despite the current rate, Many people are waiting to receive the facility, and lowering profit rates only increases the number of people whose banks are unable to meet their demand, so while the opportunity for different people to have bank facilities is not equal, lowering profit rates is the only cost. It will reduce the cost of capital for a small group that is able to use 142 bank resources due to special conditions (Agha Babaei et al., 2004: 98)

6. Reducing profit rates on government facilities and investments

It may be assumed that controlled profit rates, lower than real market rates and inflation, can increase the demand for investment. However, it should be noted that the volume of real investment will decrease due to the downward trend in attracting savings to secure these investments. In addition, the additional demand due to low profit rates may in some cases lead to the allocation of available financial resources and the facilities granted by banks and financial intermediaries are not based on the rate of return on investment. In such a situation, other non-economic factors will play a key role in the decision of financial intermediaries. As a result, controlled rates not only reduce the volume of investment but can also lead to a decrease in the average rate of return on investment compared to the maximum rates of return and disrupt the process of optimal allocation of financial resources. Reducing profit rates on bank deposits, regardless of macroeconomic indicators, including inflation, also has negative effects on the economy. If profit rates on deposits fall, holders of long-term deposits that have seen declining profit rates turn to sight deposits and use them to operate in parallel markets (such as stock markets, real estate, gold, and so on. ..) or use their resources to make more profit in the

unorganized monetary market and other investment opportunities. The result of such a trend is a boom in the stock market bubble, real estate, gold, etc., and ultimately inflationary pressures.

Also, this change in the composition of deposits in order to become more liquid can increase the speed of liquidity circulation, which in turn intensifies inflation. Another problem caused by unrealistic bank profit rates is the flight of capital from the country. Expectations of a weakening national currency, on the one hand, and attractive foreign exchange rates, on the other, have increased demand for the currency and could lead to lower foreign exchange reserves and higher prices. If the bank profit rates are low in the country, the profit rates of non-governmental banks, which are determined regardless of administrative orders, will be the most successful in attracting bank deposits to non-governmental banks. Because according to the rational decisions of depositors, public deposits have flowed from state-owned banks to non-state-owned banks, and due to the lack of partial quotas for such banks, supporting sectors such as agriculture and exports with additional problems. In view of the above, it can be seen that if bank profit rates fall without reducing inflation (meaning the most important prerequisite for lowering bank profit rates), many negative consequences will befall the economy and virtually controlling the phenomenon. There will be no financial intermediation of banks. Therefore, the main and basic condition for reducing bank profit rates is to reduce the inflation rate in the society and, consequently, to adjust the inflation expectations of the people and finally to make the interest rates on bank deposits positive. (Bidabad, 2005: 52-45) In addition to the serious criticism of the reduction of profit rates on facilities, the Central Bank, for the following reasons, with the law "Rationalization of profit on bank facilities in proportion to the rate of return in various economic sectors. ...) has been opposed: (Islamic Consultative Assembly, Research Center - same source = pp. 39 to 4) 1- At present, banks in the form of partnership contracts within the framework of the law on interest-free banking operations to provide facilities. In non-participating contracts or fixed-yield contracts, the bank can set a minimum or maximum profit rate. In such contracts, the lenders' relationship with the capital is severed due to the transfer of ownership, and therefore future developments and possible changes in the financial status of the said activity in terms of profit and loss are not related to the bank's profits and receivables. While in partnership contracts, the agents and participants have not been deprived of their capital, but their ownership continues. Therefore, under normal circumstances, neither party is a creditor or debtor. In other words, the bank, as a supplier of all or part of the capital, can not separate itself from the outcome of the activity subject to participation. 2- The resources required for private sector investment are mainly from the place of long-term investment deposits of individuals and the granting of facilities by banks. Real negative profits, deposit resources attracting unproductive markets and the country's banking system face the problem of equipping resources. 3- The main reason for the reduction of bank profit rates in the current inflationary conditions is the support of the manufacturing sector. While many studies conducted in developing countries as well as economic theories, the validity of this claim is distorted. 4- The study of individuals' deposits with banks and exchanges in the country's banking system shows that in recent years, out of the total number of deposit accounts with banks, about 86% of the balance is less than one million rials and about 65% of the balance It has less than one hundred thousand rials and most of these deposits have been deposited in

banks to earn small profits. Therefore, in the current state of the economy, reducing the small profits of depositors will be to the benefit of a few beneficiaries, which is due to the relationship between the bank and the depositor, according to which the bank is obliged to provide benefits to its clients and also with the principles of social justice and distribution. Fair wealth is the opposite. 5- Paying attention to the interest rates on deposits and facilities of non-governmental banks, which are currently operating with high growth, are among the reasons for the lower profit rates of state-owned banks from the equilibrium point of activity. 6- In case the profit rate of banking facilities is lower than the real rate (lower than the inflation rate), the tendency of people to use banking resources will increase, while the economic rent resulting from the granted facilities can It paved the way for the emergence of windfall wealth for its recipients. This could undermine the foundations of social justice if it is not possible for all applicants to use these facilities due to credit ceilings and other barriers.

7. Authorities for calculating bank profit rates in Iranian law

The fact is that the process of determining bank profit rates is different from the methods of determining rates in conventional banking, and this rate is determined by considering various factors. Some of these factors are:

- a) Paying attention to economic efficiency in the real sectors of the country's economy.
- b) A supportive and sometimes discriminatory view of economic sectors in setting rates.
- c) Considering the inflation rate index with the aim of compensating for the devaluation of money.
- d) Paying attention to other economic indicators such as profit rates on deposits, interest rates in the capital market, exchange rate and gold exchange rates, interest rates in the unorganized monetary market, interest rates on participation bonds and returns of sectors such as housing and construction.
- e) Paying attention to the financial structure of banks and their profit margins in such a way that the profit margin is determined at a level that, in addition to covering the operating costs and risk of banks, strengthens their financial structure in order to maintain the relevant ratios and standards.

The sum of these factors, along with many other considerations, is the basis for the Monetary and Credit Council to set an profit rate. Therefore, the rates set due to their special nature do not have the necessary ability to balance the supply and demand of funds, and there is no guarantee that the rate of profit set by such a process is the equilibrium rate of the economy. In view of these cases, it seems that the existence of various restrictions and restrictions in determining the bank profit rate, some of which are rooted in the government structure of the Iranian economy and banking system, in practice leads the banking system in a direction other than the accurate implementation of interest-free banking operations. Changing the profit rate so that the interest rate is determined based on the requirements and means of conducting interest-free banking operations requires a review of the methods and methods experienced.

(Aziznejad, 1391, 185-182) Therefore, by studying the laws and regulations related to the monetary and banking affairs of the country, it seems that the authorities for determining bank interest rates in the country are divided into two parts:

7.1 General authorities for determining bank interest

It refers to those authorities whose decisions regarding the determination of bank profit rates and related conditions, according to the laws and regulations, are universal and binding for the whole country, which include:

7.1.1 Central Bank of the Islamic Republic of Iran, Monetary and Credit Council

The explicit and emphasized authority of the legislator during the monetary and banking laws approved in 1351 and banking operations without (interest interest) approved in 1362 is in fact the Monetary and Credit Council of the Central Bank of the Islamic Republic of Iran. In the law of interest-free banking operations, according to Article 20 of this law, the Central Bank of the Islamic Republic of Iran has the right to intervene and supervise: 1- Determining the minimum ratio of banks profit share in participation and mudraba operation 2- Possible profit for selecting investment and participation projects ... 3- Determining the minimum or maximum ratio of banks' profit share in installment and rental transactions, provided that it is owned in proportion to the cost of the transaction. 4- Determining the minimum and maximum proxy fee. Use of investment deposits received by banks. Pursuant to the regulations and executive instructions of this law, the Central Bank exercises this authority and at the same time this duty through one of its pillars, namely the Monetary and Credit Council. (Afshar and Bagheri, 1393: 12-8) However, there are doubts and objections regarding the authority of the Monetary and Credit Council in the field of independence of this council. Some believe that the quality of the Monetary and Credit Council has always been a concern, as the governmental nature of its structure undermines the independence of the central bank, and the main task of the council is to study and decide on the general policies of the central bank. And it is the supervision of the monetary and banking affairs of the country, it hurts (Yazdanpanah, 1387: 11-1) in addition to the officials, including the president, etc ... as explained in the previous sections in determining the bank interest rate They intervene, and this practice may lead to the inefficiency of the bank profit rate setting situation.

7.1.2 Government

There are obvious conflicts with the study of the law on interest-free banking operations and its regulations and executive instructions. Although the legislator has introduced the Monetary and Credit Council as competent and authorized to determine bank profit, but we see in the executive regulations, including Article 2 of the Bank Facilities Regulations (approved on 10/14/1362) the determination of bank profit by The Monetary and Credit Council, subject to the approval of the President, as well as Article 3 of the bylaws of the fourth chapter of the Law on Interest-Free Banking Operations (approved on 12/17/1362), has postponed the determination of bank profit to the Minister of Economic Affairs and Finance. This type of approval can be in two meanings: a- The approval of the President or the approval of the Minister of Economic Affairs and Finance, to be considered as approval and approval

intervention, in which case it conveys the concept that the bank profit determination authority An interest-free bank is considered the central bank and, according to the executive regulations of the law, has entrusted this task to the Monetary and Credit Council. Economic Affairs and Finance) and sometimes the Council of Ministers. In this case, two facts appear: First - the decision regarding the monetary and banking affairs of the country is not specialized and expert, and the decision is made unilaterally and based on individual or party political and economic tendencies. Second, it undermines the independence of the central bank, which is one of the most important factors emphasized by great economists. In a way, it has not stopped its hand in making decisions in monetary and banking affairs, and by doing so, it has confronted the unilateral and arbitrary actions of the Central Bank and, consequently, the Monetary and Credit Council, and in fact is a window for interference. Leave it to yourself in monetary and banking matters. On this basis, it can be said that the above-mentioned authorities (the President, the Minister of Economic Affairs and Finance or the Cabinet) have been appointed as the authorities in charge of implementing the resolutions of the Council. B) Consider the approval of the President or the approval of the Minister of Economic Affairs and Finance or the Cabinet as confirmation and informational intervention. Without interfering with the nature of the resolution, it will only be signed, and even if it is not signed and approved, the resolution will be implemented again - a procedure that applies to ordinary laws passed by the Islamic Consultative Assembly and the president within a few days. They have the opportunity to sign it for notification - it is observed - in such a case, however, the sentence of such a sentence will be in the final part of Article 2 of the Regulation on granting additional banking facilities. In the meantime, another argument that exists is to establish a conflict in the text of the two articles of the above-mentioned regulations. . WWW.CBI.IR)) Article 2 of the Regulation on granting bank facilities, the President and Article 3 of the amendment of the Regulation of Chapter 4 of the Law on Interest-Free Banking Operations, the Minister of Economic Affairs and Finance as the official approver and final approver of bank profit rates Has introduced; The appointment of these two officials, who are not equal in terms of job position, even within a period of about two months from the adoption of these two regulations, does not seem to be free of problems. In addition, if we consider the mention of the name of the Ministry of Economic Affairs and Finance in the position and meaning of the President's Plenipotentiary Representative, mentioning such a purpose in the text of the mentioned regulations requires an explicit mention. Another noteworthy point is this; According to Article 19 of the Law on Interest-Free Banking, determining and proposing credit policies and short-term facilities (one year) is the responsibility of the General Assembly of the Central Bank and its approval and notification is the responsibility of the Council of Ministers. Experience has shown that before the ninth government, the formulation of monetary and credit policies, of which the profit rate is a part, was formulated and proposed to the government by the Monetary and Credit Council, which is one of the five pillars of the central bank. In the ninth government, and especially during the last two years 87.88 policy formulation, although done by the Central Bank, but in the economic commission of the government faced with 145 changes that the government intended and then announced by the government Is. (Http: // www .info.hesabiran.com)

7.2 Special authorities for determining bank interest

This refers to those authorities who, according to special laws and regulations, have the authority to intervene and decide in specific cases or for a specific region and not the whole country, which include:

7.2.1 Operating banks

The minimum and maximum profit rates for all types of deposits and bank facilities are determined by the Monetary and Credit Council of the Central Bank in accordance with Article 20 of the Banking Operations Law and its executive regulations. Or appointed by the Minister of Economic Affairs and Finance. However, there is no legal prohibition for operating banks (operators) in determining and choosing rates between these two rates (minimum and maximum). Banks' authority to set bank profit rates is similar to that of court judges in choosing the type and amount of punishment for offenders, so that court judges are not allowed to issue verdicts outside the minimum or maximum penalties or legal deterrents. That is why we see that the announced rates of most banks in attracting deposits and granting bank facilities are different and usually do not have the same procedure. Incidentally, this difference in procedure is one of the competitive tools of banks in attracting resources and Payment of facilities is considered. In this regard, according to the decision of the Monetary and Credit Council, private banks are allowed to determine the interest on deposits and the expected interest on the facilities granted, and only they are advised to set the interest rate on deposits up to 3 percentage points higher than the approved profit rates for the bank. To determine. According to the decree, non-governmental banks have set profit rates on their deposits and facilities higher than the interest rates of state-owned banks, and due to the demand at rates higher than 25%, the facilities of these banks have been growing. Is. Although non-governmental banks had high profit rates at the beginning of their operations, but gradually due to the reduction of inflation and reduction of bank interest rates in state-owned banks and in order to expand competition between banks, to adjust and reduce interest rates. The benefits of the facility have taken effect. (Islamic Consultative Assembly, Research Center - same source - p. 47) Current laws and regulations in general, the competent authority to determine the profit rate on facilities and deposits with the least ambiguity (Council and money and credit) and only this competent authority and Mukhtar knows how to raise and lower the country's bank interest rates. Therefore, ignoring the orders of the Central Bank and the approvals of the Monetary and Credit Council regarding the determination and amount of bank profit rates by banks is a violation and the offending bank will be subject to disciplinary sanctions provided in Article 44 of the Monetary and Banking Law (approved on 04/18/1351). Was.

7.2.2 Monetary and Credit Council

Other legal cases As mentioned, according to the law, the official authority for determining bank profit was the Monetary and Credit Council, which after determining and approving the bank profit rate, approved it by the superior authority listed in the executive regulations of the law on interest-free banking operations. Communicates. However, there are exceptions where the method of calculating and granting bank profit is initially regulated by the executing

authority and then either approved by the Monetary and Credit Council or the council does not interfere in determining the profit in principle. In the first case, it is optional that the housing bank is given to calculate the interest on investment deposits, and in the second case, it is related to the banking operations of foreign banking units located in free trade and industrial zones.

Clause 1 - Credits required by the housing sector and construction of housing units

Approval letter for providing the required credits to the housing sector and construction of housing units according to the approved model Pursuant to paragraphs (6 and 1) of this approval letter, the Housing Bank has been instructed to develop special tariffs and regulations for calculating and granting profit on investment deposits and rewards of Gharz al-Hasna accounts, and after the approval of the Monetary and Credit Council. Of course, regarding the determination of the interest rate of the facilities granted by this approval, paragraph (b) of Article 9 of the Housing Credit and Housing Encouragement Law approved in 1351 and its note must be observed: According to this note, the maximum interest rate and conditions and The regulations related to the funds mentioned in this article shall be approved and announced by the 147 Monetary and Credit Councils and the Supreme Central Insurance Council of Iran, as the case may be. It is a bank, the Supreme Council of Central Insurance of Iran, in this case, along with the Monetary and Credit Council, is allowed to set the rate Interest has been made.

Clause 2 - Free Trade-Industrial Zones of the Islamic Republic of Iran

Law Amending the Law on How to Manage Free Trade-Industrial Zones of the Islamic Republic of Iran (approved by the Expediency Discernment Council on April 20, 1995): Pursuant to this law, establishing a bank and a credit institution as a public or private joint stock company And the use of the title of bank or credit institution in the regions (free trade-industrial), exclusively in accordance with the provisions of this law and its executive regulations by the Central Bank. (Article 18 of the Regulations) The purchase and sale of all currencies against Rials or other currencies and all transactions and currency transfers in the regions is free by natural and legal persons. (Article 9 of the Executive Regulations of the Law) In addition, foreign banking units are not allowed to conduct banking operations in Iranian Rials. According to Article 17 of the Executive Regulations, banking units that have a license to conduct foreign exchange operations, depending on the type of license received, can provide the following services in accordance with the provisions of this regulation and its instructions:

Maintaining current and savings accounts - Maintaining all kinds of time deposits with different maturities - Receiving all kinds of credit facilities - ... Granting all kinds of credit facilities Banking units operating in the regions are actually divided into two categories: first) domestic banking units and second) overseas banking units (banking units that receive 148 overseas banking licenses are required to use the phrase "overseas" Use with their name) but in the case of banking operations fees, profit rates on credit facilities received and various deposits and profit on facilities granted to banking units located in free zones are freely determined based on supply and demand conditions. Also, banking units can determine the profit on account of investment deposits at their own discretion and pay according to the contracts concluded with depositors at certain intervals. Therefore, it seems that foreign banking units, due to their special

conditions, including internationality and freedom of action in the free market and foreign exchange, are not required to comply with the provisions of the law on interest-free banking operations approved in 1983. Therefore, they can pay the facilities and receive the deposit in exchange for receiving or receiving interest, without the need to observe that the operations are within the framework and format of any of the Islamic contracts enshrined in the law on interest-free banking operations. But this does not mean that banking units are allowed to receive bank interest and usury. The Law on Monetary and Banking Operations in Free Zones and its regulations and executive instructions do not explicitly or implicitly allow the receipt of interest in free zones where operations are carried out exclusively with foreign currency and with a ban on transactions and transactions in Iranian Rials. Have not been counted and the word profit has always been used profit of interest. However, banking units are allowed to provide credit facilities in any of the economic sectors of agriculture, industry and mining, housing and construction, services and trade and exports in accordance with the provisions of the Law on Interest-Free Banking Operations and in accordance with their articles of association. (Article 43 of the Executive Instruction).

8. Results and suggestions

Government intervention in the financial markets by setting profit rates on bank deposits, high rates of legal reserves, interfering in the distribution of bank credits and enacting restrictive capital regulations, causes bank profit rates to fall below the level of inflation and thus negatively. The interest rate becomes real. This condition is called financial repression in economic texts. In the Iranian economy over the past few decades, the financial system has suffered from many restrictions, the most important of which is to determine profit rates on a mandatory basis for both deposits and banking facilities; Since bank profit rates, on the one hand, are sometimes announced by incompetent authorities and in an orderly manner, and on the other hand, profit rate determination is applied due to disregard for other economic realities of society, due to inefficiency and incorrect allocation of resources. Most importantly, a decrease or increase in bank profit rates may not only not be effective in improving the overall economy, but may also lead to capital diversions and exacerbate macroeconomic problems. Due to the dominance of the public sector and the large size of the government, the country's money market is not as efficient as in similar markets (such as the informal market, etc.), so reducing bank interest rates has an effect on reducing liquidity and thus There will be no reduction in inflation, and it is better for the government, in addition to the forced reduction or increase of bank interest rates, to pursue policies that lead to curbing and reducing inflation and stabilizing prices. It is therefore recommended:

1. Current deposits and savings of the Iranian banking system, which constitute about 50% of deposits, are not subject to bank profit rates; But long-term deposits are a direct function of interest on deposits, and the real interest rates on deposits in recent years are such that any reduction in them, without reducing inflation, will cause some of them to leave the banking system; As a result, the bank profit rate reduction plan must apply for a reduction in interest rates on deposits at a significant time interval.

2. Although the real profit rate of Iranian banking facilities for the productive sectors (agriculture, industry, mining and housing) is on average lower than the global and per capita rates, the real profit rate of commercial and service facilities, which is the intermediary sector between producers and consumers, is high. It also disrupts the manufacturing sector. Accordingly, it is suggested that the rates of bank facilities, expert review, and at the same time reduce the rates of the commercial sector, also reduce the distance between the sectors.

3. Comparison of Iran's bank profit margins (spread) with world rates shows that the bank profit margin in Iran (according to the calculation of the Central Bank) is more than 50% higher than global rates. It is necessary to find the right solutions to reduce various bank costs and bring the profit margin to world rates.

4. All decisions and changes must be made with the aim of achieving equilibrium rates and a situation in which rates can be liberalized; Because only then will the grounds for corruption and rent-seeking be eliminated and we reach more stable equilibrium rates.

Proposed bill for passage of the law

Given the economic situation in Iran and the various concerns that exist and according to the results we reached in the article, the following single article is proposed for design in legislative centers.

Article One: The government is obliged to reduce the interest rate of the facility by 1% once every six months for a period of four years from the date of enactment of this law; In such a way that at the end of the period, the average interest rate of the facility will be reduced by 8%.

List of sources and references

A. Persian sources

1. Afshar, Fariba and Bagheri, Mostafa (2014), A Study of Determining Bank Interest Rates in Interest-Free Banking in the Iranian Banking System, International Congress of Religious Culture and Thought, Qom, <https://civilica.com/doc/301270>
2. Mr. Babaei, Reza; Seyed Morteza, Hosseini Nejad and Mohammad Reza Eghtesadian (2004), Research in Bank Interest Rate Reduction Plan, Economic Management Research Institute,
3. Akbari, Mohammad (2002), Changing Bank Interest Rates Recession or Economic Prosperity, Trade Monthly, No. 101
4. Amiri, Faramarz (2009), Quality of Customer Relationship Management Services and Development of Optimal Customer Relationship Management Program in Banking System, Management Perspective Quarterly, No. 38, Tehran.
5. Baseri, Bijan (2003), Investigating the effect of deposit interest rate change on macroeconomic variables, Quarterly Journal of Economic Research and Policy, Year 11, No. 37, pp. 29-51.
6. Bonuri, Abbas Ali; Sajjadi, Somayeh Sadat and Mohammadi, Timur (2013); The relationship between inflation and interest rates on deposits Banking in the Iranian Banking System, Quarterly Journal of Financial and Economic Policies, No. 3.
7. Bidabad, Bijan (2005), The effect of reducing interest rates on banking facilities on Iran's economy, Journal of Banking and Economics, No. 58, 52-45
8. Zamanzadeh, Akbar (2005), The Effects of Reducing the Interest Rate of Facilities on the Economy, Quarterly Journal of Bank Saderat Iran, Year 8, No. 35

9. Saki, Narges (1397), Analysis of the Legal Nature of Bank Interest and Profit in the Current Banking System, Quarterly Journal of New Banking Studies, Volume 1, Number 1.
10. Safari, Saeedeh; Rafti, Maryam (1398), The effect of economic factors on the volume of deposits of selected private banks in Iran, Financial Economics Quarterly, Volume 13, Number 47
11. Aziznejad, Samad (2012), Challenges and Strategies for Determining Bank Interest Rates in the Iranian Economy, Quarterly Journal of Parliament and Strategy, Volume 19, Number 71, 185-182
12. Ghaffari, Hadi, Masoud Saadatmehr, Ali Souri, Mohammad Reza Ranjbarfallah (2016), The effect of increasing interest rates on bank deposits on macroeconomic variables of Iran, Iranian Journal of Applied Economic Studies, No. 18, Year 5.
13. Komijani, Akbar; Motusali, Mahmoud and Pour Rostami, Nahid (2009); Theoretical Framework for Explaining Factors Affecting Financial Development with Emphasis on Williamson Model, Quarterly Journal of Economic Research and Policy, Volume 17, Number 50, 8-29
14. Movahedinejad, Ali (2001), Reasons for Decreasing Bank Profit, Economic Journal, Volume 2, Year 1, Numbers 4 and 5, pp. 12-21.
15. Mahdavi Mazdeh, Abolghasem; Dadvavi Tavakoli, Abbas and Askari (2015), unproductive factors in creating bank deposits in the Iranian economy; Twenty-eighth conference on monetary and exchange rate policies
16. Hemmati, Maryam, Jalali Naeini, Seyed Ahmad Reza (2013), Estimation of Linear and Nonlinear Functions of Monetary Policy in Iran, Monetary-Banking Research Quarterly, No. 1, Volume 8.
17. Yazdanpanah, Ahmad (2008), Monetary, Credit and Credit Council of the Central Bank, Banking and Economy Monthly, No. - 96, 11-1
18. WWW.CBI.IR) Website of the Central Bank of the Islamic Republic of Iran, Law on interest-free banking operations

B. Latin sources

19. McKinnon R. I. (1973); Money and Capital in Economic Development, The Brooking Institution