BANK AUDIT & SUPERVISION
A COMPARATIVE STUDY

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BY
Hussam A. Faraj
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BEIRUT UNIVERSITY COLLEGE
P.O.BOX 98 13-5053
BEIRUT, LEBANON

APPROVAL OF RESEARCH TOPIC

CANDIDATE: HUSSAM A. FARAJ

DEGREE: Master of Science in Business Management.

ADVISOR: Professor Saad A. Andary.

TITLE OF THE RESEARCH TOPIC: BANK AUDIT & SUPERVISION:
A COMPARATIVE STUDY.

The following professors nominated to serve as the advisors of
the above candidate have approved his research work:

1st READER
Professor Saad A. Andary

[Signature]

2nd READER
Professor Tarek Mekdashi

[Signature]
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I dedicate this research to my parents and to my colleagues at the Banking Control Commission.

Hussam A. Faraj
ABSTRACT

The phenomenon of bank failures and the instability of Lebanon's banking sector were the two main issues behind this study. The causes that led to bank trouble can be grouped under three categories: external, as function of war and the consequent socio-economic problems; internally, because of bad management and weak systems of internal controls; and supervisory-auditing defects.

An objective analysis was conducted of the Lebanese banking supervisory system, and the rules and regulations currently in force. On the other hand, a comparative study was made with some of the EEC countries, in relation to the banking supervisory systems and the relationship between the supervisory authorities, the external auditors, and the client banks. However, emphasis was made on external auditing in Lebanon in relation to that of the United Kingdom and Switzerland.

Pressures for regulation of banks grew as people realized the danger of bank failures. Bank supervision is required to promote safe and sound banking systems, and to prevent unsound or speculative loans and investments.
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CHAPTER ONE

INTRODUCTION: Statement of the problem.

Banking problems and the corrective measures required to handle them, have been extensively discussed in the last few years as they have threatened the security and stability of the Lebanese banking system. The structure, functions and banking operations in Lebanon witnessed several changes during the last sixteen years. These changes were in part the consequence of war, the declining role of Beirut as the financial center of the Middle East, and the conspicuous behavior of a handful of intruders into the banking sector negatively to the soundness of banking activities in the absence of efficient banking supervision and regulations. These changes should also be subjected to regulatory, legal, ethical, and economic investigation.

Lebanon has been an arena for international, regional, national and ideological conflict, and the Lebanese people have been paying for one of the most complex, traumatic and seemingly endless strife in modern history. The immediate consequence of the war in Lebanon was to slow down banking activities. As the uncertainty about the country's future increased, the slowing down process turned into a decline thus...
affecting bank profitability.

The banking sector followed the same path as the economy. Between 1974 and 1982, banking activity witnessed a positive growth rate but did not match the pre-war period (1964, 1974). The increase in banking activity during this period despite the war was closely associated with the monetary sector of the economy. The monetary dimension can be measured by the real volume of financial output generated by the resident financial and banking institutions and is a function of special role that a banking system plays regionally and internationally.

The growth trend reversed itself after 1982 due to the outflow of capital, currency depreciation, the closing down of foreign institutions, the economic recession and the unstable political and security environment. All these factors combined to cause Beirut to lose its major role as a financial center of the Middle East. As a result, the real value of banking output dropped sharply during the period 1982 - 1987. Real assets declined annually by 24 percent, real non-bank deposits by 25 percent, and real bank credit by another 34 percent. (Osseiran, p.54). The significant decrease in total loans more than deposits or total assets was the result of the following: First, the reluctance of banks to lend money was caused by the decline in economic activity and the increased riskiness of economic projects. Second, the availability of safer investments such as treasury-bills and interbank placements. Third, the restrictive monetary policy pursued by the central
bank through forcing the banks to have available at all times sufficient funds (precautionary liquidity) to meet the demands for money that may be made on them in order to protect the bank against the risk of loss.

I- Bank failures and the instability of Lebanon's banking sector.

The major evidence of the slow-down in banking activity after 1982 was the occurrence of banking failures. In 1966, after the Intra crash, the monetary authorities took measures to insure the safety of the banking system. In 1984, the first signals of trouble reappeared when "The First Phoenican Bank s.a.l." which had started its operations only two years earlier, experienced heavy losses in foreign exchange speculation, and its liquidity position was not adequate. (Salloum, pp.31-33). Also "Capital Trust Bank s.a.l." faced huge losses in 1984 amounting to almost $50 millions (40% of its total assets) and was rescued at that time by a take-over operation. Moreover, several branches of multinational banks closed down their offices thinking that they were facing unmanageable security, and business risks. However, these signals of banking failures and the gradual closing down of foreign institutions did not affect the stability of the whole banking sector. According to Osseiran, the reasons behind this were, "first, the bank's share in the total deposits market was too small to affect the depositors' confidence, while the central bank's intervention was swift and effective. Second, the economic and political environment were "acceptable"and could
digest a minor crisis" (Osselran, p. 56).

The survival of many capital inadequate banks at that time was due to the support of the Central bank, which implemented legislative decree no. 10/77 of February 14, 1977, in order to maintain confidence in the Lebanese banking sector. This is despite the fact that the Higher Banking Council is authorized by CMC to strike off the bank list names of violating banks. (Article 140, CMC). The support of the central bank, postponed the problem till 1989 but did not abolish it. (Andary, p. 45).

II- Causes of bank failures.

Four factors encouraged bank frauds and embezzlement of bank funds and the violation of rules and regulations of the monetary authority. The factors are the following: (ibid, p.45).

1.- The entry of a number of intruders into the banking sector after 1977. This phenomenon increased especially after 1983, when legislative decree no. 87 was issued which decreased the percentage of owning shares by foreigners in the Lebanese banking sector to a minority of 49%. As a result of this, six foreign banks and seven mixed banks, partially owned by Lebanese, closed down. However, most of the banking ownership were transferred to Lebanese at the end of 1990 with a ratio of Lebanese to foreign ownership of 3:1.

2.- The enactment of decree no. 10/77 which applied the principle of fortifying the banking system during the period of 1977-1988 against liquidation, bankruptcy, or the exclusion
from the banking list. Those who were behind bank failures found in that decree a legal cover for their fraud and embezzlement during the period 1983-88.

3- The inability of the monetary authority to apply relevant policies in an unstable political and security environment. The role of this authority was restricted to stop the exchange speculation against national currency, absorbing the pressure of the financial market against the reserves at BDL's foreign currency reserves, and orienting loans in Lebanese pounds toward financing the deficit in the treasury.

4- The weakness of examination during 1987 - 1989 due to vacancies in the hierarchy of the banking control commission and the impossibility to play its role in that turbulent political period. The BCC staff spotted out red lights and detected problems in some banks that were later classified as problem banks. However, their qualifications were not always seriously taken into consideration.

The risk of defalcation, ie. embezzlement, is present in good times as well as bad and will remain a major source of risk as long as banks employ people and as long as people are subject to the financial, social and moral pressures of society. With the absence of the control authorities, fraud becomes a greater risk in the banking sector in the absence of watch and penalty.

Bank fraud led to large losses; some of the troubled banks lost in addition to their capital part of the deposits. Troubled banks resorting to the Central Bank as a "lender of
the last resort" for liquidity have some symptoms in common, the most important of which are: low liquidity with high loan to deposit ratios, low capital adequacy ratio, mismatching of loan and deposit maturities, mismanagement, and in many instances fraud.

III- Consequences of bank failures.

The causes of bank failures, can be grouped under three categories: externally, war; internally, bad management and weak systems of internal controls; and thirdly, the laxity of control authorities which helped to extend unnecessarily of bank failures over a fairly long period of time.

The war weakened the economic base in Lebanon and led to a general slow down in business activities. All industries were negatively affected, especially the banking sector: Demand for loans decreased as business opportunities narrowed. Faced with these problems, banks were encouraged to look for opportunities in risky operations, such as, the foreign exchange market. The management of these banks probably took excessive risks without recognizing their extent or even their existence. Fraudulent accounting practices ran parallel to bad management. Foreign exchange losses and dishonest acts of management were not reported.

As a result of the weakness of the supervisory authorities to step in and curb the mounting abuses, and/or the inability of the regulatory authorities to use their legal power to stop the unwise banking practices, have resulted in losses and consequently led to bank failures. Nowadays,
Lebanon is classified among zero credit-rated countries and its country risk ranking during 1992 was 141 out of the 169 countries surveyed. (Lowenstein, p.69). This means that the Lebanese banking system has received a severe setback, and will take sometime to recover its place in the international market.

This background raises more than one question. Banking is all about confidence, and the major objective of the regulatory and control authorities is to secure and maintain sound banking operations and to ensure that banks adhere to laws and regulations. Why, then did not these parties detect the problem early on, and if they did why did not they correct the deviation? To answer such questions, it is necessary to know if the Lebanese banking supervision and audit systems are adequate, and whether there are problems with the superstructure and/or legal frameworks of banking control. Chapter two begins to answer these questions, by explaining the role of parties in charge of audit and supervision in the Lebanese banking sector, and the rules and regulations currently in force.
CHAPTER TWO

THE LEBANESE APPROACH TO INSPECTION AND SUPERVISION

I- INTRODUCTION

In most countries, commercial banks are highly regulated and closely supervised. Those banks operate under special complex codes of law enacted and applied by various bank regulatory authorities. During the first quarter of this century, few banks operated in Lebanon with no rules or regulations governing their operations. However, the economic growth encouraged many new banks to start operating. As a result of this, the Lebanese government enacted many regulations to organize the banking activities and to provide guidelines for their work.

In September 1956 the Bank Secrecy Law was enacted which gave confidence to many arab and foreign individuals to deposit their funds in Lebanon. In June 1962, legislative decree No. 9860 was issued to establish the Central of Risk which facilitates the exchange of information about bank debtor clients. Finally, the charter of the Central bank was formulated into the law which promulgated the Code of Money and Credit (CMC) in August 1963. In April 1964, the "Central Bank of Lebanon" was established and replaced the role of
"Bank of Syria and Lebanon". The CMC defined the central banking role of the BDL, as a monetary authority that assures a solid base for social and economic progress in Lebanon. The BDL has accomplished its monetary, legislative, and supervisory roles within the framework of independence on the one hand, and cooperation with the public and private sectors on the other. This legislative and financial structure has favoured the emergence of national and multinational banking institutions.

The number of banks that were operating in Lebanon in 1945 were nine, increased to thirty-one in 1955, and to eighty-six in 1965. Prior to Law no. 28/67 of May 9, 1967, when the Banking Control Commission was established, no restrictions were imposed on the creation of banks except for prohibiting the formation and/or management of a bank by people who had been convicted. (Baasiri, p.1).

Inspite of the boom in the banking business and despite the regulations set by the monetary authority, the Lebanese economy witnessed a setback as a result of the Intra bank failure. This crisis came as a shock to the banking sector and the economy at large, and revealed two important facts. First, the weakness in bank supervision of the Central Bank. Second, the defects in the existing regulatory banking legislation. As a result, it necessitated the enactment of new banking legislation and the amendment of the "Code of Money and Credit" to confront the demands of this crisis. Therefore, the main reforms were made under law 28/67 on May 9, 1967, and
included the creation of the following three authorities: the Banking Control Commission (BCC), The Higher Banking Council (HBC), and the National Deposit Insurance Corporation (NDIC).

II- BDL's Bank supervision according to CMC.

Between 1963 and 1967, banking control and supervision was conducted by "the Department of Control" which was one of the Central Bank's departments. This department was directly related to the governor of BDL. The Code stipulated that the BDL use the following means to exercise its control through: First, auditing and controlling all statements and documents of banks operating in Lebanon which the BDL has the right to ask for. Second, requiring any necessary clarification and explanation from the responsible bank managers concerning previous statements and documents, and asking them to verify on their own responsibility. Third, the right of the governor of the BDL to take any additional audit task choosing his own auditors whenever he seems necessary. (CMC, Articles 148-9).

The Banking Control Commission (BCC) was established under law 28/67 on May 9, 1967 in replacement of the "Department of Control" which was one of the Central Bank departments, and became a body independent of the Central Bank. The commission consists of a chairman and four members who are appointed by the council of ministers for a renewable period of five years, and backed by a full time staff of experienced examiners. One of the members is suggested by the Banks Association in Lebanon, and another is suggested by the
N.D.I.C. The B.C.C. executes its functions through a team of examiners who swear to uphold the banking secrecy law of Sept.3, 1956. (CMC, Article 151).

The main objectives of the commission is to secure and maintain sound banking operations and to ensure that banks are adhering to laws and regulations determined by the Commercial Code and the CMC, as well as directives and circulars issued by the Central Bank and the B.C.C.

The B.C.C, is the highest supervisory authority of the banking sector. It is completely independent of BDL administratively but depends on it financially. The BCC in exercising its functions, implement three main kinds of examination over banks: 1- a preventive examination; 2- a continuous examination; and 3- a corrective direct examination.

1- The preventive examination is carried through periodical reports prepared by banks and is submitted to the Commission in conformity with ECC circular no.136 of Nov.19, 1990. Banks are also required to appoint external auditors who attest to the preparation of the annual reports in compliance with articles 172 to 178 of the Code of Commerce, articles 186 to 191 of the CMC in addition to directives and circulars issued by the Central Bank and the BCC. The auditors submit to the commission and to governor of BDL, the "complete audit report" and the "letter to management". From these reports the BCC can observe indications of any deterioration in the financial and managerial positions of the bank. The external
The external auditor has to report any breaches in the application of circulars and directives of BDL and BCC to the managers of bank. Any deviations in the statements should be reported by the external auditor to the BCC. The BCC tries to solve outstanding problems with the board of directors of the concerned banks, but if this does not achieve the expected results, it reports the case to the governor as chairman of the Higher Banking Council. The HBC may then decide to apply the penalties at its disposal as specified in CMC (1963) & Law no. 28/67. (art.10).

2- The continuous examination through follow up of previous remarks and recommendations made by the Commission examiners, and the periodical returns prepared by banks and submitted to the commission. The role of the BCC is limited to the use of such information which can reflect results of performance according to set regulations and standards. The objective of the performance control as a continuous procedure is to monitor developments taking place in a bank, and to spot red lights and violations.

3- The corrective direct examination consists of sending BCC supervisors to review on-site the books of each bank and report their findings to the Commission. This review includes recommendations that should be taken by management in order to correct existing practices according to stipulated laws and regulations. This on-site examination is the most difficult and time consuming method in controlling banks. A certain time lag is inevitable between the value date of the report and the
date of action taken by the commission.

III- Procedures of BCC examiners.

The essential role of a field examiner is based on the preparation of fact finding reports that analyze and appraise the conditions of the bank in question. The BCC examiners usually conduct an on-site examination at least once every two years at all banks operating in Lebanon, depending on the quality of management of the bank as assessed by the Commission. However, banks that are considered to be in trouble or anticipated by the BCC to fall in trouble in the future are studied indepth and more closely, and may be examined on a short-notice to confirm the existence of reported bank assets and the reliability of its records. On the other hand, an evaluation and appraisal of the quality of the bank's management, and the system of internal control to ensure that it is complying with the relevant rules and regulations.

Various ratios extracted from the financial statements are also studied concentrating on liquidity as a means of protecting banks against the risk of taking losses if compelled to rapidly sell creditworthy assets in adverse markets. The BCC, accordingly, asks banks to maintain high liquidity ratios which are normally not needed in more stable economies.

Bank capital is an essential protection for bank depositors; a bank's capital adequacy is a dynamic concept
which depends on a variety of performance criteria and is subject to the continuously changing influence of the prevailing and expected economic conditions. The BCC, accordingly requires new banks to provide a minimum level of paid-up capital and minimum amount of equity required for each branch of the bank. The capital ratio of bank have generally been low in Lebanese banks in recent years, in fact well below the average ratio of 3% required by circular of BDL no. 435 of October 26, 1983. Circular no.1114 of August 2, 1992 was thus issued by the Central Bank to establish a common measure, that banks have to gradually comply with. This ratio is equivalent to the 8% ratio specified by the group of ten countries and the Basle Agreement.

The effort of the examiners is centered around examining the loan portfolio of the banks as of a certain date. In case a loss occurs on the accounts classified as doubtful debts, its value is compared with provisions available at the bank. If there is a shortage in these provisions, the bank is given according to the law, a period of one year to cover these losses. An additional period of one year may be given for the reconstitution of its capital. The examiners have also to study the maximum levels of loans to individual customer (according to circular no. 108 of BDL) as a function of the

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1Circular no.1090, issued by BDL, dated March 31, 1992 states that, new banks operating in Lebanon should provide L.L 1 billion as a minimum paid-up capital for the head office, and L.L 100 million for each branch.
equity of the bank. The maximum credit facilities that may be extended to shareholders, members of management and the affiliated companies is 25% of the total equity (CMC, article 152). Moreover, they study the bank's investments in subsidiaries, affiliates, fixed assets and other similar assets, which should not exceed the total equity of the bank. (CMC, article 153).

The foreign exchange positions are very important to BCC. It has to verify the conformity of banks with BDL circular no. 297 as modified by circulars 538, 504, 513, and 735 which prevent banks to hold a net foreign asset or liability position in excess of 15 percent of K.

Upon completion of the examination the draft of the report is discussed with the management of the bank to understand its views. The Commission then sends a copy of its final report to the bank management which is required to answer the points raised in writing together with the suggested timetable for conforming with the Commission's recommendations. A copy of the report is sent to the governor of the Central Bank. In case the BCC discovers a serious breach of the law or irregularities jeopardizing the security of the creditors, it tries to solve this problem with the board of directors of the concerned bank. But if this does not achieve any results, then the BCC has to report the case to the High Banking Council, whose decisions are final and cannot be appealed.

Banks are subject to the penalties of the Penal Code and
imprisonment in case of embezzlement, as mentioned in articles no. 194, 196,197, and 201 of the CMC under the punitive sanctions section.

IV- Structure of Lebanese banks and the role of external and internal auditors.

"Public Shareholding Companies" are based on two basic restrictive concepts which are: the segregation of ownership and management, and the multiplicity of ownership. In Lebanon, most commercial banks do not bear the distinguishing features synonymous with such companies in other parts of the world. Public Shareholding Companies are known to accumulate capital from a broad base of shareholders who elect and appoint a separate group of persons to manage the company (Board of Directors). By contrast, most commercial banks in Lebanon are family-owned and family run, and violate the two basic concepts of Public Shareholding Companies.

A- The role of the external auditors banking supervision.

In relying on the external auditors' reports, there exists a basic difference in perspective and objective between bank supervisors and external auditors. The ECC aspires to protect a bank's depositors, while the primary objective of external auditors is towards the shareholders. The problem arises from a defect in the law which institutes the chairman of the board of directors, of a bank as the chief executive, normally being the owner of the majority of shares. The
external auditor actually reports to the chairman about the financial statement which he, the chairman, in his position as chief executive, has prepared.

Another problem concerns the rules and regulations governing the audit profession. Besides the series of circulars and directives issued by the Central Bank and BCC, there is no law regulating the audit profession in Lebanon, nor that lays the basis on which the practice of either accounting or auditing is to be conducted. Moreover, there is no organization, either private or public that is given legal status and authority to regulate these professions.

Concerning the banking control system as exercised currently in Lebanon, oversimplified rules are applied governing the qualifications of auditors, their appointment, and the prudential reports they have to submit to the supervisory authorities. On September 25, 1971, a decree no. 1983 was issued to regulate the auditing profession in the banking system; it states that:

1- According to article no.6 of this decree, an auditor can not be appointed by a bank who is:

   a- A relative, up to the third degree, of a board member of the bank, and its general or deputy manager.

   b- A partner with a board member, general or deputy manager.

   c- Indebted to the bank or any company related to directly or indirectly; and an ex-employee of the
bank who has left his employment for a period of not less than two years.

2- Article no. 2 of the decree states that the qualifications required of external auditors are those by which they may accepted as "certified accountants", with an experience of ten years decreased to three years in case of holding a degree in business, or a discipline approved by BDL.

3- The job of the external auditor is "permanent" according to article no. 17 of this decree and article no. 174 of the Code of Commerce, until the next meeting of the general assembly, which may reappoint or terminate their appointment. Contrary to this article and articles no. 172 and 173 of the Code of Commerce, article no. 186 of the CMC specifies this appointment as three years renewable by the general assembly. In case of the appointment of a new auditor before the termination of the three year period, then he is appointed only for the remainder of the period.

4- Articles no. 8, 10, 12 and 14 of the decree state the auditors' legal responsibilities are setdown in compliance with article 172 and subsequent ones of the Code of Commerce, article 186 and subsequent ones of the CMC, in addition to the directives and circulars issued by BDL and BCC.

5- Article no. 9 states that the auditor must not carry out any task other than the audit nor receive fees other than those determined at the annual general meeting.

6- The auditor who commits a fault in his conduct of the audit, and failed to fulfill his duties intentionally or
through negligence, is liable to sanctions determined by the Higher Banking Council upon the suggestion of the BCC and after hearing the auditor. Sanctions specified in articles no.18 of the decree and 187 of the Code of Commerce, include the temporary or permanent termination of an auditor’s duties. Subject to article no. 202 of the CMC, the auditor is also liable to civil and criminal sanctions and varying terms of imprisonment, as determined by article no. 356 of the Penal Code.

The BCC issued circular no. 12 on December 3, 1986 directed to external auditors with the aim of upgrading bank control; it specified the reports and other information they are required to submit. Circular no. 14 of the BCC on Oct. 5, 1990 also directed external auditors to provide an information covering the following issues:

a- A list of the name of banks audited during the current year.

b- A list of the auditors names involved in each bank, and list of the firms auditors’ names and their qualifications.

c- The projected and actual number of hours taken to audit the bank financial statements of the last year.

d- The auditing cost of the current year in comparison with the last year.

The purpose of such circulars is to make sure that the external auditor is capable of performing his duties, given
his firm's human resources, and that there are no contradictions in the information provided in items (c) & (d) for each firm and between the returns of the firm and those of the industry averages. (see appendix 1).

B- The role of the internal auditor in controlling bank operations.

The purpose of the internal audit department is to support the internal control function and to help the executive management of the bank to make sure that the banking operations are in accordance with the polices set by the board of directors and with BDL and BCC circulars and regulations.

On September 12, 1989, the BCC issued circular no. 129, requiring banks to establish an internal audit department linked directly to the board of directors of the bank, and using the banking audit guide in the preparation of the internal control program. In view of the loopholes in the internal control system of Lebanese banks, and since most of the bank failures in Lebanon were due to mismanagement, the BCC recognized the need to improve the internal control functions. It issued circular no. 143, on March 22, 1991, requiring the internal auditor to report to the chairman of the board; the general manager, and the secretary of the board to distribute the report to other members of the board.
CHAPTER THREE

A GENERAL CONCEPT OF CONTROL AND SUPERVISION

I. GENERAL CONCEPT OF CONTROL AND SUPERVISION

A. INTRODUCTION

The importance of the safety and soundness of the circulation of funds, both in the national economy as well as between countries and in the international financial markets, is of great concern and the need for a global approach to the problems of bank safety and soundness is apparent. For instance, in the U.K the functions of the Central bank as stated in the act of 1979 moved from persuasion to a more regulatory form; and there has been a call for further review to protect public interest after the case of Johnson Matthey in London. However, two main issues were evident: the definition of the role of the bank in relation to the treasury and the responsibility of certified auditors of banks toward all interested parties, not only coined to shareholders. (Hegazy, p.59).
In the U.S.A, the accounting profession was called to strengthen the role of bank auditors in monitoring the banking function in cooperation with the supervisory authorities which assume a major role in the economy. In the European community, there has been a move to establish an advisory committee to harmonize the functions of central banks and establish standard regulations for control and supervision within the community. In the third world countries central banking legislation has generally been adopted to fit national needs, capabilities and aspirations. However, the practical execution has often been gradual according to fit the stage of development.

As a result of such a wide range of experiences worldwide, one can sum up some of the salient issues behind differences and discrepancies between systems of control and supervision.

1- Differences in concept of control and supervision by central banks.

2- Differences in mechanisms relating to direct involvement through on-site examinations by central banks inspectorates, or through certified auditors appointed by control authorities or even general auditors.

3- Differences in constitutional forms of national entities carrying out the role of control and supervision.

4- Differences between national control and supervisory
authorities on banks and other country's institutions.

A number of interested parties in the functions of banks exist and require some sort of control and supervision. There is a trade off between shareholders who appoint auditors to secure their capital interests, board of directors as representatives of shareholders, and the executive management which in turn develops an internal audit system and inspection units to follow up performance and to report on results. Government authorities may impose certain regulations relating to licensing, operations and evaluation of bank performance. Finally the regional and international financial institutions which participate or share in the flow of funds, granting credits and loans have an interest in the financial positions of banks to assess, for example, country risk exposure, liquidity, capital adequacy, extent and made of disclosure of information and others.

For these reasons, harmonization of accounting principles and auditing standards are necessary in a world in which some countries have adopted varying principles and standards with respect to a single subject. The financial statements which are based on standards which are relevant, balanced and internationally comparable, will find better reception from interested groups.

The basic principles of sound banking may be the same, but the regimes within which banking is conducted will differ in different regions of the world. The development of
supervisory cooperation to cope with the global market place, recognizes these common features. This has led to the development of groupings of national supervisory authorities which, while they may have differences within their individual systems, tend to have converging overall systems. Such groups have been established in the major industrialized countries among the supervisory authorities in the group of countries whose banking markets are characterized as off-shore centers, namely in Latin America, the Caribbean countries, and recently in the countries of South East Asia.

B- Auditing: definition, objective and scope of the audit.

The term "auditor" indicates a person who has been commissioned to perform the task of "audit", i.e., to check and examine the financial statements and report on his findings to the authority which employed him to perform such a task. Auditing is essentially a professional service that facilitates and promotes investment and other economic activities which, in turn, promotes the general welfare.

Broadly speaking, auditing may be defined as "an objective systematic review process that involves selecting and evaluating evidence for the purpose of either:

1- Ascertaining the reliability of reported financial information in terms of its:
   a- Correspondence with the underlying economic events being accounted for and reported, and
   b- Conformity with generally accepted principles for
recording and reporting such events, or
2- Appraising activities from the standpoint of:
   a- The adequacy and effectiveness of controls
      established over the activities,
   b- The efficiency with which the activities are
      carried out, and
   c- The effectiveness of the activities in accomplishing
      stated objectives." (Stettler, p.3).

However, an audit is the independent examination of the financial statements or related financial information of an entity.

The basic objective of the audit of a bank is therefore to give an opinion based on International Auditing Guidelines (IAG) or relevant to national standards or practices established within the country, relevant to auditing standards, on the bank's financial statements. These are prepared in accordance with International Accounting Standards or relevant national accounting principles.

IAG 1 (paragraph 2.1), states that, "The objective of an audit of financial statements, prepared within a framework of recognized accounting policies, is to enable an auditor to express an opinion on such financial statements".

The user should not assume that the auditor's opinion is an assurance to the future viability of the entity. The auditor's opinion merely helps to establish the credibility of the financial statements.

Moreover, the scope of an audit of financial statements
is normally determined by the requirements of the International Standards on Auditing, relevant professional bodies, legislation and regulations. The audit, also, should be organized to cover all aspects of the operations of an entity as far as they are relevant to the financial statements being audited. On the other hand, the auditor should obtain a sufficient understanding of the accounting and internal control systems to plan the audit and develop an effective audit approach. The auditor should also plan his work to enable him to conduct an effective audit in an efficient and timely manner.

In forming an audit opinion, the auditor generally cannot rely only on the results of the substantive tests. The auditor needs to place significant reliance on the bank's system of internal control which is a management responsibility for maintaining adequate accounting system. Since the auditor depends on certain internal controls, the required procedures would be less extensive and may differ in their nature and timing, as stated in IAG (3) & (4), in planning the audit, and establishing a degree of reliance on internal control.

But there are certain constraints on the scope of the audit of financial statements that impair the auditor's ability to express his unqualified, qualified, adverse or disclaimer opinion, because of the test nature of an audit, and the inherent limitations of any system of internal control. There is, therefore, unavoidable risk that some material misstatements may remain undiscovered. As defined in

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IAG 19, and as amplified in IAG 25, the three components of audit risk are: the inherent risk, is the risk that material error will occur; control risk, is the risk that the bank's system of internal control will not prevent or correct such errors; and the detection risk, is the risk that any remaining material errors will not be detected by the auditor.

However, the auditor's opinion should be designed to obtain reasonable assurance that the financial statements give a true and fair view, or present fairly the financial position of the entity being audited at a certain period of time, in accordance with generally accepted auditing standards or relevant national standards, and in conformity with generally accepted accounting principles applied on a basis consistent with those of the preceding years.

Finally, according to IAG 3 (paragraph 7.1), the basic principles governing an audit, as stated in the reporting on the financial statements are:

"The auditor should review and assess the conclusions drawn from the audit evidence obtained as the basis for the expression of his opinion on the financial information. This review and assessment involves forming an overall conclusion as to whether:

a- The financial information has been prepared using acceptable accounting policies, which have been consistently applied;

b- The financial information complies with relevant regulations and statutory requirements;"
c- The view presented by the financial information as a whole is consistent with the auditor's knowledge of the business of the entity; and
d- There is adequate disclosure of all material matters relevant to the proper presentation of the financial information.

C- Who exercises control?

Control is a function which is exercised by different persons on entities for different reasons. However, auditing activities are performed by auditors who are members of either the independent auditors class or internal auditors:

a- Independent auditors: These auditors are not employed by the organization being audited and may be either public accountants /or/ external auditors, or government auditors:

1- Public accountants or external auditors who are professional independent contractors whose task is to examine the reliability of the financial information and to give a professional opinion on the fairness of the said financial statements reported to shareholders and other third parties.

2- Legislative government auditors who report to a legislative body on their audits to ascertain the reliability of the financial information, adequacy and effectiveness of control, effectiveness of activities, and ensuring that the institutions being audited are complying with laws, rules and regulations that are issued by the legislative and regulatory bodies.
In spite of the similarity of their tasks a basic difference exists whose in perspective and objective between bank supervisors who aspire to protect bank depositors, and external auditors whose primary objective is towards the shareholders. However, the tasks performed by auditors and bank supervisors which are common in nature include: first, the performance of analytical procedures; second, obtaining assurance regarding the existence of a satisfactory internal control structure; and third, the review of quality of bank's assets and the assessment of banking risk.

Statement no.4 on "The Relationship between Bank supervisors and External Auditors", issued in July 1989 by the International Auditing Practices Committee (IAPC) in association with the Basle Committee, provides information and guidance on that relationship. (See Appendix I).

b- Internal auditors are qualified inspectors employed from within the organization by management for the purpose of ensuring the adequacy and implementation of systems and procedures, as established by the institution. The objective of internal auditing is to assist management in controlling operations by ascertaining the reliability of internally reported operating and financial information. (IAG No. 6, Basic Principles Governing an Audit, Paragraph-3b).

The internal control is usually independent of the accounting function; the internal auditor, however, reports to the management and is paid by them. Therefore, he is not independent as for as shareholders, depositors and third
parties are concerned.

D- The basic principles governing an audit.

In performing audits in accordance with the International Auditing Guidelines, auditors should comply with the Guideline or Ethics for Professional Accountants issued by the International Federation of Accountants, and also, comply with the ethical principles and broad concepts of professional ethics applicable to practice as a Certified Public Accountant, and finally, the standards for the professional practice of internal auditing.

The rules of conduct set forth minimum levels of acceptable conduct which are mandatory and enforceable. Whatever these guidelines or rules, they deal with four broad concepts of ethical principles:

1- General and technical standards as independence, integrity, objectivity, confidentiality, skills and competence, standards of field work, and standards of reporting.

2- Responsibilities to client.

3- Responsibilities to colleagues.

4- Other responsibilities and practices.

However, all the three types of audit activity, (government, external, and internal auditors), have a fundamental concern for the fairness, completeness, and reliability of reported accounting information, although only independent and governmental auditors express an opinion on the accounting information. Government auditors have an
additional concern that the underlying transactions being reported are in compliance with all laws and regulations applicable to the activities of the agency being audited. Moreover, the standards of the three types of audit activity recognise the importance of independence, proficiency, and due professional care in the performance of audit. (Stettler, pp. 89-90).

II- The Framework of Audit, Examination, and Supervision in the United Kingdom, and Switzerland.

In today's modern world, commercial banks operate under constraints imposed on them by central banks for many purposes. Pressures for regulation of banks grew as people realized that the failure of a bank could mean the loss of confidence and runs on banks. Consequently, bank supervision has been required to promote safe and a sound banking, and has also been directed to prevent, through its practices, unsound and speculative loans and investments.

A- The banking supervisory and regulatory systems in the United Kingdom:

One of the main characteristics of the U.K banking system until 1979, was that supervision of the banking sector operated on a largely non-statutory basis. Relying upon personal knowledge of the banks which operated in the U.K., the Bank of England operated his self-regulatory function on the basis of a gentleman's code of ethics. However, in the event of a suspected deviation from acceptable practice, the
governor of the Bank would simply send a polite letter to the appropriate institution indicating the way in which the Bank expected the institution to conduct its business.

Against this background, the U.K moved from a supervisory banking system based on persuasion to one based on law. The 1979 Banking Act was a landmark in that it was the first attempt to place the U.K bank regulation on a statutory footing. This Act came into force on 1 October 1979, and its aim was:

"To regulate the acceptance of deposits, confer certain functions on the bank with respect to control of institutions carrying on deposit-taking business, to give protection to persons who are depositors with such institutions, to control advertisements inviting the making of deposits, to restrict the use of banking names and descriptions, to prohibit fraudulent inducements to make deposits and to amend certain enactments relating to banks and banking." (Penn, p.13).

At that time, a direct contact between the supervisor and the bank at all levels was the corner stone of the U.K supervisory system. On the other hand, the relationship of the supervisors with the auditors were considered by the Bank of England, and the Institute of Chartered Accounts issued a paper expressing their views on this relationship. In countries where the supervisory function does not incorporate a system of inspection, as in the United Kingdom, the role of the auditor in performing the statutory audit can be a useful complement to the supervisor's work in contributing to the
health and soundness of individual institutions and there may well be ways in which this relationship can be improved.

The development of a supervisory regime in the United Kingdom has been accompanied by a crisis; it became apparent that one of the major factors which caused the crisis had been the absence of a formal system of banking supervision. The government saw the need to address these weaknesses, and in December 1985 published a White Paper setting out proposals for changes in both the legislative and regulatory framework of banking supervision.

The banking Act of 1987 came into force on 1 October 1987. It replaced the Banking Act 1979 and provided and revised statutory framework for the supervision and regulation of banking activities in the United Kingdom. The collapse of Johnson Matthey Bank (JMB) in October 1984 and the subsequent investigation of what went wrong at JMB exposed the gaps in the system of U.K banking supervision. As a result, the Banking Act 1987 was intended to remedy the main defects highlighted by the JMB collapse and to give the Bank of England more power to supervise and control banks.

1- The supervisory duties of the Bank of England under the 1987 Act:

As a supervisory and regulatory body, the position of the Bank of England was strengthened and more clearly defined under this Act. As stated in the Act the Bank of England has two general duties:
"To supervise the institutions authorized by it, and to keep under review the operation of the Act and developments in the field of banking which appear, to the Bank, to be relevant to the exercise of its powers and the discharge of its duties." (ibid, p.19).

After reviewing the banking supervisory system by the government a serious consideration was given to separating the supervisory authority from the Central Bank. A compromise was proposed to establish an advisory committee to the Bank of England known as "The Board of Banking Supervision". However, the independent members of the board were asked to advise the Bank on its supervisory functions under the 1987 act. The Board consists of three ex-officio members, namely, the Governor of the Bank as chairman of the Board, the Deputy Governor of the Bank, and the executive director of the Bank. Six independent members are appointed jointly by the Chancellor of the Exchequer and the Governor.

The statutory duty of the advisory Committee was explained in White Paper as:

"i- Board issues involving the supervision of institutions authorised under the Act;
ii- The development and evolution of supervisory practice;
iii- The administration of the new Act; and
iv - The structure, staffing and training of the Banking Supervision Division." (ibid, p.33).
2. The role of auditors and their relationship with bank supervisors

The 1987 Act cleared the way for auditors to play a greater part in the supervisory process, and ensured the coordination and contact between supervisors and auditors.

Section 39 of the Act empowered the Bank of England to ask the auditors as authorised institutions to provide information which are reasonably required by the Bank. However, the Bank published a "Guidance Notice" which provides detailed guidance to institutions and to reporting accountants appointed under section 39.

As mentioned before, the primary duty of the auditor as defined in the 1979 Act is to the institution and its shareholders; this duty however, does not allow him to communicate all the information he can make available to the Bank. (section 19, the 1979 Act). On the other hand, section 47 of the 1987 Act discussed the auditor's duty of confidentiality and enabled the auditor to pass information to the Bank of England concerning the business affairs of his client.

The existence, scope and objectives of the internal audit are dependent upon the judgement of management as to its own needs and duties, and the size and structure of the institution. The important considerations in assessing the effectiveness of internal control includes its independence from operational management, and the quality of its staff. In addition, the Bank believes that the following control
functions could be undertaken by the internal audit: review of accounting and other records and the internal control environment; review of the implementation of management policies; and special investigations for management. (ibid, p.204).

3- Overseas institutions and representative offices:

Part (iv) of the 1987 Act regulates overseas institutions with representative offices in the U.K. Moreover, schedule 3 of this Act set six criteria summarised as follows:

"i- The directors, controllers and managers of the institution must be fit and proper persons to hold their respective positions.

ii- The business of the institution must be directed by at least two individuals.

iii- In the case of U.K-incorporated institutions there are in the Bank's view, an appropriate number of non-executive directors.

iv- The institution conducts, or will conduct, its business in a prudent manner.

v- The business of the institution must be conducted with integrity and skill.

vi- The institution must have, at the time of authorisation, minimum paid up capital and reserves of STG 1 million." (ibid, p.43).

The Bank must satisfy itself that the criteria in paragraphs ii, iii and vi of schedule 3 are fulfilled.
According to paragraphs i, iv and v, the Bank may rely upon the information provided by the national supervisory authority in the country in which the institution has its principal place of business. Once such an institution is authorised, supervision becomes a shared responsibility between the Bank, as host supervisor, and the relevant home supervisor. The principles underlying the sharing of responsibility are set out in the Basle Concordate.

4- The Deposit Protection Board:

It was established by section 21 of the Banking Act 1979. The Board consists of three ex-officio members who are the governor of the Bank as chairman of the board; the deputy governor of the Bank; and the chief cashier of the Bank. Starting from a rule that even with a generally effective system of supervision, no deposit can be entirely without risk, the board is required to consider the safety, soundness, and management resources of the institution it insures. The 1987 Act introduced certain changes in the fields of extending the limit of protection to three-quarters of the protected deposit but does not exceed STG 20000; increasing the minimum contribution by a contributory institution to STG 10000 but not exceeding STG 300000; and extending the cover to non-U.K institutions.

The approach can be contrasted to that adopted in the United States where protection is up to $100,000 per deposit account by the FDIC. After the depression of 1929 and the
suspension of operations of 9000 banks, the FDIC became a quasi-governmental body with a three-member Board of Directors. Two of them are appointed by the US. president (for six-year terms) and the third is the Controller of the Currency. The FDIC is funded by premiums paid by insurance bank at one twelfth of a bank's deposits. Once the bank is chartered by federal or state authorities, the FDIC will require detailed assurance on the history and skills of the institution's management together with its ability to meet community needs.

Finally, banks in the United States, unlike their counterparts in the U.K and Switzerland, face more regulatory bodies and more regulations than any other form of business associations. In addition, the FDIC controls its insured banks through examinations, inspections, and enforcement mechanisms.

5- Requirements of effective direction.

The Bank of England is committed to the principle of promoting internal auditing and audit committees in individual banks.

This criterion is based on the question of whether its directors, controllers and managers are fit and proper persons. The relevant considerations include whether directors, chief executives, managing directors and managers have sufficient skills, knowledge, and soundness of judgment properly to undertake and fulfill their particular duties and responsibilities. The Bank takes into account the person's reputation and character. It also gives particular weight to
whether the person has contravened any provision of banking legislation which is designed to protect members of the public against financial loss due to dishonesty, and malpractice.

Section 19 of the Act 1987, empowered the Bank to issue directions to institutions, by imposing limitations on the acceptance of deposits, the granting of credit, prohibition from soliciting deposits, and requiring the removal of any director, controller or manager. The Act considers failure to provide prudential information an offence punishable by up to six months to two year imprisonment.

B- Supervision and regulation in the Swiss banking system.

The Swiss banking system is characterized by its universal banking. Swiss banks have never been legally restricted to the scope of activities, as banks have in the U.S. and the U.K. However, the main Swiss feature of the regulatory framework is the key role played by gentlemen's agreements between banks and the Swiss National Bank. By cooperating under these self-regulatory agreements, Swiss banks and the authorities can adopt policies they consider appropriate for a particular set of circumstances.

Flexibility on the other hand, is a key feature of Swiss financial market regulation, and not only because of the gentlemen's agreements. However, the main banking law which is the 1934 Federal law on Banks and Saving Banks, was constructed as a framework law consisting of basic principles that could easily be adopted to accommodate new developments.
The main objective of the Swiss Banking Law is to protect the interests of creditors and to maintain the quality and reputation of Swiss financial market. Beside adequate organization and reputable managers and directors, the Federal Banking Commission usually imposes an initial capital requirement of at least SFr 20 million, although the legal paid-in capital required is only SFr 2 million. But the Commission wants to prevent the creation of mini-banks with little chance of survival. (Engstrom- Bondy & Makin, p.49).

Switzerland has traditionally followed a liberal policy in granting licences to foreign banks, which are automatically able to operate as universal banks. In view of this, the Banking Law (Article 3) imposes conditions on foreign banks seeking a licence in Switzerland. It states that:

"reciprocity must be granted by the foreign states of residence of the applicant." (ibid, p.50). That means Swiss banks must also be permitted to operate in the country of origin of the applicant.

Swiss banks are also permitted to create hidden reserves either by undervaluing assets or by creating provisions in excess of economically required capital levels. As a result of this, the vast reserves accumulated over the years have enhanced the reputation of the Swiss banks, but the transparency of the bank's financial reports was lacking. For this reason, the Commission imposed restrictions on the creation of hidden reserves. It does not accept the secret drawing down of reserves to hide an extraordinary loss or to
create a false impression of earnings strength over a long period of time. However, all banks must now publish in their financial statements the amount by which they have reduced their reserves along with a detailed commentary.

According to capital adequacy requirements, the Banking law (Article 4 and the Implementing Ordinance) requires banks to maintain an adequate relationship between equity and assets. This coincided with the gradual implementation of the new capital standards by banks in other G-10 countries who formed the Basle Committee on banking supervision.

Besides the Banking law, banks are also subject to the Swiss Code of obligations for matters of commercial law, the Swiss Criminal Code for insider dealing, money laundering, and other criminal offences, and the Cartel Act which was revised in 1985 to increase competition in the market which leads to reducing monopolies.

1- The framework of the banking supervisory bodies:

   a- The Swiss National Bank: It was created in 1907 as an independent, autonomous central bank and as a private company. Its share capital is owned by the Cantons and cantonal banks (57%), private shareholders (39%), and public authorities (4%). The Swiss National Bank, as a central bank, prefers to avoid direct regulatory responsibility, but obviously plays a major role in controlling the money supply and maintaining confidence in the banking system. It is completely autonomous; the government does not issue directives to the Bank but requires it to formulate a monetary
policy that conforms with the government's broad economic policy objectives. Like the German Bundesbank or the US Federal Reserve Bank, and unlike the Bank of England or the Bank of France, The Swiss National Bank is free to define and implement a policy of its own choosing. This independence protects Swiss monetary policy from the influence of fiscal considerations.

b- The Federal Banking Commission: It is the main bank authority and Switzerland's highest bank supervisory body authorised under the Banking Law. Its main job is to licence and supervise banks with the aid of independent auditors. The Commission operates independently of both the federal government and the Swiss National Bank. It consists of six or seven members elected by the Federal Council, which also appoints its president and two vice presidents. A thirty member secretariat assists the Commission with day-to-day administrative work. The Commission has the right of access to all documents and information it considers necessary to do its job. As a result of this, banks cannot hide information from the Commission by claiming bank secrecy. Moreover, the FBC makes wide use of circulars for banks and auditors to provide information.

c- The Swiss Bankers Association: It is a non-official regulatory organization composed of more than 700 banks, including most foreign banks operating in Switzerland, and is based in Basle. The importance of self-regulation in Switzerland was illustrated by the conventions or gentlemen's
agreements signed by its members. However, the association's broad objectives are to maintain the diversity of the banking system and to protect the reputation of the Swiss financial Center. (ibid, p.56).

Compared with other countries, deposit insurance does not exist in Switzerland. Instead, Swiss banks have traditionally relied on low risk lending strategies to protect depositor's funds. The banks in the Group 10 industrial countries, are currently being urged to adopt such low-risk lending strategies under the 1988 Basle accord on capital adequacy standards.

2- The role of the external auditors in banking supervision.

In most countries where the industrial commercial and financial systems are well-developed, institutions which offer their debt or equity securities to the public are required by law to employ independent auditors to examine their financial statements. Banking supervision in Switzerland, therefore, relies on private external auditors carrying out official functions on the one hand, and on the Federal Banking Commission as supervisory authority on the other. The division of functions between the two is clear in the banking law. Of the two supervisory bodies, only the FBC has decision-taking power; however, as instrument of the Federal Banking Commission, the licensed auditors carry out the direct supervision by means of regular on-the-spot inspections in the bank. The auditor must give a clear picture of the bank's financial situation, and if the examination revealed any
irregularities the auditor can set a deadline for the bank to correct those deviations. In urgent cases he must immediately inform the Federal Banking Commission. In view of this, the Banking Law (articles 21 & 23) states that banks are obliged to correct the irregularities and if not, then the Banking Commission has the right to correct by itself the deviation at the expense of the bank being audited. (Chambour, p.36).

As the FBC does not carry out general on-the-spot examinations, but relies on the work done by the auditor, the accuracy of this work is important. That is why the auditor is also subject to the penal provisions of the banking law if he makes untrue statements or omits essential facts in the auditing report. To reduce the danger of dependence, the Banking Commission can withdraw the licence of a recognised auditing firm, or may require the appointment of a different auditor if the bank's choice does not guarantee an independent and effective control.

Swiss principles of accounting are established by law. The legal requirements governing the accounting and reporting practices of both natural and legal persons are contained in the Code of Obligations. However, institutions which require access to the Swiss financial market have to report in accordance with ARR-norms issued by the Accounting and Reporting Recommendations Board. The other institutions which require access to the EC or international financial market have to report in accordance with EC norms or IASC. (ZUND, P.851).
On the other hand, companies with a share capital of SF 5 million or more and those which accept funds from the public or issue bonds must appoint independent accounting experts or qualified auditors. Statutory auditors may be shareholders but must not be members of the board, management or staff of the company; professional qualifications are required for statutory auditors and for independent accounting experts. Before becoming qualified, an auditor must undergo high-level examination to obtain the legally-protected title of "expert comptable diplôme". These experts represent the auditing profession in the Swiss business community. Moreover, special qualifications are required for independent accounting experts of banks, who require prior recognition by the supervisory authority. (ibid, p.330).

In general both the auditor appointed by the shareholders and the supervisors are by law engaged in extensive on-the-spot examination of the banks. To avoid such a wasteful duplication of the work, the State supervisory authority in most European countries relies to some extent on the work executed by the bank's external auditor.
CHAPTER FOUR

BANK SUPERVISION
AND EXTERNAL AUDITORS:
A COMPARATIVE STUDY

I- Introduction

The purpose of this chapter is to present in a comparative format the relationship between bank supervisors and external auditors in the Lebanon and some EEC countries chosen were those for which up to date information about supervisors and auditors are available, albeit for some not entirely complete. namely: UK, 'Switzerland, Germany, Austria, Luxemborg, Ireland, Netherlands, Belgium, Denmark, and France. In each section, and in view of information limitations, only a selection of these countries is covered'. The comparison is essential for the understanding and the assessment of strengths and weaknesses in Lebanon's system of control.

The chapter is divided into three sections. Section II compares the methods of appointment and responsibility of

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2 This information is based on the following sources:
-[Deloitte & Touche (1992) survey].
-[Union of Arab Banks (May 1986) p.13].
external auditors. Section III, outlines the relationship of the external auditors with the supervisory authorities and banks. Section IV traces the auditor's requirements to make a report to the supervisory authorities on the annual accounts.

II- Appointment and responsibility of external auditors.

This section outlines information on the appointment and responsibility of external auditors in its general applications worldwide and in its specific applications in Lebanon, U.K., Switzerland, Germany, Austria, Luxemborg, Ireland, Netherlands, Belgium, Denmark and France. This information is organized in five points.

1- Appointment of external auditors.

2- The influence of supervisory authorities over the appointment and re-appointment of auditors.

3- Submission of prudential returns.

4- Limitations to auditor's authority and restrictions on non audit services provided by auditors to their client banks.

5- The auditors legal responsibilities and statements regulating the audit reports.

A- General applications

1- They are appointed worldwide by the general assembly.

2- In the vast majority of EEC countries, the supervisory authorities can object to the appointment or re-appointment of the auditor. Moreover, they have the power to appoint
auditors as "Extraordinary auditors" to carry out specific investigations on their behalf.

3- The auditors are responsible to the supervisory authority for the audit of prudential returns submitted by banks to the authorities.

4- The supervisory authorities may require directly or indirectly an audit or review of specific activities or operations of the bank. The supervisory authorities can and do make demands on the auditor over and above that which would be required during the course of the normal annual audit.

5- The auditors' legal responsibilities to the supervisory authorities are set out in legislation, papers issued by the bank supervisors, or specific instructions. In addition, statements or guidelines regulating the audit reports are sent to the authorities.

B- Lebanon

1- According to article 17 of Decree 1983, auditors are appointed by the general assembly.

2- Article 2 of Decree no 1983, requires banks to assign the task of auditing to "accredited accountancy experts" who have the necessary professional reputation and sufficient experience, and are not in contravention of article 127 of the CMC, and article no.6 of decree no.1983. Otherwise, supervisory authorities (BCC) can object the appointment of auditors in case of violation the above mentioned rules and regulations.
3- The responsibility of the external auditor is based on submitting directly to BCC and the Governor of BDL the "complete audit report" and the "letter to management", which observe the accounting and internal audit system of the audited bank, and any violation to rules and regulations specified by the supervisory authorities.

4- Article no.9 of Decree no. 1983, states that the auditor must not carry out any task other than the audit.

5- The auditors responsibilities are set down in compliance with article 172 and subsequent ones of the Code of Commerce, article 186 and subsequent ones of CMC, and the directives and circulars issued by BDL and BCC. A decree no.1983 was issued on September 25,1971, regulating the auditing profession in Lebanon.

C- United Kingdom

1- External auditors are appointed by the general assembly.

2- Banks should consult the supervisory authority for appointment. The Bank of England has no formal right to object, but informal representation may be made. No list of authorities are specifically approved for the audit of banks.

3- Responsibility is placed with the reporting accountant, who is usually the auditor, confined to specific returns selected by the Bank of England. The auditor's duty is to report to the shareholders and not to the supervisory authority. No direct contact between supervisors and external auditors exists. However, prudential and normal returns are not reported by
auditors, but in certain cases they report on deficiencies in internal controls and on other operational matters.

4- Auditors, in their capacity as reporting accountants, are required to review selected parts of a bank's accounting and other records and systems of internal control for compliance with guidelines laid down by the supervisory authorities.

5- The auditor's responsibilities are not formalised in the case of an audit. But for the work of the reporting accountant they are set out in guidance notes issued by the Bank of England.

**D- Switzerland**

1- Statutory external auditors are appointed by the general assembly, whereas independent accounting experts as supervisors are appointed by the Federal Banking Commission (FBC).

2- Banks should consult the FBC for appointment. The FBC may require the appointment of a different auditor if the bank's choice does not guarantee an independent and effective control, or may withdraw the licence of a recognized auditing firm. It is, therefore, legally empowered to object to the appointment of auditors.

3- The licensed auditors carry out the direct supervision by means of regular on-the-spot inspections in the bank. As an instrument of the FBC, they must give a clear picture of the bank's financial situation and report directly to the Commission. The Commission may require discussion of the
annual accounts prior to the annual general meeting.

4- The audit of the administration, safe custody and dealing in client assets forms part of the normal control procedures. The Swiss Banking Law restricts the auditor of a bank to activities which are exclusively related to auditing and relate directly to professional services. The audit firm may not accept administrative or bookkeeping functions on behalf of a client bank nor assume any other duties which are incompatible with the audit.

5- The authorities have issued guidelines on the content of the detailed long-form audit report. The Code of Obligations contains the accounting and reporting practices governing the legal responsibilities of the auditors. Moreover, institutions which require access to the Swiss financial market have to report in accordance with ARR-norms issued by the Accounting and Reporting Recommendations Board.

E- Germany

1- The credit institutions to be audited usually themselves appoint the auditors of the annual accounts, who are considered the most important source of banking supervisory information in the Federal Republic of Germany.

2- No prior consultation with the supervisory authorities is required, the banks are required to indicate who these auditors are to the Banking Supervisory Office in case of any appointment or re-appointment. The authorities have the power to veto the auditor's appointment / re-appointment (legally)
if this is necessary to achieve the objectives of the audit. 
3- The auditor is required, during the course of annual audit, to check a sample of the monthly and quarterly reports sent by the bank to the supervisory authorities. He must also show whether the system of internal audit fulfils the requirements of the Banking Supervisory Office. 
4- Specially appointed accountants, who may or may not be the auditors of the annual accounts, have responsibility for the audit of the administration, safe custody and dealing in client assets.
5- Only in Germany, and only in respect of special audits, are the auditor's responsibilities to the supervisory authorities set down in a formal letter or mandate. These responsibilities are defined in the "Bilanzierungsrichtlinien" on bank accounting and "Prüfungsrichtlinien" which contains details on auditors reporting requirements. However, the authorities have issued guidelines on the content of the detailed long-form audit report.

F- Austria
1- External auditors are appointed by the general assembly.
2- The consultation of the supervisory authorities is required. The auditors of a bank must be reported to the supervisory authorities; this only applies in the case of resignation.
3- The auditor is required, during the course of the annual audit, to check a sample of the monthly and quarterly reports
sent by the bank to the supervisory authorities.

4- The supervisory authorities does not permit the auditor of a bank to provide non-audit services to its client banks.

5- The supervisory authorities have issued a bank supervisory audit report under Austrian Banking Law which requires, a description of audit procedures, responses to specific questions concerning the conduct of the bank's business.

**G- Luxemborg**

1- External auditors are appointed by the general assembly, but controlled by the supervisory authorities.

2- The consultation of the supervisory authorities is required. Article 4(c) of the Banking Law of 1981 requires banks to assign the task of auditing to independent auditors who have the necessary professional repute and sufficient experience. It is up to the authorities to make an examination focusing on the professional standing and the experience of the auditor.

3- No direct contact between supervisors and external auditors exists. Auditors' report on the annual accounts have to be made available to the supervisory authority by the controlled bank by reference to the authority's legal right to inspect all documents of a credit institution.

**H- Ireland**

1- External auditors are appointed by the general assembly.

2- They have to consult the supervisory authorities, and the
authorities are legally empowered to object to any appointment. Bank auditors are not controlled in a formal manner. In principle, the Central Bank may intervene if considered necessary in any given situation. There are no provisions relating to the appointment of bank auditors.

3- Extrenal auditors have no specific responsibilities as regards clarification or reporting to supervisory authorities. There are no direct contacts between external auditors and supervisors.

4- N.A.

5- The legal position governing external auditors is that, under the companies Act 1963, all registered companies are required to have external auditors.

I- Netherlands

1- External auditors are appointed by the general assembly.

2- The supervisory authorities have no control over the appointment of external auditors. The Act on the Supervision of the Credit System lays down that only "register-accountants" may be appointed as external auditors.

3- The external auditor has to certify annual accounts and a set of prudential returns once a year, in addition to performing special investigations. A meeting is held between the supervisory authority and the external auditor at least once a year. Generally and on demand, the management of the institution attends this meeting. Supplementary enquires are made by the inspectors of Nederlandsche Bank with a minimum
duplication of audit work.

4-The auditor must give special attention to electronic data processing in the evaluation of the administrative organization and internal controls.

5-The auditors responsibilities in relation to supply of information to the supervisory authorities are set out in a tripartite agreement between the supervisory authority, the bank, and the auditor. External auditors must comply with the rules of professional conduct and the code of ethics laid down by a public body (Netherlands Instituut van Register-accountants) NIVRE formed under the law of 28 June 1962.

J-Belgium

1-The (reviseur-agree) is appointed by the Banking Commission for a period of 3 years. The (Commissaire-reviseur) is appointed by the shareholders for a period not exceeding 6 years.

2-The supervisory authorities are not consulted in relation to the appointment and re-appointment of the statutory auditor; however, the bank auditor is appointed by the authorities from an approved list which is maintained by the Banking Commission (official list of reviseur-agrees).

3-The "Commissaire-reviseur" has no specific or direct responsibilities as regards certification or reporting to supervisory authorities. The Banking Commission relies initially on reports from the "reviseur-agrees" who have to be present in banks at frequent intervals. The "reviseur-agree"
work to rules and guide lines laid down by the commission.

4- The bank auditor is required to assess annually the bank's compliance with the protocol concluded with the supervisory authorities under with the management agree abstain from participating in TAX- avoidance schemes with their clients and not to offer or organise such services. In addition, the auditor is required to study and evaluate whether the bank is properly organised and adequately staffed for the purpose of carrying out all its activities. The auditor is required to report immediately to the supervisory authorities about any major default in these areas and to recommend corrective action. The bank auditor may perform other functions only with the prior approval of the supervisory authorities. This exception is manifested in those specific cases where the Banking Commission authorities the (reviseur- agree) is to be appointed additionally as commissaire-reviseur by the general assembly.

5- The authorities have issued guide lines on the content of the detailed long-form audit report.

K- Denmark

1- Auditors are appointed by credit institution, and supervisory authority has no control over the selection. However, the election must be reported to the Supervision.

2- The authorities are legally empowered to object an appointment. The Minister of Industry can dismiss the auditor and instead appoint a state authorised public accountant in
his place to hold office until the next ordinary meeting of the shareholders. This happens if the auditor manifested unqualified for his office.

3- Monthly and annual balance sheets and P/L accounts must be submitted to the supervision. Prudential returns are not usually audited by external auditors, but will normally have been seen by the internal auditors. External auditors are required to state in the audit report whether the institutions business is conducted in a prudent manner.

4- The auditor has further responsibilities to the supervisory authorities, in relation to money laundering, acceptability of finance products and intercompany transactions.

5- The auditor’s responsibilities are described in an instruction from the supervisory authorities. Under sections 36 and 37 of the Commercial Banks and Saving Banks Act, the annual accounts of such banks shall be audited by at least two auditors one of whom must be a state – authorised public accountant.

L- France

1- Examiners of banks that are partnership for private companies are chosen by the directors of the banks for a period agreed between the parties concerned. Examiners of banks that are joint stock companies are designated by shareholders for a period of six years.

2- The bank is merely obliged to inform the supervisory authorities (La Commission Bancaire) of the appointment and
re-appointment of auditors. However, the Commission Bancaire has the legal right to veto all appointments, and a nomination to appoint new auditors must be submitted to the supervisory authorities. To be recognised as a statutory examiner one's name must appear on a list drawn up by regional commission situated in the chief town of each court of appeal.

3- The new Banking Act provides for the supervisory authorities to be able to require of the external auditors that they should pass on to them their annual report and all documents or information, as well as the certification of accounting data or documents. External auditors do not have to examine and certify the periodic documents sent to the supervisory authorities.

4- The supervisory authorities restrict the auditor of a bank from providing non-audit services to its client banks.

5- Banking institutions are obliged to have recourse to statutory examiners, as determined by the Companies Law of July 1966. The number of examiners prescribed depends on the type of the bank.

III- Relations between external auditors and the supervisory authorities.

This section outlines the information regarding the relations of external auditors with the supervisory authorities in their general applications and in the following individual countries: Lebanon, U.K., Switzerland, Germany, Ireland, Netherlands, Belgium, and Denmark. These relations
are organized into two categories:

1- Relationship with the supervisory authorities.
   a- What information to communicate?
   b- How to communicate information?
   c- Degree of confidentiality of information?

2- Relationship with the bank being audited and the responsibility of bank's management toward the supervisory authorities.

**General applications**

1-a- In most EEC countries, auditors are required to inform the supervisory authorities of any irregularities or infringements they have become aware of during the course of their work.

   b- The auditor will communicate information and reports directly to the supervisory authorities whereas in some countries the reports are issued to the bank and the bank submits them to the supervisory authorities. However, the difference in communication procedures exists in relation to instructions given by the supervisory authorities.

   c- In most of the EEC countries the auditor is bound by a code of confidentiality in relation to information communicated to the supervisory authorities, but does not apply to the board and management of a bank.

2- In most of the ECC countries, the terms of engagement clearly state that the bank's management is responsible for financial statements, and returns submitted to the supervisory
authorities. Moreover, the bank is made aware, at the highest level, of any material weaknesses reported by the authorities. There are no specific requirements for the bank's management to respond to the auditor's report.

**B- Lebanon**

1-a- According to article no. 188 of the CMC and to article no. 15 of the decree no. 1983, the external auditor is required to inform the BCC and the governor of BDL of any irregularities and any other difficulties that makes him unable to perform his job.

b- There is a direct contact between the BCC and external auditors. According to article no. 10 of decree no. 1983, dated 1971, the external auditor should report directly to the governor of BDL and the chairman of the BCC. The direct contact is further manifested in circulars issued by BCC to external auditors.

c- Auditors are bound by a code of confidentiality, in accordance with the banking secrecy law of September 3, 1956, in relation to information communicated to the supervisory authorities.

2- According to BCC circular no. 136 periodical financial statements and returns must be submitted by banks to BCC. On the other hand, article 16 of decree law no. 1983, states that if the auditor discovers that the audited bank is violating the rules and regulations, a direct contact between them take
place to correct the deviation.

C - United Kingdom
1-a- The external auditors do not report to the supervisory authority and have no duty to provide information, unless the circumstances surrounding the irregularities are sufficiently important to prejudice depositors.
   b- The instructions of the Bank of England are passed on by the bank to the auditor.
   c- The auditor has a duty to observe confidentiality, but is indemnified in respect of any communication made directly to the supervisory authority.
2- It is a normal practice for auditors to report on deficiencies in internal control and on other operational matters. Such reports would normally be addressed to the bank's management and could only be obtained by supervisors on a specific request to the bank.

D - Switzerland
1-a- In urgent cases the auditor is required to inform the Banking Commission immediately of any violation of a legal provision or any irregularity.
   b- The auditor has to report directly to the supervisory authorities. The relationship is, however, mixed in that the auditor receives instructions from the supervisory authority through the bank.
   c- The auditor is bound by a duty of confidentiality in
other cases it does.
2- Management's responsibility for the financial statement or returns is stated in the auditor's report.

F- Ireland
1-(a-b) There are no specific obligations toward the supervisory authority. The central banks may, however, intervene, if deemed necessary, in any given situation. Generally, but not always, supervisors will rely on the external auditor's assessment of internal control procedures. The Central Bank Act, 1989 (section 47(1)(c)) requires the auditors to report to the Central bank in writing without delay if there are material inaccuracies in or omissions from any return made by the holder of the bank.

   c- The auditor has a general duty of confidentiality to the client vis-a-vis third parties but is protected under law in respect of any communication made directly to the supervisor.

2- The auditor is obliged to inform the audited bank where he believes there are "material inaccuracies in, or omissions from, any returns of a financial nature" and where he has reason to believe that there are "material defects in the financial systems and controls or accounting records".

G- Netherlands
1-a- Auditors are required to inform supervisory authorities where irregularities are material in relation to the continuity of the bank.
respect of information communicated to the Banking Commission.

2- Management's responsibility for the financial statement is
specifically stated in the national law. New draft
recommendations on the form and content of the statutory audit
report provide that the management's responsibility for the
annual financial statements should be stated in the auditor's
report. However, that report must contain details of any
violations of the law, and a deadline by which corrective
action must be taken. At the expiration of the deadline, the
auditor must inform the Federal Banking Commission of the
rectification of the irregularities and if not, then the
Commission has the right to impose the necessary corrective
measures at the expense of the bank being audited.

E- Germany

1-a- The auditor is required to communicate information to the
authorities only when he becomes aware of facts which justify
him in qualifying or refusing to issue his confirmation, which
put the position of the bank at risk or could substantially
interfere with its development or which reveal serious
violations of the law or of the rules or articles of
association by management.

b- The auditor must report the case immediately to the
banking supervisory authorities.

c- The auditor's duty of confidentiality is not the same in
every case. In some circumstances, his duty of confidentiality
does not extend to the client or tax authorities whereas in
b- No direct relationship with the supervisory authorities exists except in cases where the auditors are asked to carry out supervisory work at a bank which is not an audit client. The bank is instructed by the supervisory authorities and these instructions are passed on by the bank to the auditor.

c- According to the confidentiality of information, all matters are normally dealt with on a tri-partite basis.

2- The law governing the supervision of the Dutch banking system provides in its section 23 (3) that a credit institution (bank), when commissioning the audit of accounts, shall authorise the external auditor in writing to supply the Nederlandsche Bank with any information required for the execution of its supervisory duties.

H- Belgium

1-a- The auditor is required to report immediately to the supervisory authorities about any major default in certain areas and to recommend corrective action.

b- The bank auditor communicates directly with the authorities, and the supervisory authorities instruct the auditor directly.

2- Information of any material weaknesses is communicated to the bank, which in its turn has responsibility to inform the supervisory authorities.

I- Denmark

1-a- Auditors are required to inform the supervisory
authorities about any irregularities.

b- The auditor normally reports these matters to the board of directors, who then communicates them to the supervisory authorities.

c- According to the degree of confidentiality, the auditor can be required to reply to specific questions from the authorities.

2- Management's responsibility for the financial statement or returns is stated in the auditor's report. These reports are addressed to the board of directors.

IV- Reporting

This section traces the auditor's requirements to make a report to the supervisory authorities on the annual accounts in Lebanon and a selection of EEC countries namely: United Kingdom, Switzerland, Germany, Austria, Luxemborg and Denmark.

A- General applications

The auditor is required to provide the supervisory authorities with an opinion on a bank's financial statements and their compliance with the rules and regulations governing them. The auditor is also required to provide a description of the bank's exposure to the different banking risks, the bank's approach to the monitoring of such risks, and the adequacy of bank's assessments of risks and their hedging of such risks. Moreover, he has to provide an opinion on a bank's internal control system and procedures in relation to accuracy,
completeness and validity of prudential returns submitted to supervisory authorities, truth and fairness of the financial statements, and others.

B. Lebanon

The external auditors are required, according to circular no. 12 issued by the BCC on Dec. 4, 1986, to provide: First, a long-form report based on article no. 187 of the CMC, and articles no. 10 and 14 of decree no. 1983, containing the explanation of the auditing procedures that the external auditor has conducted in application of the banking audit guide and whether there are material qualifications. Second, a short-form report based on article no. 175 of the Code of Commerce and articles no. 10 and 12 of decree no. 1983, containing the opinion of the external auditor in the financial statement. Third, an external audit report entitled "Letter to management", in accordance with article no. 187 of CMC and article no. 16 of decree no. 1983, describing any weaknesses in the internal audit control system of the bank and its effect on future operations in addition to the auditors' suggestions to overcome these weaknesses and the bank response to these suggestions. Fourth, a report in accordance with article no. 158 of the Code of Commerce and article no. 11 of decree no. 1983, which examines the relation between the bank and the members of the board of directors. Fifth, a report submitted in accordance with article no. 152 and paragraph 3 of the article no. 187 of the CMC, and article
no. 13 of decree no. 1983 in which the auditor has to certify that all credits are provided in conformity with existing regulations.

**C- United Kingdom**

The report must include prudential returns and elements of a bank’s records and systems. The auditors are also required to give an opinion on the reliability or continuity of the information systems designed for management. The reporting accountant provides information related to factual information which are not directly related to the annual accounts, an opinion on the bank’s exposure to the different bank risks, and an assessment of the internal control system. This information is reported only if auditors are specifically instructed to do so by the Bank of England.

**D- Switzerland**

The auditor is required to make a report to the Federal Banking Commission on the annual accounts. This report must give an opinion on the completeness of the financial information, whether it is in accordance with instructions given by the supervisory authorities and the valuation policies applied. The auditor has to inform the Banking Commission of any violation of legal provisions or any other irregularity.
F- Germany

The auditor is required to make a report to the supervisory authorities on the annual accounts. This report must give an opinion on completeness of the financial information, whether it is in accordance with instructions given by the supervisory authorities and the valuation policies applied. If a special mandate exists, the bank auditor is required to provide a report on interim financial statements. The German Law requires the auditor to disclose the facts which led him either to give a qualified opinion or to withhold giving it, on the financial statements and other information which led to a deterioration in the bank's existence or development or serious violation of law by bank management.

F- Austria

The banking law contains specific requirements in respect of this audit, the result of which must be entered in a separate bank-supervisory audit report. The auditor's report must give an opinion on the completeness of the financial information, whether it is in accordance with instructions given by the supervisory authorities and the valuation policies applied, and whether the information gives a true and fair view. The report must include an opinion on whether the bank has established internal controls in accordance with the requirements of the Austrian banking laws. The long-form report must give the necessary information to judge the status of the bank and must cover all areas stated in the bank-supervisory audit report.
G- Luxemborg

The auditor must prepare an analytical report to the supervisory authorities which must cover organisation and administration, ratio analysis, the annual accounts, banking risks and irregularities and serious weaknesses noted.

H- Denmark

Auditors are required in the long-form report to give an opinion on the generality of the work performed by the internal auditor, the quality of the control systems to provide information required for reporting purposes, and the adequacy for the provisions for bad debts. The auditor has to express an opinion on whether the bank's accounting systems are sufficient to produce the information contained in the interim financial statements. All these matters are reported to the board of directors, who then report to the supervisory authorities. Only in the event that management did not then report qualifications to the supervisory authorities, the auditor is required to do so.
CHAPTER FIVE

CONCLUSIONS AND GENERAL RECOMMENDATIONS

In Lebanon, most commercial banks are family-owned and family run. They generally violate the two basic concepts of "Public Shareholding Companies" which are the segregation of ownership and management, and the multiplicity of ownership. This problem arises from a defect in the law which institute the chairman of the board of directors, of a bank as the chief executive, who normally being the owner of the majority of shares. The gap in the law becomes evident when the external auditor reports to the chairman about the financial statement which he, the chairman, in his position as chief executive, has prepared.

To compare with the Swiss Banking Law, the Federal Banking Commission (FBC) prohibits, in its circular no. 28, dated 4/2/1969, the chairman of the board of directors from contributing in jobs related to the executive management. The FBC asks the external auditors to check and control this issue, because it is illegal to integrate between managerial and executive responsibilities. (Chambour, p.39).

For the purpose of controlling the financial institution in Lebanon, the financial authority has to separate between both the managerial and executive responsibilities.
External auditors are appointed in Lebanon by the general assembly for a period of three years. The role of the BCC in controlling the appointment of external auditors is not enough and incompatible with many of the European banking supervisory systems, where the bank auditor is appointed from an approved list which is maintained by the Banking Commissions of those countries.

Circular no. 14 which the BCC directed to external auditors on October 5, 1990, was intended to assess the performance of external auditors and to check if there are contradictions between the returns of the auditing firm and the industry averages. Other than the series of circulars issued by BDL and the BCC, there are no rules and regulations to govern the audit profession in Lebanon. There is no law that lays the basis on which the practice of either accounting or auditing is to be conducted. Moreover, there is no organization, either public or private that is given legal status and authority to regulate this profession.

To enhance the role of auditors in Lebanon, a new law should be promulgated, governing the audit profession in accordance with the national laws, and compatible with the Generally Accepted Auditing Standards (GAAS), and the Generally Accepted Accounting Principles (GAAP), issued by the International Auditing Standards Committee (IASC) and the International Federation of Accountants (IFAC).

In general, both the auditor appointed by the shareholders, and the supervisors are by law engaged in
extensive on-the-spot examinations of the banks. To avoid such a wasteful duplication of work, the supervisory authorities have to rely to some extent and in certain areas on the work executed by the bank's external auditors as is the case in most of the European countries. In Switzerland the report of the external auditor must contain details of any violations of the law, and a deadline by which corrective action must be taken. At the expiration of the deadline the auditor must inform the Federal Banking Commission of the rectification of irregularities and if not, then the commission has the right to impose the necessary corrective measures.

Based on the International Auditing Guidelines (IAG) No. (3) and (4), in forming an audit opinion, the auditor generally needs to place significant reliance on the banks' system of internal controls which is a management responsibility for maintaining adequate accounting systems. This necessitates the development of the status, procedures and qualifications of internal auditors, and to have them report their findings to the Board of Directors as required in circular no. 143 which the BCC directed to banks on March 22, 1991.

Once the role of the internal auditor has been upgraded, then the external auditor could rely in certain areas on internal control and his procedures would then become less extensive. Such reliance on the role of both the external and internal auditors may substitute for a certain extent the on-site examination of the BCC supervisors. The inevitable time
lag between the value date of the report and the date of action taken by the Commission will be eliminated.

Concerning the financial statements of client banks communicated to the supervisory authorities, the external auditor has to express clearly in the report his unqualified, qualified, adverse or disclaimer opinion. Paragraph 7.1 of the IAG no. 3, states that an adequate disclosure should be made of all material matters relevant to the proper presentation of the financial information. The "Complete audit report" and the "Letter to management" submitted by many of the external auditors to the BCC are not in accordance with the international auditing guidelines and accounting principles. One of the contradictions, when the auditor's opinion states that the financial statement presents fairly the financial position of the entity being audited at a certain period of time, but in reality material qualifications are disclosed at the end of the report.

The banking secrecy law should be amended since it forbids examiners, and supervisors to monitor important operations in the bank, mainly foreign exchange operations. Article 190 of the CMC forbids external auditors to communicate any confidential information concerning creditors to the supervisory authorities. In Switzerland, the Federal Banking Commission has the right of access to all documents and information it considers necessary to do its job. As a result of this, banks cannot hide information from the Commission by claiming bank secrecy. Moreover, the FBC makes
wide use of circulars for banks and auditors to provide information.

Article 151 of the CMC forbids the Lebanese supervisory authorities to cooperate with the other foreign supervisory authorities, however, this legislation will affect directly the principle of reciprocity and prohibits Lebanon from receiving information concerning overseas branches of Lebanese banks.

Based on the Basle Committee on Banking Supervision, and in the light of the continued rapid growth of international banking activities and experience gained in the supervision of seriously troubled international banking institutions such as the collapse of the Bank of Credit & Commerce International (BCCI) in 1991, the external audit may be the only independent check on a bank, in the case where foreign establishments are not within the reach of the home country supervisory authority's inspection systems and there are no formal inspection procedures in the host country. This necessitates the cooperation between both the home and host country's supervisory authorities in controlling banks' foreign establishments.


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Lowenstein, Jack, "How to Rate a State : The State of the Art
Union of Arab Banks, Auditing and Internal control in Banks, (Beirut: Union Of Arab banks, 1986).

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The Lebanese Code of Money & Credit
APPENDIX - I
قانون التجارة
مرسوم اشتراعي رقم 304 تاريخ 24 كانون الأول 1942 (مع تعديله)
من فوضى المراقبة

المادة 172 : تعين الجمعية التأسيسية ثم الجمعيات العادبة التي تلتها مفوضاً أو عدة مفوضين للمراقبة ولا يجوز أن يستمروا في وظائفهم إلا سنة واحدة. على أنه يمكن تجديد انتخابهم.

المادة 173 : يضم اليهم مفوض إضافي يختار من خبراء الحسابات لدى المحكمة البدائية وتكون له نفس السلطة ونفس المرتب.
ويجري تعيينه بمثابة قرار يصدره رئيس المحكمة التي يكون مركز الشركة واقعاً ضمن نطاقها بناء على طلب مجلس الإدارة في خلال الشهرين التاليين لتأسيس الشركة. ثم يصدر كل سنة مثل هذا القرار في خلال الشهر الذي يلي انعقاد الجمعية العمومية العادية.

المادة 174 : إن مفوضي المراقبة يقومون بمراقبة دائمة لسير أعمال الشركة ويحق لهم أن يطلبوا الإطلاع على جميع الصكوك والأوراق الحسابية وأن يوجهوا على أعضاء مجلس الإدارة إعطائهم جميع المعلومات.
أما قائمة الجرد والمراجعة وحساب الأرباح والخسائر فيجب وضعها بين أيديهم قبل انعقاد الجمعية العمومية بخمسين يوماً على الأقل.

المادة 175 : يضع المفوضون تقريراً للمجمعية العمومية عن حالة الشركة
وموازنتها والحسابات التي قدمها أعضاء مجلس الإدارة وعن
القترحات المخصصة بتوظيف أنصمة الآرباح. وإذا لم يقدم
هذا التقرير فإن قرار الجمعية العمومية المختص بتصديق
الحسابات يكون باطلًا.

المادة 176

يجب على المفوضين أن يدعوا الجمعية العمومية في كل
مرة تخلف فيها أعضاء مجلس الإدارة عن دعوتها في
الأحوال المعينة في القانون أو في نظام الشركة. وكذلك
يحق لهم أن يدعوا كلما رأوا دعوتها مفيدة.

بـل يجب عليهم أن يقوموا بدعوة الجمعية العمومية إذا طلبها
فريق من المساهمين يمثل خمس عُدد مال الشركة.

المادة 177

ولا يجوز أن يكون لهم أيه مصلحة مع جماعة غابتهم
إحداث تأثير في أسعار فئة ما من أوراق الشركة المالية في
سوق البورصة.

المادة 178

وسيكون مسؤولين إما بصفة فردية وإما بالتضامن حتى لدى
الغير كلما ارتكبوا خطاً في المراقبة مع الاحتفاظ بحكم
مور موقت بعد خمس سنوات.
قانون مفوض مراقبة

المادة 185 - لا يمكن أن يعين أحد مفوض مراقبة لدى مصرف دُعي في أحيان الحالات المنصوص عليها بالمادة 187.

المادة 186 - يقع نص المادة (188) بموجب المرسوم رقم 212/05 بتاريخ 1973/03/01 على الوصف التالي:

خلاصة لحكم المادة 187 و188 من قانون التجارة، تعتمد الأصول التالية في تعيين مفوض مراقبة لدى المصارف.

المؤسسات المالية المسجلة:

بعين مفوض مراقبة من جمعية السادة المعمول بهم لمدة ثلاث سنوات تنتهي عند تفاؤلة الجمعية العمومية التي تنظر في حسابات السنة الثالثة، أما المفوض الذي بعين محل غيره قبل انتهاء مدة الثلاث سنوات هذه، فيحدد مدة ولايته بالقاعدة المتبقية من ولاية سلفه.

المادة 187 - على المفوضين، خلال السنة، أن يطلعوا فوراً السلطات المسؤولة في المصرف المولى بمواقبه، عن
يؤمن هؤلاء المفوضون من مراكبة أعمال المصرف الجهني في لبنان بضمان الشرط المحددة في هذا القانون.

المادة 190 - يلزم مفوضًا مراقبة بكتمان مصرف الصرفي في غرار الأشخاص المشاركين بالمادة التالية من قانون 3 أيول سنة 1956.

المادة 191 - يجاز للحكومة أن تنظم مهنة مفوضات مراقبة لدى المصرف بموضوع يخض في مجلس الوزراء بناء على اقتراح المصرف الكهرباء وعدد موافقة وزيرة المالية.

الباب الرابع

العقوبات

العقوبات الجزائية

المادة 192 - تطبق على من يعن عن قبول العلامة البنائية بالشروط المحددة في المادة 7 و 8 العقوبات التي نص عليها بمادة 19 من قانون العقوبات.

المادة 193 - تطبق على مخالفات احكام المادة 11 من هذا القانون العقوبات المنصوص عليها بالمادة 44 من قانون العقوبات.

المادة 194 - تطبق على مخالفات احكام المادة 23 المؤرقات المنصوص عليها بالمادة 25 من قانون العقوبات.

تعتبر المصارف والمؤسسات المالية والأشخاص المشار إليهم بالمادة 23 شبكة الأشخاص الذين يكونون قد قيلوا عنها ولاية أو وظيفة أو مساهمة خلافاً لاحكام المادة 23 من قانون العقوبات.

المادة 195 - تطبق على مخالفات احكام المواد 137 و 141 نظرتها الأولى المؤرقات المنصوص عليها بالمادة 25 من قانون العقوبات.

المادة 196 - يجوز مفوضًا مراقبة ينجوع عليه، ومقابل هذه الفضيحة، أن يعين لديه مفوض مراقبة للاستعمال المنصوص عليها في المادة 186.
مرسوم رقم 121

صدر في 1 تموز سنة 1981

تحديد معدل الرسم السنوي المتوجب سنة 1981 للفوائد المقررة لدى المصارف على الموداد العام في لبنان عن وقائعها

ان رئيس الجمهورية

بناء على القانون رقم 72/6 تاريخ 6/7/67 (انشاء مؤسسة مختلطة لضمان الرؤية المصرفية) ولا سيما المادة 15 منه المعدل بمشروع القانون الموضوع ومصوبان بقرار رئيس الجمهورية رقم 280 تاريخ 29/7/81

ويعتبر إصدار رأي المؤسسة الوطنية لضمان الرؤية بموجب كتابه رقم 81/307 تاريخ 31/3/81

برسما ما يلي:


المادة الثانية - تستثنى من الرسم الأموال والحسابات المستقبلة جهة بموجب الاحكام المقدمة في المادة الأولى من مشروع القانون الموضوع التنفيذ بالمرسوم رقم 1720 بتاريخ 31/2/1970.

المادة الثالثة - ينشر هذا المرسوم في الجريدة الرسمية ويبلغ حيث تدعو الحاجة.

الإمضاء: نيبس سركيس

 elementos: 175
نقد وتسليف

مرسوم رقم 1983 تاريخ 1971/9/25

شركت من الشركات التابعة له بطريقة مباشرة أو غير مباشرة.

المادة 1- الموقف والسياقات لدى المصرف المعني أو لدى شركة تابعة له أو لدى أحد الأشخاص المعنيين في الفقرة (1) أعلاه، والذين لم يبر على تركهم الخدمة ستُلقى على الأقل تطبيق أحكام هذه المادة على ممثلي الأشخاص المعنيين كمفوضين مراقبة.

المادة 7- على كل شخص يعين كمفوض مراقبة إحدى الأقسام أو إضافي لدى مصرف ما أن يوقع مجلس إدارته هذا المصرف، فور تقديم تعيينه، تصريح على مسؤوليته الشخصية وتحت طالبائع المواقف المقررة في النصوص عليها في المادة الثامنة عشرة من هذا المرسوم، في سبيل أن ليس في إحدى الحالات المقررة في الفقرة الأخيرة من المادة السادسة في المادة السادسة أعلاه، وعلى رئيس مجلس الإدارة أن يحل فورًا هذا التصريح إلى لجنة الرقابة على المصرف.

المادة 8- يمارس مفوض المراقبة وظائفهم وصلاحاتهم وفقًا لاحكام المادة 172 وما يليها من قانون التجارة والمادة 186 وما يليها من قانون النقد والسند، والتحكيمات الداخلية التي قد صدرها مصرف لبنان أو لجنة الرقابة على المصرف، بوجب.

تعاميم توجه مفوض الأراضي مباشرة.

المادة 9- لا يجوز لأي مفوض مراقبة بعد أن يوطن عمله كمفوض مراقبة لدى مصرف ما يأتي بـ هـ صغيـر سبب كان، أن يفعل كعضو مجلس إدارته أو كموظف في المصرف المعني أو في أي شركة من الشركات التابعة له قبل أن يكون مشرفًا على توقفه عن عمله هذا، ولا يجوز للمفوض المراقبة لدى مصرف، ان يقوم بأي عمل غير الرقابة وتدقيق.

كما يشترط في المفوضين الأجانبين والاضافيين أن لا يكونوا في أحد الاحات المقررة في المادة 127 من قانون النقد والسند.

المادة 3- يمكن أن يعين أشخاص معينون كمفوضين مراقبة على أن يكونوا ممثلي أصحاب الحق في الشروط المقررة عليها في المادة الثانية أعلاه.

يتحمل هذا الشخص الحقيقي ومن ثبت تدخل أو أشتراع مع العقوبات الجزائية الواقعية للغرامة التي تفرضها المحاكم المختصة. ويتناول بالتكافل والتسليم مع الشخص المعني الذي يمثل جميع المسؤوليات الأخرى.

المادة 4- يحق للمؤنسية المراقبة أن يستعينوا واستخدمون على القضاة من أصحاب الحق في الشروط المقررة في المادة الاجتماعية، وذلك على مسؤوليتهم الجزائية والملدية كما هو مقررة عليه في المادة الثالثة أعلاه، ويكفي أن يكون هؤلاء المساعدون محليين.

المادة 5- يلزم مفوض المرافقين ومساعدتهم بالنشر المصرفي وفقًا لنظام 3 مبادرتين 1952 وتحت اعتماده يمكن للمؤنسية المراقبة في المادة 20 من قانون النقد والسند.

المادة 6- لا يجوز أن يعين كمفوض مراقبة إحدى الأقسام من قبل اجتماعي، الأشخاص الذين تربطهم أواصر النسبي حتى الدرجة الثالثة باحدث أعضاء مجلس إدارته المصرف المعني أو مديره العام أو مدير العام المساعد.

المادة 7- الأشخاص الذين هم شركاء مع أحد الأشخاص المعنيين في الفقرة السابقة أو الأشخاص الذين يشغلون وظيفة لديهم، لا يجوز أن يعين كمفوض مراقبة إذا لم يكن لديهم أواصر النسبي حتى الدرجة الثالثة باحدث أعضاء مجلس إدارته المصرف المعني أو مديره العام أو مدير العام المساعد.

المادة 8- لا يجوز أن يعين كمفوض مراقبة إحدى الأقسام من قبل اجتماعي، الأشخاص الذين تربطهم أواصر النسبي حتى الدرجة الثالثة باحدث أعضاء مجلس إدارته المصرف المعني أو مديره العام أو مدير العام المساعد.

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الحسابات في المصرف ولا يجوز أن يتقاضى مفوض المراقبة تعويضات تزيد على التعويضات التي تقررها الجمعية العمومية لساهي المصرف.

المادة 10 - على مفوض المراقبة أن يتحقق من تفويض المراقبة التي يراقبون أعمالها باحكام القوانين والأنظمة المعمقية للإجراء ولا سيما قانون التجارة وقانون النقد والتسليف وتعميمات مصرف لبنان ولجنة الرقابة على المصرف وأن يتحققوا من صحة قديحها ووظائفها وذللك وفقا إلى معايير المراقبة المعمقية على مفوض لبنان ولل教えات التي قد تصدر عن مصرف لبنان أو عن لجنة الرقابة على المصرف.

وإليهم إن ينصوا في مواقيعهم التقارير النصوص عليها في المادتين 108 و 125 من قانون التجارة وقيادتين 106 و 187 من قانون النقد والتسليف وأن يسنوا نصها من معايير بكماء مصرف لبنان ورئيس لجنة الرقابة على المصرف.

المادة 11 - يجب أن يتحمهم التقرير النصوص عليه في المادة 108 من قانون التجارة ما يفيد صراحة بأن مفوض المراقبة قد تحولوا على مؤوليهم من اجتماع الادارة قد تقيد بحكم المادة 106 و 107 و 108 و 117 و 118 و 120 و 121 و 122 و 123 و 124 و 125 و 126 و 127 و 128 و 129 من قانون النقد والتسليف.

المادة 12 - يجب أن يتضمن التقرير النصوص عليه في المادة 107 - فقرتها الرابعة وفي المادة 187 - فقرتها الثالثة - من قانون النقد والتسليف ما يفيد صراحة بأن مفوض المراقبة قد تحولوا على مؤوليهم.

المادة 13 - يجب أن يتضمن التقرير النصوص عليه في المادة 125 من قانون التجارة:

- عرضًا عامة للحسابات المصرفية عن السنة المالية قيد التدقيق.
السنة، حيث يصار إلى إعداد تعيينهم من قبل الجمعية أو المحكمة، أو إلى اعفاؤهم من المهمة.

المادة 18 - إذا أخل أحد مفوضى الراقبة بأعماله المهنية في معرض قيامه بمهمته، وعلى الأخص في حال مخالفته لأحكام هذا المرسوم، يتعرض للعقوبات الإدارية التالية: دون المساس بما قد يتعرض له من عقوبات مدنية أو جزائية:

1- التنيه
2- السؤال
3- منعه من ممارسة مهنة مفوضة الراقبة لدى المصارف لمدة محددة أو بصورة دائمة.

تقرر العقوبات الآثمة الذكر البيئة المصرفية العليا بناءً على اقتراح لجنة الراقبة وبعد الاستماع إلى صاحب العلاقة وفقاً للقانون المنصوص عليه في المرسوم رقم 797/1971 بتاريخ 20 شتنبر 1971.

المادة 19 - ينشر هذا المرسوم ويبلغ حيث تدعو الحاجة ويعمل به اعتباراً من أول أيار من التالي.

بعداً في 2 أيار سنة 1971

الامضاء: سليمان فرجية

- من مراعاة الأصول المنصوص عليها في المقطعين 1 و 2 من الفقرة الرابعة للمادة 153 لنح الاعتدادات المباشرة أو غير المباشرة للاستماع لمجلس الإدارة والقانونيين على الإدارة وإفراد امرهم.

- ومن الحصول على الضمانات الدينية المنصوص عليها في المقطع 8 من ذات الفقرة.

- ومن التقييد بالنسبة المنصوص عليها في المقطع 8 من ذات الفقرة.

المادة 14 - يجب أن يتضمن التقرير المنصوص عليه في المادة 187 - قررتها الثانوية - من قانون النقد والتسليف عرضاً مفصلاً للاعمال الراقبة التي قام بها مفوض الراقبة بناءً على مهمة الوكالة التي قسم في التدقيق.

المادة 15 - على مفوض الراقبة أن يبلغوا فوراً لجنة الراقبة على المصرف اية صعوبات تعرّضهم في اداء مهمتهم.

المادة 16 - إذا وقع أحد مفوضى الراقبة على مخالفات للقوانين المفعمة الإجراء أو تعميمات مصرف لبنان أو التعليمات لجنة الراقبة على المصرف، أو إذا لاحظ وجود مخاطر في أوضاع المصرف، أو إذا أمر بمهاجمة المشرف المكلف بمهامه عليه أن يطلع عليه السلطات المسؤولة في المصرف، فوراً وخطياً، وأن يطلب منهم تسوية الوضع في أقرب وقت مستطاع.

المادة 17 - أن مهمة مفوض الراقبة دائمًا عملاً بأحكام المادة 164 من قانون التجارة، ألا يسري بها حتى تاريخ انعقاد الجمعية العمومية العادية.
لجنة الرقابة على المصارف

مصرف لبنان

نقضي رقم 12

موجه إلى مفوض المراقبة لدى المصارف

في لبنان

الموضوع:
التقارير والمعلومات المطلوبة من مفوضي المراقبة المعتمدين لدى المصارف

عـيـني الإجراءات المطلوبة من مفوضي المراقبة لدى المصارف

والنظر في النقطة في تعديل المعلومات التي تطلبها من مفوضي المراقبة لدى المصارف وتوجيه

التقارير المطلوبة بحاجة إلى معلومات الفترة ذاتية من المادة 187 من قانون النقد والتضليل

والصادرين 10 و 14 من مرسوم 1983، وفقاً للنقطة التالية:

- تقبل التقرير بالوقت المحدد في المادة 188 من قانون النقد والتضليل

- تفصل للاعمال التنفيذية للتأكد من صحة الإرقم الوارد في التقارير المقدمة من المصارف الموقع لدى

المصرف إلى مراكز المراقبة ولجنة الرقابة على المصارف وسائر البيانات المقدمة إلى

مصرف لبنان

........................../
- ادراج تفاصيل ارقام المراقبة والواردة في الميزانية معتمداً على أهمية الرقابة على المصارف ومصرف لبنان.

- تحديد أية مخالفات أو تجاوزات تبين لها من خلال التدقيق.

- ارتفاع نسبة من الوضعية العامة للسنة المالية والسنة السابقة وذلك لغابات المراقبة.

وبعد، راباً صريحاً في مدى صحة هذه الارقام.

التقدير المصرف المعد علاً بأحكام المادة 176 من قانون المصرف والمادتين 10 و11 من المرسوم رقم 1982 على أن يتضمن النقطة التالية:

- رأى مفروض المراقبة على الميزانية ككل، حيث يبين بأنه استناداً إلى إجراءات المراقبة المتعدفة عليها ودليل الرقابة على المصارف (كحد أدنى) واللوائيين، والمعايير المصرفية اللبنانية والعناصر المصرفية من اللائحة ومصرف لبنان، قد قام بتفتيش ميزانية المصرف.

- إن المصرف قد استند إلى المبادئ المحاسبية المتعدفة عليها بالإضافة إلى كافة التشخيصات، والاستعراض، وعرض يعمل، لبنان والقوانين وال أساسيات العاملة في لبنان، وتطبيقها كنهاة.

- على مفروض المراقبة، يبين أن نتائج المبادئ المحاسبية المتعدفة عليها والقوالب والمعايير والمعايير المتعددة عن الهدف الرسلي للمصرف، والمبادئ، ضمن الملاحظات حول الميزانية المصرفية.

هذة الملاحظات تضيف على مفروض المراقبة تضمين الهدف الرسلي من رأيه المتضمن شروعاً واحتراماً لسياق استناد هذا الرأي والنتائج التي تترتب على حالة المصرف المالية من خلاياه.

3) التقرير من نظام الخبير الداخلي (الرسالة إلى الإدارة) عمل بأحكام الفقرة الأولى من المادة 187 من قانون النقد والتسليف والمادة 17 من المرسوم رقم 1982، على أن تتضمن النقطة التالية:

- كافة ملاحظات مفروض المراقبة على نظام الخبير الداخلي.

- ومدى أهمية واتزان النظام على اعمال المصرف الحالي والمستقبل.

- الاقتراحات والملاحظات المتعلقة بدليل مفروض المراقبة لتفتيش نظام الخبير الداخلي.

- وتفتيش م gchar بك الحالية والمستقبل.

- وجدة نظر إدارة المصرف على هذه النقطة وردودها.

................
- في حال عدم إعداد مقوف المراقبة لهذا التقرير يتوجب إبلاغ الأمانة وإدارة المرفqi
- عليه بأنه لم يتبق من خلال أعمال التدقيق أي تقرير أو نقاط ضعف تغطيهم
- الضبط الداخلي.

التقرير عمل بأحكام المادة 158 من قانون التجارة وال المادة 11 من مرسوم 1984.

4) مقوف المراقبة فيه ما يلي:

- تحقق وعلى مستوى ما كافٍ للعلاقات بين المروف وإلا، مجلس إدارة يتخذ
- القرار بالنسبة للإبعاد والإيجارات التي ترتبط من مراقب هذه العلاقات أو الانتفاض.

5) التقرير المعد بأحكام المادة 158 والقرارات الثلاثة من المادة 187 من قانون النقد
- والتسليف والمادة 13 من مرسوم 1983. يوجد مقوف المراقبة فيه ما يلي:

- تحقق وعلى مستوى ما كافٍ للعلاقات بين المروف لإبلاغ الأمانة لإتخاذ
- الضرورات اللازمة.

6) التقرير المعد بأحكام المادة 158 والقرارات الثلاثة من المادة 187 من قانون النقد
- والتسليف والمادة 13 من مرسوم 1983. يوجد مقوف المراقبة فيه ما يلي:

- تحقق وعلى مستوى ما كافٍ للعلاقات بين المروف لإبلاغ الأمانة لإتخاذ
- الضرورات اللازمة.

(ب) تقديم التقارير والبيانات الدورية التالية:

1) نسخة من التقرير المعد بأحكام المادة الثلاثة من نظام فتح وإنشاء فروع المصرف
- والمصرف بتعيم مصرف لبنان رقم 152 تارخ 5/1982 وفقاً لتوجيهات التقارير
- المرفقة بالتعيم رقم 1 الموافق لسقوف المراقبة بتاريخ 10/12/1988 على أن
- تتضمن رأي مقوف المراقبة في أي تجارب أو مخالفات من قبل المصرف على أحكام كافة
- التعامل والقوانين المصرفية الإجارة، ذاكراً قيمة هذا التجاوز.

2) نسخة من التقارير الخاصة المعده من قبل مقوف المراقبة كملاحظات خاصة موجهة إليه من
- قبل إدارة المصرف أو الجمعية العمومية أو مجموعة من المساحين أو احدهم.
- دراسة عن نظم الفضء الداخلي في القسم الذي يتم فحصه وتقديم التحسينات بشأنه.
- دراسة عملية الخروج والتتكبد من سلامة التوقيفات مع المصارف وسندات الخريطة والاستثمارات في الشركات التابعة وغيرها ودراسة البيانات الحسابية لهذه الشركات.
- دراسة حسابات المصرفي والعملات بالعملات الأخرى وحمى تطبيق أحكام القانون والتعليمات.
- دراسة سلامة التشطيبات المتصلة بالعملا وترميمات وحمايتها ووحدة وحركة العملاء التأكد من سلامة التسليطات ووجود التامين الكافي، ودراسة صحة المعلومات المرسلة إلى مصرفي لبنان عن العمليات الطابعة.
- دراسة للتسليطات المفتوحة خلال الفترة والقواعد المفيدة عليها.
- دراسة حالة التسليطات المفتوحة سابقا ونقاء العمليات التي كانت موضوعا موضوعات في الفترة السابقة أو التي كان عليها بعض التساؤلات والقواعد المفيدة عليها.
- التسليطات موضوع التعليم 100 وحركتها ومدى التحسن فيها.
- التسليطات موضوع الوادة 104 ومراقبتها ومدى التحسن فيها.
- دراسة الجداول المرسلة إلى مصرفي لبنان عن هذه التسليطات ومدى متابعتها مع التعليمات (نحو الاتهام) و(التقرير الكبير).
- دراسة المواد الواجبة وتكوينها والمعلومات المرسلة إلى لجنة الرقابة من هذه المؤسسات وحركة هذا الحساب منذ بداية السنة المالية والقواعد المسحوبة وتحديدتها.

- تطبيق النصوص القانونية وتعميمات مصرف لبنان الآخرين.

- دراسة المعلومات المرسلة إلى مصرف لبنان والتتأكد من صحة إعدادها ومتابعتها للدفاتر والسجلات ومنها:

  - الوضعية الشهرية
  - وثيقة العمليات الأجنبية
  - تفويضات أعضاء مجلس الإدارة
  - الخسائر والدائما، وارتدام
  - نسبة البيول
  - نسبة المراجعة
  - وغيرها من المعلومات الأخرى

- فحص حسابات الفوائد المدفوعة والمستحقة.

- طلب تأبيد كمودة العمليات الدائنة والمدفوعة وحسابات المصارف.

ان عدد التقارير المذكورة في أعلا، ثانيا وثالثا أعلا هو المقدّمين الذي نظمه

اللجنة من مفصول المراقبة لدى المصارف.

رابعًا:

ان مفصول المراقبة مسجل وقاغداً للمادتين 147 و 148 من قانون النقد والعمل، والإدارة

40 من المرسوم 1982 وwc0pما المبادئ والإجراءات المتبعة في سياقه إبلاغ

مسؤولي المصرف ولجنة الرقابة على المصارف ذكرت على:

1) مفصولات معتبرة خلال فترتهن، بأي حالاته.

2) مفصولات معتبرة مريك المراقبة بأن واجبه الموحد، بالإضافة إلى المواد

القانونية المذكورة أعلاه، تفرض عليه إبلاغ لجنة الرقابة على المصارف عليها.

خامسا: في الحالات الاستثنائية التي لا يمكن مفصول المراقبة من الالتزام بالتوازيج المذكور

لابد من لجنة التقارير والبيانات المذكورة أعلاه، تتوج عليه الالتزام بطلب موافقة

اللجنة لتمديد مدة تقديم هذه التقارير ذكرا فيها الأسباب وفترة التمديد.
سابعاً: استناداً إلى المادة 189 من قانون النقد والتقسية على مفاهيم المراقبة لدى خروج المصارف.

ثالثاً: يقضي هذا التعليم التعليم الطارئة الصادر عن اللجنة إلى مفاهيم المراقبة التي تصل إلى الارقام التالية: تعليم رقم ١١، ١٠، ٩، ٨، ٧، ٦، ٥، ٤، ٣، ٢، ١.

وبالتالي، تؤكد اللجنة على استمرار دفعية التعليم الطارئة منها والمؤيدة إلى مفاهيم المراقبة والتي تحمل الارقام والتوازية التالية:

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رئيس لجنة الرقابة على المصارف

وليد نما
3. IFAC, Auditing Statement, n° 4, on the relationship between banks supervisors and external auditors

Introduction

The relationship between the external auditor of banks and the supervisory authorities is addressed by the International Federation of Accountants' ("IFAC") Auditing Statement, n° 4, "The Relationship Between Bank Supervisors and External Auditors" ("the Statement"), issued in July 1989. The Statement was prepared in association with the Committee on Banking Regulations and Supervisory Practices (the Basle Committee on Banking Supervision). The purpose of this statement is to provide information and guidance on how the relationship between bank auditors and supervisors can be strengthened to mutual advantage.

The Statement recognises that three parties have roles and responsibilities in relation to the prudent conduct of a bank's business, namely, management of the bank itself, the bank's external auditors and the supervisory authorities. The Statement is not concerned with challenging or changing these roles or responsibilities. Rather, it is intended to provide a better understanding of the precise nature of the role of bank auditors and supervisors, since a misconception of such roles could lead to inappropriate reliance being placed by one on the work of the other.

The Statement seeks to remove these possible misconceptions and to suggest how each might make more effective use of the work performed by the other. The Statement accordingly:

- defines the primary responsibility of management;
- examines the essential features of the roles of supervisors and auditors;
- reviews the extent to which the roles overlap; and
- suggests a mechanism for more effective co-ordination between supervisors and auditors in the fulfilment of their separate tasks.

Each of these areas is summarized briefly below. For the purposes of this Survey, the more important sections of the Statement are those that deal with the relationship between the supervisor and the auditor (section 5 of the Statement), the criteria for a possible extension of the auditor's role as a contribution to the supervisory process (section 6) and specific directions in which the auditor's role can be extended (section 7). These sections are therefore considered in more detail.
The responsibility of the Bank’s Management

The Statement states that the primary responsibility for the conduct of the business of a bank is vested in the board of directors and management appointed by it. This responsibility includes: ensuring that those entrusted with banking tasks are professionally competent and that there are sufficiently experienced staff in key positions; that proper control systems exist and are functioning; and that the operations of the bank are conducted with due regard to prudence including the assurance that adequate provisions are maintained for losses.

The Statement states that management is also responsible for preparing financial statements in accordance with national law. This responsibility includes ensuring that the auditor who examines and reports on such statements is provided with all necessary information that can materially affect the financial statements and consequently his opinion thereon. The management also has the responsibility to provide all information to the supervisory agencies which such agencies are entitled by law or regulation to obtain. Management is also responsible for the establishment and the efficient operation of an internal audit function.

The Role of the Banking Supervisor

In relation to the role of the supervisor, the Statement recognises that his customary role, that of protecting the interests of bank depositors, has increasingly become combined with a wider duty to safeguard the soundness and stability of the banking system. However, the Statement focuses on the prudential aspect of the supervisor’s role. In this respect, the Statement states that, whatever their precise form, the basic objective of the regulations is to set conditions to ensure that banks’ managements conduct their business prudently and have adequate financial resources to overcome adverse circumstances and protect depositors from loss. The Statement discusses the importance of capital adequacy as being one of the main pillars of prudential control. It also addresses the variety of risks to which banks are exposed. It states that the most significant of these, in terms of historical loss experience, is credit risk. The Statement makes it clear that it is not the supervisor’s role to direct banks’ lending policies but he has an interest in seeing that banks have effective credit review procedures which are applied consistently.

The Statement also discusses:

- the importance of the quality of a bank’s assets, though one of the most difficult issues to assess, in determining a bank’s stability;

- the considerable importance which supervisors attach to the need for banks to have a well-
designed organizational structure and to operate efficient information and control systems for
the management of risk; and

- the concern that the supervisors have for the quality of the bank's management, particularly in
  ensuring that it is adequate for the nature and scope of the business.

In relation to the examination of reporting returns and statistical data, the Statement recommends
that this information should in principle, be sufficient to enable the supervisor to form a view of
the bank's exposure to the various categories of risk.

*The Role of the Banks' External Auditor*

The Statement defines the primary objective of the external audit of a bank by an external auditor
as to enable the auditor to express an opinion on whether the published financial statements of a
bank give a "true and fair view of" (or "present fairly") the bank's financial position and the
results of its operations. The Statement recognises that the auditor of a bank faces special
problems which reflect certain features of banks. These stem from the fact that: banks have
custody of large volumes of money, including cash and negotiable instruments, whose physical
security has to be assured; are engaged in a large volume and variety of transactions both in terms
of number and value which necessarily requires complex accounting and internal control systems;
and are regulated by governmental authorities and regulatory requirements which often influence
generally accepted accounting and auditing practices. The Statement also recognises that
judgement is an integral part of the auditor's work, particularly in relation to materiality which,
in the case of banks, may be influenced by other considerations such as legal and regulatory
requirements. It also notes that the level of materiality used by an auditor when reporting on a
bank's financial statements may be different from the level used when making special reports to
a bank's supervisor.

*The Relationship Between the Supervisor and the Auditor*

The Statement observes that the supervisor and the auditor have, in many respects, complementary
concerns regarding the same issues, though the focus of their concerns may not be the same. For
example, the supervisor is primarily concerned with the stability of the bank in order to protect
the interests of the depositors. Therefore, he monitors its present and future viability and uses
financial statements to assist in assessing its developing activities. The auditor, on the other hand,
is primarily concerned with reporting on the financial position of the bank and on the results of
its operations. In doing so, he also considers the bank's continuing viability in order to support
the going concern basis on which the financial statements are prepared. The existence of these
complementary concerns makes it necessary therefore that, when a supervisor uses audited financial statements in the course of his supervisory activities, he recognises that the statements have been prepared for a purpose which is different from the purpose for which he may wish to use them.

The Statement recommends that the supervisor should bear in mind, inter alia, the accounting policies used in the preparation of the statements and their appropriateness for the purposes for which he wishes to use them and that financial statements are prepared on the basis of judgements and estimates made by the management and assessed by the auditor, which to some extent makes the information subjective.

In addition the Statement states that, given the different purposes for which internal control is evaluated by the supervisor and the auditor, the supervisor cannot assume that the auditor’s evaluation in assessing the adequacy of internal controls will necessarily be appropriate for the purposes for which the supervisor carries out his evaluation. Nevertheless, despite these limitations, the Statement notes that there are many areas where the work of the auditor and that of the supervisor can be useful to each other. Such areas of work include management letters and long-form audit reports submitted by auditors and information held by the supervisory authority.

The Statement recommends the exchange of information between the supervisory authorities and management as a useful exercise because they provide an independent assessment in important areas. In addition it states that when communicating with management, both supervisors and auditors should be aware of the benefits which can flow to each other from the information contained in these communications. Similarly, there may be occasions where either the auditor or the supervisor becomes aware of important information which he may believe is not known to, but which should be communicated to, the other party. Such situations arise, for example where the auditor becomes aware of fraud at a senior level or where the supervisor has information which can materially affect the financial statements.

The Statement recommends that in order to preserve the concerns of both parties regarding the confidentiality of information acquired while carrying out their respective functions, when contacts between the supervisor and the auditor become necessary, management of the bank is also present or at least informed. However, the Statement recognises that rare and exceptional circumstances may arise which justify direct communication between supervisors and auditors. The Statement states that the primary condition for excluding the management of the bank from discussions would be that its presence would compromise their purpose. The Statement notes that it is becoming common in a number of countries for the auditor to carry out specific assignments or to issue special reports in accordance with statute or at the request of the supervisor to assist the supervisor
in discharging his functions.

These duties may include providing a report to the supervisory authorities with an opinion on whether, inter alia, specified ratios or other prudential requirements included in reporting returns have been accurately completed and the systems of control are adequate.

**4. Criteria for a Possible Extension of the Auditor's Role as a Contribution to the Supervisory Process**

The Statement makes no comment on the appropriateness or otherwise of an extension of the auditor’s role in the supervisory process. It does, however, recommend that requests to auditors in this respect are made in the context of a well defined framework and provides the following as examples of the criteria that need to be established:

- the basic responsibility for supplying complete and accurate information to the supervisors must remain with the bank management;

- the normal relationship between the auditor and his client needs to be safeguarded;

- before concluding any arrangements with the supervisor, the auditor should consider whether any conflicts of interests may arise;

- the supervisory requirements must be specific and clearly defined in relation to the information required;

- the tasks which the auditor is asked by the supervisor to perform need to be within his competence, both technical and practical;

- the auditor’s task for the supervisor must have a rational basis in that, for example, except in special circumstances it should usually be complementary to his regular audit work; and

- certain aspects of confidentiality need to be protected, in particular the confidentiality of information obtained by the auditor through his professional relationship with other clients that is not available to the bank or the public.

**Specific Directions in Which the Auditor’s Role can be Extended**

The Statement states that the way in which the auditor’s role can be extended will depend on
whether the supervisor takes an active or less direct involvement in the supervision of the activities of the banking industry. However, it recognises that, as banking has become more complex, the demands placed on the resources of the supervisory authorities have increased. For many supervisory authorities these demands have forced them to look to auditors for assistance in those areas for which the auditor is particularly suited. The Statement provides the following as examples of specific supervisory tasks to which auditors are particularly suited:

- the verification of prudential returns;
- the evaluation of a bank’s information and control systems on the basis of criteria provided by the supervisor;
- the expression of an opinion on adherence to appropriate accounting policies, particularly with regard to provisions against potential losses; and
- the examination of the accounting records and control systems regarding the bank’s fiduciary (including safe custody) activities.

The Need for a Continuing Dialogue Between Supervisory Authorities and the Auditing Profession

The Statement recommends that, if supervisors are to receive continuous benefit from the work of auditors, they need to take the auditing profession as a whole into their confidence in relation to those areas which are giving the supervisor cause for concern. The Statement suggests that this can probably be achieved most effectively through periodic discussions at the national level between the supervisory bodies and the professional accounting bodies. It suggests that these discussions could cover areas of mutual concern, major auditing issues and topical accounting problems and uniformity in the application of appropriate accounting policies between different banks.

4. Basle Committee on Banking Supervision

The Basle Committee on Banking Supervision, a Committee of banking supervisory authorities established in 1975 by the central bank Governors of the Group of Ten countries, issued in July 1992 a set of minimum standards, “Minimum Standards for the supervision of international banking groups and their cross-border establishments”, that its members have agreed to apply. These minimum standards are designed to reinforce a set of principles, “Principles for the supervision of banks’ foreign establishments” (“the Concordat”), issued in 1983 and its