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The Governance as a mechanism to reduce the banking default and managing the banking risks

الحوكمة كآلية للحد من التعثر المصرفي وإدارة المخاطر البنكية

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Abstract:
The banking sector becomes one of the more endangered sectors,in exchange for that, the bank safety is considered as a pillar of the main pillars for the growth of economy which imposes the necessity of looking for the best ways to guarantee the proper administration of the banking risks and to avoid the financial troubles that impose the necessity of establishing international principles and rules to organize and adjust the banking workflows among which the principles of Basel Committee.Algeria made many efforts to advance the financial sector in Algeria,in particular after the crisis that the sector was exposed and shook the clien, confidence in the Algerian banking system, nevertheless its application of principles is considered as a hard matter under the shades of environmental incompabilityin which it is active.

Key words: *Bank Governance, banking risks, Basel Committee 's principles,Bank credit,The banking field*

الملخص :
أصبح قطاع المصارف من أكثر القطاعات تعرضا للمخاطر ،وفي مقابل ذلك تعتبر سلامة البنوك ركيزة من الركائز الأساسية لنمو الاقتصاد مما فرض ضرورة البحث عن أفضل السبل لضمان الإدارة السليمة للمخاطر المصرفية وتفادي التعثرات المالية ، مما فرض ضرورة وضع مبادئ و قواعد دولية تنظم وتضبط سير العمل المصرفي و من بينها مبادئ لجنة بازل ،وقد بذلت الجزائر الكثير من الجهود للنهوض بالقطاع المصرفي في الجزائر خاصة بعد الأزمات التي تعرض لها هذا القطاع والتي هزت ثقة العملاء في النظام البنكي الجزائري غير أن تطبيقها لهذه المبادئ يعتبر أمرا صعبا في ظل عدم مواءمة البيئة التي تنشط فيها.

الكلمات المفتاحية: حوكمة البنوك ، المخاطر البنكية ، مبادئ لجنة بازل ، الإئتمان المصرفي ، القطاع المصرفي.

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Introduction:

It is known that a proper banking system is considered as a pillar of the main pillars for the safety of money markets and the corporate sector

The presence of good governance in the banking system is considered as an important matter specially in developing countries, where the banks provide the most financing,as well as the liberalization of financial markets lead to expose the banks to a big oscillations and new credit risks. Also, the proper financial sector is one of the institutions which contribute in building the institutional framewo of Corporate Governance.

The attention focuses on applying the governance principles in the banks ; as a result to rapid developments in money markets and the globalization of financial flows and the technological improvements.Therefore, the presence of a framework strengthens and supports the presence of a flexible financial system with its characterization by security and safety, at the same time it is considered as an important matter and that 's through responsible conditions and requirements and effective practices of the banking supervision and changing of laws and supervision system,what maintains the safety of financial system.

The banks differ from other institutions in the seriousness of its activit,so its collapse affects a wider circle of people and leads to weakening the financial system itself which may have bad effects on the whole economy and that throws a special responsibility on the bank's board members,since the members can not do everything by themselves ; they must delegate some tasks,so they must make sure that the capability of those who entrusted them with power and framework through which it's possible to revise the proper and safe use of authority.

The delay in adopting the principles of governance in the financial field leads to the collapse of manyfinancial institutions in the world despite the privacy of banks,which makes it one of the most accurate and sensitive fields and most needed of adopting the Governance's principles. And The Algerian experience in this field is considered as the best evidence for this, the experience of **Khalifa Bank** had negative effects on several levels,where the confidence in private banks shook because of that crisis, which makes us ask the following question:.

How can the principles of bank's Governance limit the financial troubles and contribute in the banking risks management?

We take up the topic through three axis.

The first axis:we take up the concept of the bank 's Governance through the definition bank s ' Governance and its importance in support the banking activities

The second axis: We take up the role of banks in strengthening the principles of banks, Governance via the statement of applying the principles of governance in the financial field,the results and the effects of this application

The third axis:We take up the application of Governance in the financial field in Algeria.

Section I:The concept of bank's Governance

We try through this axis to identify the meaning of Corporate Governance and its importance in the practical life of the company and its benefits through the embodiment of this concept in the real life,and the requirements of this application

A) The definition of banks' governance:

The Economic Cooperation Organization and Development defined the Corporate Governance as " The rules which manage and control the installations' works and define its structure, distribution of rights and responsibilities among its different parties and they are:board of directors,the directors,the contributors and stakeholders and establish the necessary rules, and the procedures to make the right decisions, and when it does that, the objectives of the company will be united via this structuring and means of achieving these goals and monitor its performance.[1]

Also,it 's defined as " A group of regular and financial mechanisms through it they create and organize the proper practices in order to preserve the shareholders ' rights.And the others from the stakeholders and to ensure that the company stays in business environment and competition.[2]

The International bank defined it as " The style by which the authority practices the state s' economic and social resources for the development.[3] And then it 's considered as a frame which includes the rules that define the manner,the companies make their decisions,specially the private placement companies and the transparency that controls its operation of making decision and its extent of accountability that the directors and the presidents of those companies and its employees will be subjected to it, and the information that they tell to the investors and the protection they give to small investors.And it includes subjects related to the corporate law and securities law and money bills laws and the accounting standards which are applied on the listed on the stock exchange companies and the anti –monopoly laws and bankruptcy laws. Also, it includes the legislation which controls the contributors 'activity and the companies.[4]

In general,the Governance may be considered as a group of domestic politics that the company chooses to manage its administrative body which facilitate the process of making decisions and impart the character of transparency and credibility on it to

achieve the contributors ‘ interests and its customers in one side and to achieve the company plans and goals and includes the transparency and the competitiveness in the business environment in an other side.

The Basel Committee has established in 1999 special instructions for the Governance in the banking and financial institutions and it focuses on the following points:[5]

1- The company values,honor characters of proper behaviors and other standards of good behaviors and the systems through its use theapplication of these standards will be achieved
2- A well prepared strategy for the company under which its total success can be measured and the individuals ‘ contribution in this.
3- The proper distribution of responsibilities and decision –making centers including functional hierarchy of required approvals from the individuals to the council.
4- Establishment the mechanism for the effective cooperation among the board of directors, finance audit,and the higher management
5- Availability of strongand internal tuning system including internal and external audit tasks and independent risk management about business lines taking into consideration the authorities that fit with responsibilities (checks and balances).
6- A special observation of risks’ centers in the locations that conflicts of interests mount including work ‘s relationship with borrowers who are linked to the bank,the major shareholders and the high administration,or the major decisions makers in the institution.
7- the financial and administrative incentives of the high administration which achieve the work in a proper way,also concerning the directors or employees whether in the form of compensation, upgrades or other elements.
8- The information flows in a convenient form internally or abroad.

In general, the proper practice of Governance leads to support and protect the banking system and that ‘s through standards that the Basel Committee has established to supervise the banks, organize and control the banking industry to which the following standards are added:[6]

- The advertise on the strategic goals of the banking system and for the bank and define the administration s' responsibilities.
- To check up the efficiency of the board and their full recognition of the concept of Governance and there are no intentional errors from the high administration
- To guarantee the effectiveness of the observers' role and their realization of the importance in their control role.
- The necessity of providing transparency and disclosure in all works and activities of banks and administration,the researches and studies suggest that there are clear efforts at the international level related to the effectiveness of the concept of Corporate Governance, whether it is through the international organizations as The Economic Cooperation Organization And Development,the International Bank,and the International Monetary fund.
- These other two started a common program aims to evaluate the corporate Governance 's practice in the level of the state compared to the principles issued by Economic Cooperation Organization And Development and it 's called the name of reports about respecting specifications and laws (ROSC) and it 's applied in two countries "Egypt and Turkey", also,there are efforts at the regional level to activate the corporate Governance.[7]

The Governance means in the banking system means to control the performance from the board and high management of the bank and protect the shareholders and depositors' rights,in addition to taking care of the relation of the external actors, which is determined through a regulatory framework and the authorities of controlling bodies,and the Governanceis applied in the financial system on the public,private and common banks.[8]

Also,it means the protection of shareholders 'rights and depositors and to control the performance of the board activity and high administration of the banks and the governance is applied on the public, private and common banks.

B) The importance of applying the principles of governance in the banks:

The banks are considered as trading companies and it 's applied to them what is applied to the other companies regarding the necessity of applying the Governance in the banks, which apply the principles of Governance an effective application to strengthen the level of confidence and reassuring with its shareholders on their investments because that is an indication that the board of directors are familiar with the dangers which may affect the bank and its ability to manage and reduce these risks that may help the investors to make the investment decision taking into consideration the other major standards of investment That 's practicing the Governance and effective practice leads to attract customers and gain their trust thanks to its advantages,the most important ones are: providing justice and transparency for all share- holders,mostly the investors resort to the experienced people to run the banks‘ works which they invest in it due to their lack of time and the necessary experiences to manage. From this point on,the necessity to apply the Governance appears which strengthens the trust of the owners that the board of directors and the executive management are committed to achieve the goals of the banks and to preserve their rights. However,what represent as a challenge for the shareholders is that the experienced from the directors are not mostly from the shareholders in the company. So, probably the director will overcome his own interests on the shareholders ‘ones. Also,he may overcome the interests of a class of them. From that, the necessity of applying the Governance arises and that through building roles which aim at the integrity and enhance therelationship between the administration (management) and its shareholders,and all the stakeholders then achieving the principles of justice and transparency.[9]

Following the basic principles of Corporate Governance leads to find the suitable mechanisms against corruption with the encouragement of transparency in the economic life.

The financial crisis which touched many countries has proven that corporate Governance is not just moral values that the company sticks to

but it can be considered as a big supportive to the business sector and effectively contributes in increasing market competitiveness, since it helps in attracting investments, whether the foreign or the local ones via supporting the confidence in the economic life of the country and helps to reduce capital flight and to fight corruption which touches everyone now knows what it represents inhibiting growth. So, it‘s a big guarantee for the investor who is looking for a safe environment to his investments and without the financial flows cannot be achieved the full potential for the growth of the enterprise,The Corporate Governance is also considered as one of the most important reasons of increased availability of financing. So, the possibility of getting cheaper funding sources and that what increases the importance of governance in particular for the developing countries which need to raise confidence in its economy to encourage.[10]

the international financial institutions to give them the adequate financing to improve their economy. Also, the laying of proper foundations of cooperation between the public and the private sectors is quite sufficient to create a system of competitive market in a democratic society based on law and from here,the governance aims to achieve a large group of goals if they are applied in a good way they will lead undoubtedly to raise the companies ‘ performance and help them achieve their desired goals and to avoid conflict of interest and all the unaccepted morally and administratively behaviors through putting internal and external control systems.

Section II: The role of banks in strengthening the principles of banks‘ Governance

In general,the banks are considered as the basic source to meet the funding needs for the economic activities including companies. These needs play an important role in the companies ‘works to achieve their goals in profit andthe role of banks in strengthening the corporate governance can be illustrated through two axes which are:[11]

The first axes:

The banks are considered as a leader in the field of adopting the corporate governance since they are general contribution companies.

Basing on this ;the principle of governance reduces the amount of risk,which the bank are exposed to.

The strengthening of the principles of the proper practices of governance at the banks must pass into two directions:

The first trend is led by the central banks since they are the responsible of controlling and organizing the banking system and The second trend is led by the banks themselves.

As for the required repairs in the fields is to separate between the ownership and management and to enhance the role,the tasks,and the powers of these board of directors, whether in appointment of directors or forming committees. In addition to that, the reply operation of evaluating and strengthening the review process.

The Second axes:

Strengthening the role of banks in applying the principles of corporate governance since they are the main funder of the companies.

One of the main pillars for the safety of stock market and the corporate sector is the presence of proper financial system that provide credit and liquidity.

The interest of banks in corporate governance is to grant credit to clients,whether in the area of borrowing or interest rates to customers.

The review of fiduciary policies at the banks shows that these policies need the principles of corporate governance within the bank' s goals itself The existence of corporate governance culture within the dominant cultural concepts at credit manager is necessary.

From the point on, the banks should adopt governance as one of the elements of credit decision.

Also, it requires to educate the investment managers in the banks about the concept of corporate Governance.

A) The principles of governance application in the banking field:

1- The principles of banks governance:

The Basel Committee has issued a report about enhancing the governance in the banks in 1999; then it has issued a modified version of it in 2005.

In February 2006, it delivered an other updated version includes the governance 's principles in the banks,represented in ;

The first principle;

The members of the board of directors must be completely qualified to their positions and they must be fully aware of the governance and the ability to manage the work in the banks. The members of the board of directors must be completely responsible on the performance of the bank and the integrity of its financial positions about formulating a business strategy in the bank and risk policy and avoiding conflicts of interests and to walk away by themselves from making decisions when it will be a conflict of interests which makes them incapable to perform their duties to the fullest toward the bank and they have to restructure the council and that including the number of the members,which encourages to increase efficiency and including the duties of the board of directors,choose,control and appointment of executive directors to guarantee the availability of competencies who are able to manage the bank and the members of the board should be aware of the principles and the basis of the financial activities of the bank which must be followed and the legislative environment,also the board forms committees to help it from them the executive committee,internal review committee in corporation with the auditors reviews and receives reports and make the right decisions on time to identify weaknesses in controlling and the incompatibility with policies laws and regulations. The board of directors form risk management committee put the principles for the high administration on credit risk management, make liquidity employment and reputation and other risk and the wages committee which establishes wages systems and the principles of appointment of the executive management and the bank officials in conformity with the objectives and the strategy of the bank.[12]

The Second principle:

The board of directors must control the strategic goals of the bank, the values and the standards of the work taking into consideration the interests of shareholders and the depositors ;these values must be valid at the bank.The board of directors must check that the executive management applies the strategic policies of the bank and prevent the activities,the relationships and attitudes that weaken the Governance.

The most important ones are: the conflict of interest, as lending to workers,directors or shareholders who have the domination or the majority or have the detailed advantages of related people. The board and the high administration must provide suitable protection for the workers who prepare reports about illegal or unethical practices from any direct or indirect disciplinary actions.[13]

The Third principle:

The board must set clear boundaries for the responsibilities and the accounting in the bank for themselves and the high management,the directors and the workers and set an administrative structure to encourage the accounting and determine responsibilities.[14]

The fourth principle:

The board must check the presence of principles and concepts of executive management that conform to the bank,the board policies and the responsible in the bank must have the necessary skills to manage the bank ‘s works the bank ‘s tasks must be done according to the policies and systemsthat the board set according to an effective system of internal control.[15]

The fifth principle;

The board must recognize the independence of the auditors and internal control functions (this includes the matching functions and compliance functions and the legal ones) since it ‘s substantive for the banks ‘ Governance for the purpose of achieving a number of control functions to test and confirm the information which has been obtained from the management about the banks’ operations and performance and the high management of the bank must recognize the importance of audit functions and the internal external effective control for bank safety in long term.

The board and the high management of the bank must check the financial statements represent the final position of the bank in all its sides and that through making sure that the external auditors practice their activities in agreement with the applied standards and to participate in the operation of internal control of the bank associated with financial statement disclosure convenient, the internal audit writes reports directly to the board of directors.[16]

The sixth principle;

The board must check the wages policies and the rewards that are in agreement with the culture, the goals, and the strategy of the bank in long term and the incentives of the high management and the executive directions should be related to the bank 's goals in the long term.[17]

The seventh principle:

The transparency is considered as a necessary for the effective and proper governance ; According to Basel Committee guide about transparency in the bank it 's hard for the shareholders,and the other participants in the market to control in a correct and effective way the performance of bank management in the lack of transparency and this happens if the shareholders and the stakeholders do not get enough information about the structure of the bank ' s ownership and its goals. The general and appropriate disclosure is considered necessary specially for the banks listed on the stock exchange to achieve discipline in the market. The disclosure must be in the right and exact time and through online bank, and the periodic and the annual reports and compatible with the size and the complexity of the ownership structure and the size of bank to the risks or if the bank islisted on the stock exchange and from the information that must disclose it is the information which is related to the financial statement facing risk and the subjects related the internal review and the governance in the bank from them: the structure and qualifications of the members of the board of directors ; the directors ; and the committee ; the structure of incentives ;the wages systems of the employees and the directors.[18]

The eighth principle:

The members of the board and the high management must understand the structure of bank's operation and the legislative environment and through which it works.And indirectly, the bank may expose to legal risks when it serves on behalf of its clients who take advantages of service and illegal activities that the bank provided which displays the bank 's reputation to risk.[19]

2- The role of governance in managing the financial risks:

The risks management:is defined as " a method or scientific entrance to deal with purely risk through expecting possible accidental losses and designing and carrying out procedures would reduce the possibility of serve loss or reducing the financial impact to the minimum.[20]

2-1- credit risk loans:

The concept of loans proves in many times that there is no loan without risk whatever the guarantees provided. The risk is attached to the loan and don 't leave it,and the banker must be careful from the debtor who cannot fulfill his commitment. As example of credit risk or loan the example of the debtor has ceased to fulfill his contractual obligation with the bank or the risk of credit concentration,or the bank failed in determine the quality of assets and the consequences is to do not create an adequate provision in order to avoid the depositors are suffering unaccounted losses. To eliminate the banking risk is absolutely impossible, the risk is inevitable (INEVITABLE), but the margin of maneuver which should the bank enjoys it remains at its abilities to keep those dangers on an acceptable level in order to minimize its loses.[21]

2 – 2 - The risks of interest rate:

In general, it means thecontrastability in resulting yield about changes happening in the level of interests rates in the and the prices of market interest tend to rise or to fall together in the long term.[22]

It 's the probability of interest rate fluctuations in the failure if it's contracted between the institution on certain interest rate about the loans. It means that the money of the bank became knowledgeable in an investment generated by yield less than the prevailing yield in the market and vice versa.[23]

2 – 3 - Liquidity risks:

The liquidity risks arise from the inability of the bank to meet its obligations before the others or financing the increasing assets which lead to a negative impact on the bank profitability, specially on the inability to the immediate asset liquidation in an acceptable cost and there are several reasons for exposure to liquidity risks,we mention some of them:[24]

- The poor liquidity planning in the bank may lead to the lack of consistency between the assets and liabilities in terms of maturity.

- The misallocation of assets on uses ;it 's hard to convert them into liquid reserve.

-The sudden transformation of some occasional obligations to actual obligation

Also, some external factors contribute like the economic recession the acute crisis in the money market in exposing to liquidity risks.

4 - The market 's risks:

These risks arise when the banks submit to do commercial transaction related to its assets and liabilities from different papers from shares,bonds, currencies and even from derivatives instead of investing them in banking operations,[25] generally from these assets price fluctuation cause the market risks. Whereas, the probability of making significant changes in the economic and political system in the state itself or in an other state has a relationship with and if these changes have an adverse effects on business results activity, and its ability of fulfillment of obligation may be affected.[26]

B) The results and the effects of applyinggovernance in the financial field:

There is no doubt that the banks ' application of governance in a good way leads to good various and different results, the following are the most important positives:[27]

- Increasing funding opportunities with the bank
-Reduction investment costs which the bank does
-The governance encourages money market stability
-The work on fighting corruption in all its forms
- When the banks commit to apply the standards of governance contribute in encouraging the companies which borrow from them through the application of these rules, the most important ones are:disclosure,transparency,and the good governance
- Corporate application of governance principles leads to low degree of risk when dealing with banks

Section III: The application of Governance in thebanking fieldin Algeria.

Since 1990,the public authorities started to do structural adjustments on the banking sector in order to prepare for work according to market economy mechanisms and achieve the quality of banking service and creating competition among the banks.

Law n: 10-90 of 1990-04-14, which includes the Monetary and Loan Act, marks a qualitative turning point in the Algerian banking system, although partially amended by several orders, but its content remains in force to date. The passage of the Monetary and Loan Act has made significant changes to the structure of the Algerian banking system,where the banking authorities have been regulated.These powers are: The Monetary and Loan Council, the Bank ing committee, the Bank of Algeria, where after the passage of Law 10-90, the Central Bank of Algeria became known as the 'Bank of Algeria', which was addressed in article 11 of the law: 'a national institution with moral character and financial independence.'the same laws applicable to Algerian banks and institutions, starting with the enactment of the law, and the establishment of private banks was allowed, and restrictions were placed on the intervention of the public treasury as a financier of economic institutions.[28]

and one of the banks that appeared after this period, we find Khalifa Bank,and The Algerian Commercial and Industrial Bank (BCIA),but what marked this stage is the poor supervision of the bank of Algeria to these banks before and after the beginning of their activity to these banks falling into financial crisis that shook the Algerian banking sector. That's where a problem of these two financial banks is results of many reasons, the most important ones are; opening the investment in the financial sector to people without experience in the banking field and this was the case of Khalifa Bank which was founded in 1998, even it 's based on adventure and it provides services and banking products the Algerian depositors they wouldn 't get them as the high interest rates on time deposits, bank –card which was double of the salary of the customer etc and all this is in order to attract most customers. Also,it provides special offers and attractive on special deposits in public institutions, public bodies and social security.[29]

As for the Algerian commercial and industrial bank,it was approved as a bank in 24/ 12/ 1998.

The fact that's of this case are back to the end of 2003 after a commercial dispute erupted between The Algerian Eternal Bank and The Algerian private Commercial and Industrial Bank which embarked on activity few months before that, with a value of 1323 billions centimes for some importers and companies about a huge amount of shifts which was disbursed by agencies of public bank mentioned by the Algerian Commercial and Industrial bank, especially after that, the latter exceeded the legal period and that extra to return the big financial value of these shifts, the officials of the Algerian commercial and industrial bank go too far and this lead to not paying the mentioned shifts in favor of The Algerian External Bank as it says the rules of business dealing among the banks, to have large group of doubts about the truth of the mentioned bank deal before the bank officials of Public Bank decide to move a lawsuit in the chamber of commerce allowed to reveal a large group of scandals and abuse about the Algerian commercial and industrial Bank.[30]

The bad Governance (movaise governance) that distinguished the supervisor function of The Bank of Algeria at the beginning of Khalifa Bank and The Algerian Commercial and Industrial bank activity is considered as one of the financial Crisis reasons that the bankers faced. This according to what the banking committee indicated in one of its notes related to control and inspections activity and the bad governance appeared through the deficiencies that were identified about Khalifa Bank as the following:[31]

-Lack of respect of accounting failure to procedures of institutions.

-Late submission of reports to the bank of Algeria.

-The irregular review of localization files.

-Absence of follow –up and control.

-Non- observance of rules of caution.

-The imbalances that the bank witnessed during the year 2003 lead to the inability to pay and that was behind making a decision of withdrawal of credit from it before it will be referred to liquidation later and that after the bank of Algeria contacts the main shareholders in this bank to reinvest capital through providing the necessary support according to what ‘s stated in the article 161 from law 90/10 and that what the matter 11/03 kept it through its article 99without a received reply from subsequently, it remains only the choice of bank’ s assignment on liquidation.[32]

The authorities carried out many procedures after making the decision of the bank assignment on liquidation in order to guarantee the rights’ of depositors. The deposit guarantee company (societe) presented the compensations worth 600,000 for all depositors and it was insufficient, forcing the bank liquidators to take the second procedures which is cleansing the accounts and buying the bank assets. The same thing happened with the Algerian Commercial and Industrial Bank and in the framework of control program.The concerned authorities ofthe bank of Algeria carried out a comprehensive monitoring (Control integral) in 2001 In many control operations on site at the level of BCIA Bank,where the inspectors found various excesses of special legal and regulatory rules ;among which.[33]

-Non observance of good running of profession (Bank Management), specially what’s related to treating unpaid checks

- The inadequate current account of the bank at the Bank of Algeria

The absence of compulsory reserve

-The surpass of exchange law

-The easy these two banks get the resources and the absence of Algeria Bank ‘s control pushed them to do non--yielding operations as sports club financing, granting risky loans to the managers and shareholders in the bank which often crossed the boundaries provided by laws (the loan doesn ‘t pass 20 % from the private money and others).

In addition to the absence of experience in the bank managing field and the absence of control inside the bank,also the Algerian Bank ‘s control.

Whereas, the total loans increase the private banks from 39.7 billions DA in 2002 to 181.3 billions in 2002 ; So, a height by 365.6. I n addition to many other factors like the poor distribution of portfolio risk and investment financing by short term loans and unsuitable interest rate and that was one of the reasons of financial crisis for these two banks.

The authorities often liquidate these banks after announcing their inability to pay and still the troubles of private banking sector ongoing, the banking committee has issued a decision in 27th December 2005,which is one of the bodies of Algeria bank which is one of the bodies of Algeria beside the loan board requires the withdrawal of credit given to The Algerian Company of the bank under the decision number 02/99 dated 28th October 1999 issued by the bank governor of the Bank of Algeria and put the mentioned bank on liquidation and designating to the liquidation operation, the declaration indicates that the committee supervised the bank aggravated the admition of shareholders of the bank of their inability to form the required capital.

Also,the committee surveyed the continuity of the case of non -liquidity of the bank.

Therefore, the case of the bank has ceased to pay and this new decision has issued by the banking committee is considered as the fifthof its kind which touches private bank after Khalifa Bank and Algeria Industrial and Commercial Bank and Union Bank. Finally, The International Algerian Bank to reduce the number of private banks with Algerian capital into two banks, they are “Arko Bank” and “ Mona Bank “.Also, the follower of the public banker ‘s performance in Algeria finds that they are not in well as they suffer continuously from non performing loans which exceeded 1200 billions DA, and granted to public economic institutions. Also itsuffers from internal and external weak control and what the newspapers tell us about suspicious operations in these banks is the best evidence. Also the others indicate that the problem of the banks in Algeria goes back to busty if its net assets less than a quarter of its capital.[34]

It is this reality that the banking environment in Algeria has become that has led the legislator to work to amend the Monetary and Loan Law of 1990 [35].and to try to increase transparency in the banking sector in Algeria and to impose more control to ensure a suitable banking environment in line with the expectations of customers, and to achieve this goal the law n: 90/10 related to cash and loan many amendments are:

Order n: 01/04 issued on 27/02/2001, in which the presidential order on the administrative aspects of the administration of the Bank of Algeria only touched, without prejudice to the content of the law in some articles of the law concerning the province of the Bank of Algeria and its deputies, we find article 02 of order n: 01/01 in addition to the separation between the Board of Directors of the Bank of Algeria.[36]

Order n: 03/11 of 26 08/2003 provided for the establishment of a 'monitoring body' at the level of the Bank of Algeria, whose task is to internally control the Bank of Algeria, particularly in financial and accounting terms, to support the independence of the Banking.[37]

Order n: 10/04 of August 26, 2010 is one of the most important amendments that this order brought about more control over the work of banks and the primacy of local investors in q in the capital of banks and financial institutions.[38]

In this context, the Algerian legislature stipulated the establishment of banking supervision bodies in Algeria, the most important of which are:

The Monetary and Loan Board: Where article 62 of the amended order n: 03/11 and complementary to order 04/10 on the powers of the Board and the reader of this article inevitably notes the extent of the power of the Monetary and Loan Council in the development of regulations, as in addition to other areas stipulated in various articles of the Monetary and Loan Act, it determines the rules to which banks and financial institutions in general are subject, It is about the precautionary rules governing the distribution of the loan, the rules of the protection of savings and depositors aimed at reducing the risk of loan institutions falling into financial crises that may lead to a bank discontinuing payment, and thus bankruptcy; The Monetary and Loan Board also sets out the rules for protecting bank customers, The rules on exchange, in addition to the rules of good conduct and ethics applied to banks and financial institutions, this area, which is 'initiated' by the Monetary and Loan Council through very broad regulations, actually makes it a micro-parliament for loan institutions as it has been called at the level of jurisprudence: it is indeed a real monetary authority.

This is confirmed by a close-up of the procedural framework of the regulations it issues, which functionally reflects the independence of the Monetary and Loan Board.[39]

Banking Committee: Established in 1990 under Article 143 of Law 90/10 on cash and loan and tasked with monitoring in accordance with the application of laws and regulations subject to banks and financial institutions, but weak oversight and the resulting corruption in the financial sector led to the repeal of the law and the issuance of order 03/11, The latter has maintained this committee and has become under it broad and absolute powers in conducting the process of supervision and supervision of banking and financial institutions and confirmed its repressive powers in article 105 of it and or extending the scope of its supervisory and disciplinary powers exercised on these institutions to control the extent of compliance of the latter with the provisions of this law and the applicable provisions of it and the disabling of the violations proven.[40]

Conclusion:

The banks ‘ application of Governance leads to various positive results,the most important ones are:

-Increasing the funding apportunities, decreasing investment cost,and the stability of money market.

-To reduce the financial and administrative corruption

Also the commitment of the banks in applying the standards of the Governance contributes in encouraging the companies, which lend from them to apply theses rules of Governance and the most important ones are the disclosure,the transparency,and the wise management.

-The companies ‘application of the Governance’ s principles leads to decrease the level of risks when dealing with the banks and reducing the distress. And to improve the performance of the banks and to eliminate the banking default,the principles of Governance must be adopted and the employees‘ awareness about its importance,and the public too and that through the following;

-It must work on forming committees at the level of the banks to supervise the correct embodiment of the Governance ‘s principles and control them.

- the necessity to complete the legal and legislative framework which represents thebasis of applying the Governance and issue the binding and appropriate instructionswhich enhance the ability to control,and issue the banking Governance Charter and the private banks in Algeria.

- The work on the continuous performance evaluation of the bank according to the adopted Governance indications and to build an effective controlling system protecting the shareholders' rights, and the work on upgrading the performance of the human element and configure him a proper formation according to the principles of Governance.

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