

## **The legal system for the supervision of Libyan Islamic commercial banks**

### **ABSTRACT**

The study aims to identify the legal system for the supervision of Islamic commercial banks. The problem of the study is the lack of clarity in the legal system for the control of Islamic commercial banks, and there are many bodies that exercise control over Islamic commercial banks. The study highlights the importance of shedding light on the legal system for the supervision of Islamic commercial banks. The study followed the descriptive analytical approach to describe and analyze the legal system for the control of Islamic commercial banks. The study found many results, the result shows that the law in force in regulating the work and practice of the Islamic banking sector also regulates the traditional banking sector, and the legislator should have introduced a special law for the work of Islamic banks, due to the specificity of their nature and Islamic economic activity, especially after the abolition of dealing with traditional banking activity inside Libya by Law No. (1) of the year 2013 AD. The result also shows the legislative authority in Libya has granted the Audit Bureau to carry out its duties in supervising, following up and evaluating the financial performance of Islamic commercial banks in accordance with the laws regulating it. Dozens of years ago with different names and minor modifications to them, and it was not enough to this extent, as the legislative authority established another body to monitor the oversight of institutions and agencies in the state and named it the Anti-Corruption Authority

### **Introduction**

The importance of Islamic commercial banks is increasing day by day, and they are enjoying competition in their regulation and legislative, legal and economic development, in order to keep pace with the global banking sector, and the good regulation of all components of the bank, especially the important ones, including the control component (external and internal), this interest was not for nothing, Rather, it came to the vital role that banks provide to the state itself, and its role based on linking the economic and financial aspects between the countries of the world, and the importance of Islamic banks being subject to all kinds of control standards that achieve banking safety and reduce risks, and help in the financial and monetary stability of the Islamic banking

sector.<sup>1</sup> The success of the banking business of Islamic banks and their distance from the risks facing the sector, it is necessary for them to activate the continuous supervision by the specialized supervisory bodies, as they supervise, follow up and inspect the Islamic commercial banks by several bodies and supervisory bodies, including internal and external, and there is Shariah supervision that exercises its work and works on that banking transactions are And the services provided are in accordance with Islamic Sharia, and there is normal or traditional control, and its work is carried out to be transactions and services in accordance with the correct law and regulations in force in banks. The bank seeks to occupy a good reputation with those dealing with it like other financial institutions, and this in turn requires several factors, the most important of which is a good and integrated legal system.<sup>2</sup> The legal basis of the bank is to apply the provisions of Islamic Sharia and to stipulate the existence of a Shariah supervisory body, or authorize the legal basis for external supervisory bodies to supervise banks, all in the direction of the state to preserve these important financial institutions.

### **Problem Statement**

Looking at the legal system regulating the work of the supervisory bodies of Islamic commercial banks, you will find that it is a multiplicity of several bodies, and it may be said that this multiplicity is good, and contains advantages and in the interest of the bank itself, but it is not without flaws, which we will highlight together in this chapter. What is the extent of the relationship between these devices and the coordination between them, or are they separate. Since the bank is a commercial financial institution to being a legitimate financial institution, it must be supervised, from a financial and legal point of view, and its financial and legal status, so these banks must conduct their business in accordance with the legal foundations and sound banking rules, in a manner that enhances and maintains the integrity of their financial position and in a manner that Protect your clients.<sup>3</sup> During the past ten years, Libya witnessed a major qualitative transformation in the legal system of the banking sector, and major events that occurred to it, which resulted in the complete Islamization of the banking sector, and the establishment of a new type of

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<sup>1</sup> Archer, S., & Karim, R. A. A. (2012). The structure, regulation and supervision of Islamic banks. *Journal of Banking Regulation*, 13(3), 228-240.

<sup>2</sup> Mejia, A. L., Aljabrin, S., Awad, R., Norat, M. M., & Song, M. I. (2014). Regulation and supervision of Islamic banks. *International Monetary Fund*.

<sup>3</sup> El-Brassi, M. A. A., Bello, N., & Alhabshi, S. M. (2018). Conversion of conventional banks to islamic banks in Libya: issues and challenges. *International Journal of Accounting*, 3(15), 25-39.

supervision, which is “Sharia supervision”, but the matter remains new, which imposes with it several questions, including Does the Central Bank of Libya provide privacy for Islamic banks in Libya, as it is a non-profit institution and does not seek profit, but rather to financial and monetary stability in the state, economic growth, maintenance of the exchange rate, supervision and follow-up of commercial banks within the state, and a link between the state and abroad in financial transactions and economic. In addition to the oversight of the Central Bank of Libya, the legislator obligated the Audit Bureau to monitor and follow up on Islamic commercial banks in Libya, and to prepare reports on their work, which of course is considered an external oversight away from the legal oversight exercised by the Shariah oversight bodies.<sup>4</sup> The financial and service institutions in the state are subject to oversight, supervision and follow-up, and what he has done well. With reference to the establishment of Islamic commercial banks in Libya, they take the legal form of the Libyan joint stock company, according to the conditions set by the Commercial Activity Law No. (23) of 2010 AD, and are committed to the control stipulated in it and imposed by its legal texts on Libyan joint stock companies.

### **Research Questions**

1. What is the impact of the Central Bank of Libya’s control on Islamic commercial banks?
2. What is the legislative regulation of external supervision of Islamic banks?

### **Research Objectives**

1. To Discover the impact of the Central Bank of Libya’s control on Islamic commercial banks.
2. To illustrate the legislative regulation of external supervision of Islamic banks.

### **Significance of Study**

The importance of the research comes from the importance of Islamic commercial banks, and the accuracy of their work, as they provide a legitimate alternative to traditional banks, and the need for oversight over them to be one of their basic characteristics that are established on them, and the state should help them in performing their mission and lead them to success in accordance with the provisions of Islamic Sharia, and it will During this topic, we are exposed to the oversight of

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<sup>4</sup> LAWHASHY, Z. B. (2018). English Legal and Regulatory Framework of Islamic Banking in Libya. Al Mashalih-Journal Of Islamic Law, 1(2), 46-46.

the Central Bank of Libya and the role it plays in terms of supervision and follow-up, whether through Sharia supervision or through regular - traditional supervision, as it is the primary responsible for all banks operating in Libya, and because the banks, although they are legitimate financial institutions, they are also financial and economic institutions Financial and social contribution to community service.

## **Research Methodology**

This study adopts the descriptive analysis research method approach. This method allow to describe and analysis the research problem and justify the legal system of oversight. Moreover, The descriptive-analytical approach contributes to discussing the legal system for the supervision of Islamic commercial banks. Using this method, a researcher composes a descriptive and detailed analysis of legal rules found in primary sources (cases, statutes, or regulations).

## **Research Framework**

### **The establishment of the Central Bank of Libya and the laws regulating its work**

One of the most powerful oversight bodies on Islamic banks is the Central Bank of Libya, because it is the one who establishes these banks and is primarily responsible for their work and the services they provide.

The Central Bank of Libya was established in the year 1951 AD with the establishment of the Libyan Monetary Committee, according to Law No. (4) of the same year. Then, with the development of life and the increase in the state's financial transactions, this committee developed with it, until the establishment of the first central bank in Libya on 26-26 4-1955 AD.<sup>5</sup>

It was renamed the Libyan National Bank, and began its work in March 1956, and issued the first Libyan currency in its name at the end of 1958. He may establish commercial banks, but with the issuance of Banking Law No. (4) of 1963 AD, the legal regulation of banks in Libya improved by giving them more powers and an acceptable organization for their work. National commercial banks were also established, and this period coincided with the export of oil abroad, and this in turn The Central Bank of Libya helped to present itself and the role that it can play as a central

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<sup>5</sup> Abdullah Muhammad Abu Aqleh, PhD thesis entitled (The Impact of the Application of the Standards of the Islamic Financial Services Board in Achieving Control and Supervision of Islamic Banks), a field study on Islamic banks, Omdurman Islamic University, College of Research and Studies Institute of the Islamic World, Sudan, 2018, p. 5.

bank, which has opportunities to practice commercial, financial and economic activity that leads it to independence gradually.

Law No. 4 of 1963 regulating the work of banks continued until 1993, and even after changing the regime in Libya in 1969, it remained for it to continue working with the issuance of several legislations, which had a great impact on banking activity, and despite the great banking development that The country witnessed during the seventies and eighties of the last century, but Law No. (4) continued until Law No. (1) of 1993 was issued, regulating the work of the Central Bank of Libya accurately and enhancing its monetary strength and how to deal with foreign banks, and for the importance of its place and vital role What the Central Bank carries out within the country, on which economic activity and the strength of monetary and financial funds depend, and which has all the effect in building the strength of the national economy or disrupting and destroying it. It is compatible with the modern development of the central banks in the world, and to carry out its activities in a comfortable and harmonious manner under legal and economic rules that protect it and help it to carry out its work tasks.<sup>6</sup>

As a result of all this, Law No. 1 of 2005 was issued regarding commercial banks regulating their work in a way that the legislator saw it as serving the country's economy and keeping pace with the technical and technological development reached by the banks' work. Islamic banks and their regulation, and the existing regulation only helps the ordinary commercial banks. As a result, there were no Shariah supervisory bodies, but the work of the normal supervision of those banks, which is financial and legal control only, and this was the vision and policy of the legislator at that time. After changing the system of government in Libya in 2011, many legislations were changed and amendments were made to them that advocated the interests of individuals and groups within the state, and of course the banking sector had a share in this change, so an amendment to Law No. For the year 2012 AD, and through this amendment, a chapter on Islamic banking was added with the hearing of the existence of Islamic windows within traditional banks, and opened the door to the Islamization of the banking sector in a large way from the establishment of the banking system in a stronger manner, and also expanded the powers of the Central Bank in terms of control and independence that monitors banks affiliated with it, and that Law No. (46) opened the door for

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<sup>6</sup> Raed Nasri Abu Munis, Research entitled (Reputational Risks and Compliance with Islamic Law, Case Study on Reserves in Central Banks and How to Form Sharia Supervisory Boards), Journal of Sharia Studies and Law, University of Jordan, Volume 43, Number 1, Year 2016, p. 222.

these banks to switch from the traditional banking sector to the Islamic banking system, and in this same law it did not obligate them to compulsory conversion nor to the periods in which they must convert, but the matter hinged on allowing them if they wanted to change.

The matter was not satisfied to this extent, and in response to the desire of the Libyans to implement the provisions of Islamic Sharia throughout their lives and regarding their daily and financial dealings, including banking transactions of course, it was necessary to issue Law No. (1) of 2013 AD, which is the firm and decisive law that addressed the texts of Its articles are the traditional commercial banks, and it is forbidden for them to deal with interest and usury, and although this law has brought about a great change in the banking sector, the technical application mechanism was a subject of great disagreement among economists. However, conventional banks converted to Islam without a clear technical economic vision that impedes the optimal implementation of this law, or that it causes damage and losses that it would have been more appropriate to avoid, which results in a strike and destabilizes the banking sector, and makes laws outside the scope of application due to the inability of banks to implement them due to the lack of their technical vision And this is what happened now from the instability of the banking sector from the lack of liquidity, and it was legitimate to make the treatment more accurate and complete in order to be well implemented.<sup>7</sup>

It should be noted that the Central Bank of Libya is not an ordinary bank, as it is not subject to the same legal and procedural rules to which banks operating in the state are subject, because it is the one who founded and established these commercial banks branching from it. Commercial.

Where Law No. (1) of 2005 AD regarding commercial banks, as amended by Law No. (46) of 2012 AD, clarified in its first chapter - Chapter One - “The nature and functions of the bank.” It came in Article One (the Central Bank of Libya is an independent institution enjoying legal personality and financial liability). The second article of the same law stipulates that the bank is subordinate to the legislative authority, and that it exercises its functions and performs its purposes stipulated in this law within the framework of the general policy of the state. and its financial, administrative, technical and other affairs by decisions of the board of directors, and this text contains the independence of the Central Bank of Libya, as it makes the bank to prepare and approve through its board of directors all the regulations and decisions it deems appropriate and

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<sup>7</sup> Abdullah Yassin, Research entitled (Shari’a Supervision of Islamic Banks), Journal of Law and Human Sciences, Zayan Ashour University in Djelfa, No. 19, year 2014, p. 45.

contribute to the exercise of its work tasks, in accordance with the general policy of the state to facilitate through it Preparing all decisions he deems good, to complete the process of supervision and inspection of commercial and Islamic banks and support them in a manner that maintains the strengthening of the supervisory body in general, and the first and main body authorized to control It is the Central Bank of Libya, because it is responsible for setting and directing all policies related to the loan and credit market, as well as the one charged with handling any financial or economic strikes that affect the stability of the credit situation, or they call for facing necessary needs related to the global market.<sup>8</sup>

One of the main tasks that expresses the independence of the Central Bank of Libya is its task of supervising banks and preparing reports on them. Therefore, the issue of supervision remains a private matter for the Central Bank of Libya, which is organized as it pleases according to its perception and the general legal system for it, and this is in contrast to what some countries have followed, where The task of supervising commercial banks was entrusted to the Banking Control Commission, as in France, and this is what happened with the Moroccan legislator, who made the task of oversight joint between the Ministry of Finance and the Central Bank of Morocco.<sup>9</sup>

### **The supervisory role of the Central Bank of Libya**

First of all, the Central Bank of Libya is considered the cornerstone of monetary stability and facilitating credit operations, in order to achieve the main objective that it performs in its supervisory role, which is to achieve the objective of the existence of Islamic commercial banks and to perform their role and what they found, and to achieve the purpose of its establishment, that is, it is a watchdog on achieving The goals that banks seek to achieve.<sup>10</sup>

The rules laid down by the previous article were based on the principle that the Central Bank of Libya monitors and supervises Islamic commercial banks, and that the subordination of these

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<sup>8</sup> Abudirbala, A. M., & Mukhtar, M. M. (2019). Shifting from Conventional to Islamic Banking: Challenges and Barriers (a case study on Libya). *Journal of Pure & Applied Sciences*, 18(2).

<sup>9</sup> Abudirbala, A. M., & Mukhtar, M. M. (2019). Shifting from Conventional to Islamic Banking: Challenges and Barriers (a case study on Libya). *Journal of Pure & Applied Sciences*, 18(2).

<sup>10</sup> Law No. (4) of 1951 AD, Official Gazette Issue (1) of 1951 AD.

banks is binding on them, and not taking them and ignoring them puts them under the legal issue. Technical, legal, financial, legal and administrative level.<sup>11</sup>

It is noticeable on Law No. (46) of 2012 that it fully regulated the banking sector (traditional banks with Islamic banks together), and the regulation of conventional banks prevailed more than Islamic banks, given that the latter was added later in a special chapter, to include the supervision exercised by the Central Bank of Libya on Islamic commercial banks are off-site supervision, which is carried out by following up and checking periodic reports referred by the banks themselves to be analyzed and unloaded by the relevant departments of the Central Bank of Libya. One day of each month to prepare a summary report on its financial positions, to be published in the Official Gazette.<sup>12</sup>

The Central Bank of Libya was not satisfied with this oversight, but it may carry out on-site supervision at any time of the year, by sending its own inspectors, and the inspection and inspection shall be at the headquarters of Islamic commercial banks, and the law also obligated these banks to enable the inspection and oversight committees to work and submit to them All documents and information necessary to perform their work as required.

It should be noted that the committees are able to access information and data related to banks, as the law prohibits them from disclosing and starting any information related to the control process except to the legally authorized entities. To legal auditors chosen by the entity's general assembly, and the decision to assign these legal auditors must be approved by the governor, and the texts of the law obligate the entities subject to the Central Bank of Libya to present throughout the fiscal year and in a conspicuous place in its head office and all its branches, a copy of the latest audited financial statements, and on them It was published in the Official Gazette, in a local newspaper, and on its website on the International Information Network.<sup>13</sup>

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<sup>11</sup> Youssef Hammumi, Research entitled (The Risks of Banking Work) A Comparative Study between Conventional Banks and Participation Banks, Publications of the Journal of Law, Legal and Judicial Knowledge Series, No. 49, 2016, p. 52.

<sup>12</sup> Shalba, A. (2016). An investigation of the roles and responsibilities of the board of directors in the Libyan banking sector. Nottingham Trent University (United Kingdom).

<sup>13</sup> Waseem Ismail Al-Habil, Imad Al-Masry, research entitled (The Impact of the Application of the Islamic Supervision Principle on the Success of the Performance of Islamic Banks in the Gaza Strip) Case Study of the Arab Islamic Bank and the Palestinian Islamic Bank, Journal of Al-Azhar University in Gaza, Humanities Series, 2011, Issue B1, p. 1144 .



Law No. (1) of 2005, amended by Law No. (46) of 2012, obligated Islamic banks in many legal articles to be monitored and supervised by the Central Bank of Libya, and that they follow it and are directly subject to its control and instructions, and the repetition of legal texts cannot be limited to more than From a place, except for the legislator's keenness on this oversight, the legislator was keen to provide the Central Bank of Libya with accurate, detailed data and with accurate dates. The Governor of the Central Bank of Libya may, within one month from the date of receiving the financial statements and reports, issue a decision not to approve, reserve or approve.<sup>14</sup> This legal text focused mainly on the subordination of Islamic commercial banks to the Central Bank of Libya, and they are obliged to provide everything that is required of them, otherwise they become responsible for any failure that may lead to their liquidation, and just not doing what is stipulated is considered a violation of the provisions of the law, meaning that the Banks subject to the provisions of this law shall abide by the controls and rules provided by the Central Bank of Libya to regulate clearing operations and issues related to the national payment system. If it becomes clear to the Central Bank of Libya, after examining the data and documents related to the entities subject to its control, that it suffers from financial problems, among them, the first of which is of course the Islamic commercial banks, then the governor must take the necessary legal measures to address this problem, which is from a written warning to stopping the general manager of the bank and referring him to investigation , or suspending the board of directors from work and referring it to investigation with the appointment of a management committee or merging with another bank, and the matter may amount to canceling the permission granted to the bank to carry out its work and activity and, then, taking the procedures for its liquidation, and where the same article stipulated to apply the penalty of merging and cancellation of the removed permission, the approval of the board of directors Administration of the Central Bank of Libya.<sup>15</sup>

Among the supervisory role occupied by the Central Bank of Libya, which was granted to it by the legislator on Islamic banks, and the importance of this role is that it has the right to take the appropriate action through which it addresses any problems that the bank may be exposed to, and this treatment is what is called the supervisory treatment at the same time, that is, it It takes place in stages, and the bank may help in its early stages before it gets complicated.

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<sup>14</sup> Pratten, J. D., & Mashat, A. A. (2009). Corporate social disclosure in Libya. *Social Responsibility Journal*.

<sup>15</sup> Habib Khalifa Jabouda, *The Legal Nature of the Central Bank of Libya*, previous reference, p. 157.

The legislator also obligated the board of directors of the Central Bank of Libya in Article (100-bis/2) of drawing up a model for the establishment contract of an Islamic bank and setting the statute for it, based on what the Central Authority for Shari'a Supervision proposes, and this obligation is nothing but a previous oversight of Islamic commercial banks, And the beginning of its establishment so that this beginning is in conformity with the principles and provisions of Islamic Sharia.<sup>16</sup>

Islamic banking activities were also subject to the provisions of bank control carried out by the Central Bank of Libya, stipulated in Law No. (1) of 2005 AD and amended by Law No. (46) of 2012 AD. Banks licensed to engage in Islamic activities are also obligated to comply with the provisions of the law regarding the submission of financial statements to the Central Bank of Libya, taking into account their amendment in line with the established standards regarding the audit of Islamic banks' accounts.<sup>17</sup>

### **Oversight of the State Audit Bureau and the control of the Administrative Control Authority on Islamic commercial banks.**

These bodies work on preparing specialized technical reports in terms of financial, legal and administrative terms on the work of Islamic commercial banks, issued on a regular basis, and the importance of these technical reports serve many of these bodies and other bodies that regulate the results of their work, because of the statement of the characteristics that these banks carry and to clarify their documents And its financial transactions, including the tax authority and the legislative authority itself, the owners of funds, shareholders and investors with these banks, the Ministry of Economy and the Ministry of Planning in order to be able to decide the general budget of the state, and what may be wrong with these two agencies is the overlap of competencies with each other in practice, and this may constitute a burden On the banks that are monitored, they may be indispensable, so we explain in this requirement that we are going to study the legal basis for the oversight of the Audit Bureau, and knowing its real role in the supervision of banks in (first),

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<sup>16</sup> Abdalla, M. A., Aziz, M. R., & Johari, F. (2015). Analyzing the Impact of Banking laws and Legislations on the Converting of Conventional Banks into Islamic in Libya. *International journal of management and applied research*, 2(4), 156-171.

<sup>17</sup> Law No. (46) of 2012 AD, Official Gazette Issue (13), issued on 7-5-2012 AD, and is effective from the date of its publication

and then we move on to knowing the oversight of the Administrative Control Authority and what is its role The supervisory authority and is there coordination between it and the accounting debts in (Second).<sup>18</sup>

**First: The Audit Bureau's control over Islamic commercial banks.**

The Libyan Audit Bureau aims under the provisions of the articles of its organizing law No. 19 / of 2013 AD, and its amendments, to achieve effective control over public money, and to verify its proper use and disposal, by examining and auditing accounts, documents and financial statements, and evaluating the performance of all entities subject to the control of the Bureau, including Islamic commercial banks, which is the supreme body for control and accountability in Libya, and its subordination to the legislative authority directly, is a technical body that provides its oversight services with independence and impartiality. Inside banks, the safety of financial discharges, accounting entries, financial and technical reports for the departments and supervisory committees of banks in accordance with the legislation and regulations regulating the work of these banks. Of its existence, and one of the main tasks of the Audit Bureau is to detect the presence of financial irregularities in the work of the For banks and when presenting their services and in their financial statements.<sup>19</sup>

The Bureau prepares an annual report on the work of these banks, in which it shows in detail the shortcomings, deficiencies, and weaknesses of the commercial banks, and through which it takes a stepping stone to addressing these shortcomings according to the treatment methods approved by it. It has been attached to it over the years.

The Bureau is a supreme control body, meaning the highest supervisory body in the state, that evaluates the performance of the bodies subject to its control and directs them towards improving their performance and raising their efficiency, and assisting them in correcting deviations that may exist. Also, the article referred to above, which indicated that Islamic commercial banks are subject to the control of the Audit Bureau, even if these banks have their own mechanisms and supervisory bodies, that is, the control of the Bureau is mandatory oversight by the text of the law and cannot be excluded.

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<sup>18</sup> Grassa, R. (2015). Shariah supervisory systems in Islamic finance institutions across the OIC member countries: An investigation of regulatory frameworks. *Journal of Financial Regulation and Compliance*.

<sup>19</sup> Law No. (1) of 2013 regarding the prevention of usurious transactions, Official Gazette No. (5), second year, issued on 1-7-2013

The role of the Audit Bureau did not stop at investigating and researching financial violations in banks, no, but the law granted it much more powers. In addition to these two characteristics, there is a legal and technical neutral opinion about the financial statements and final accounts of banks, and a statement of deficiencies and shortcomings in laws and regulations. The investigation also granted him the extent to which the manual and electronic internal control systems are appropriate, and their sufficiency for banking work, and whether they are appropriate and developed to suit the development of the Islamic banking sector, or not.<sup>20</sup>

The law also granted the Bureau a supervisory authority to carry out its work and its functions to the fullest extent by carrying out an examination of accounts and documents supporting it, at the Bureau's headquarters or one of its branches or in the same banks whose accounts it reviews. He may examine all documents he deems necessary to examine, even confidential ones, and he has the right to seize whatever documents, documents or records he deems appropriate, or to obtain copies of them.<sup>21</sup>

It is not hidden from the legislator's wisdom in granting these great powers to the Bureau, as it made it a supreme supervisory body, content with preparing financial reports and establishing facts and violations, as it does not have the authority to investigate, but its role is limited to detecting violations and evaluating the performance of institutions – banks – and this difference is different with which the organization of the Audit Bureau differs. On the regulation of the Administrative Control Authority Law, and all of this in order to perform its role with full merit, and for the supervision process to be a real process that leads the banks to safety, and the financial institutions actually evaluate what they practice and perform in terms of banking business and services, and obligate banks to submit and submit their accounts on the legally prescribed dates. To the Audit Bureau, so that it is audited accurately and in a timely manner.<sup>22</sup>

Where it came in the second chapter of Law No. (19) of 2013 AD (Examination and Evaluation of Performance) as if this supervision is based on evaluating the general performance of the banks, as stipulated (The Bureau shall practice examination and evaluation of the performance of the

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<sup>20</sup> Zagoub, A. A. (2011). Corporate governance in Libyan commercial banks (Doctoral dissertation, University of Dundee).

<sup>21</sup> - Article (100 bis/5/first) of Law No. (1) of 2005 AD, as amended by Law No. (46) of 2012 AD regarding commercial banks and adding a special chapter on Islamic banking.

<sup>22</sup> Habib Khalifa Jabouda, research entitled (Law No. (46) for the year 2012 AD regarding Islamic banking "politics and mechanisms") Journal of Law, University of Tripoli, Libya, the sixth issue of the second honorary conference, 2017, p. 186.

bodies subject to its control, to indicate the duration of their sufficiency and effectiveness in carrying out their activities and to ensure that their programs And its projects are managed in a scientific and economic manner and that it achieves the objectives set for it, and that these parties have used their financial resources in the activities and tasks entrusted to them, with the highest degree of efficiency, effectiveness and economy in spending). What they were designated for in the laws of their establishment and their ability to present their business in the legitimate manner, effectively and efficiently, and to achieve the goals for which these banks were established, such as achieving profit, legal dealing, and achieving social justice. - Which he deems appropriate according to his assessment of the importance of the method, whether it is a subsequent audit, a previous audit, or even an accompanying audit, in accordance with the generally accepted auditing standards. And Article (14) of Resolution No. (27) of 2015 stated that the authority of the Audit Bureau to monitor the audit of the accounts of independent entities whose budgets are not from the state.<sup>23</sup>

### **Second: - Supervision of the Administrative Control Authority on Islamic commercial banks.**

The Administrative Control Authority in Libya is one of the oversight institutions affiliated to the legislative authority in the state, which exercises its jurisdiction in accordance with Law No. (20) of 2013, issued by the General National Congress. It is an independent body that enjoys independent financial and legal personality through which it presents its work with impartiality, independence and integrity.<sup>24</sup>

Since Islamic commercial banks are considered the device that provides, exploits and uses funds in the first place, implement the saving policy and contribute to its stability, so restrictions and supervision must be imposed on them constantly and at different times and times - with coordination and interdependence between the multiplicity of regulatory bodies and under special well-restricted laws -, this Administrative control is concerned with the administrative and technical aspect of banks, with its competence in administrative investigation, according to what is specified by the law of their establishment.<sup>25</sup>

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<sup>23</sup> - Article (62) of Law No. (1) of 2005 AD, as amended by Law No. (46) of 2012 AD regarding commercial banks and adding a special chapter on Islamic banking.

<sup>24</sup> - Abdul Razzaq Jaber, Financial Control and Financial Controller in Theory, Publisher Dar Al-Nahda Al-Arabiya, Beirut, Lebanon, first edition, 2004, p. 23.

<sup>25</sup> - Article (100-bis/4-5) of Law No. (1) of 2005 AD, as amended by Law No. (46) of 2012 AD regarding commercial banks and the addition of a special chapter on Islamic banking.

It is important that there is an urgent need to practice administrative control activities on banks, effectively due to the importance of the observer and the observed, because it is keen on the safety of every cell of this sensitive facility, and that the role of the Administrative Control Authority is in linking banks with each other, providing regulation and improving general performance. It also aims to achieve full effective supervision within Islamic commercial banks, and to follow up their work to ensure the extent to which the responsibility for performing their duties is achieved in the field of their competence, and the extent to which they implement laws and regulations and abide by them, and that their employees aim in the performance of their work to serve the citizens and seek to achieve their interests.<sup>26</sup>

It is necessary for us to know that the role of the oversight of the Administrative Control Authority in achieving oversight is to detect crimes and violations related to job performance and investigate them administratively, and to take the necessary legal measures to hold their perpetrators accountable. An investigation into the violations that may be committed by the observer or the observed, with the preparation of supervisory reports and the investigation of the violations and abuses that they may contain, or any shortcomings or defects contained in these reports.

In order to fully achieve the aspects of the objectives of the control and to carry out its functions, the authority may take the necessary means to investigate, detect and detect violations and crimes, and find out the shortcomings in the bank's work. However, this individual oversight can only take place after obtaining written permission from the head of the commission.<sup>27</sup>

As for the time of conducting the control and inspection process, the law grants the authority to do it at any time it deems appropriate and surprising, and it has the right to do so, as well as the right to see all documents, even if they are confidential and the nature of privacy for the bank, and there is no doubt that this expansion of powers is justified. By the legislator, as without full access to all documents and transactions, you will not get a good and real oversight, and there may be some irregularities and crimes in the hidden documents and you need to search and carefully inspect the documents until they are accessed.

The matter may reach the suspension of the worker in the bank from his work, for the requirements of the public interest and the interest of the investigation, and all this so that the control process is

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<sup>26</sup> Siham Milad, Master's thesis entitled (The Legal System of Banking Institutions in Algeria) Larbi Ibn al-Mahdi University, Umm al-Bawa'i, Faculty of Law and Political Science, Department of Law, 2014, p. 11.

<sup>27</sup> - Article (62-Second) of Law No. (1) of 2005 AD, as amended by Law No. (46) of 2012 AD regarding commercial banks and adding a special chapter on Islamic banking.

without external influences or pressures on the member of the supervisory board, and the suspension period may not exceed three months except by a decision of the competent authority to discipline.

Article (34) of Law No. 20 of 2013 stated that the competence of the Administrative Control Authority to investigate financial and administrative violations committed by employees of the bodies subject to its control - banks - or referred to it by the competent authorities - the Audit Bureau, as for criminal offenses or administrative investigation As a result of criminal offenses, the Administrative Control Authority must refer papers and documents to the competent Public Prosecution, within a period not exceeding one month, and take legal measures regarding the subject matter of the incident.<sup>28</sup>

It is natural for criminal offenses to fall under the jurisdiction of the Public Prosecution, because it has the original jurisdiction in criminal cases, and the administrative oversight authorities are relieved of the investigation until the Public Prosecution has completed it.

To complete the process of oversight and investigation of financial and administrative violations, a Disciplinary Board was formed, to prosecute employees and workers of the entities subject to the control of the Administrative Control Authority and the Audit Bureau, for financial violations committed in violation of the provisions of the financial law of the state, the regulations issued pursuant thereto, and other financial violations stipulated in the The legislation in force that regulates the work of Islamic commercial banks.<sup>29</sup>

### **Law No. 23/2010 on Islamic commercial banks and the external auditor's control over them**

Law No. 23/2010 regarding commercial activity regulates commercial businesses and how the law is applied to them in general, and the work of commercial companies in particular, from their establishment to the liquidation and division of their funds, and among these companies and the most powerful is (the joint stock company). Commercial companies and for the financial consideration that is characterized by it, and that the public companies owned by the state are only in the form of a Libyan joint stock company, and the legislator works on setting legal rules that

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<sup>28</sup> Rammal, H. G. (2006). The importance of Shari'ah supervision in Islamic financial institutions. *Corporate Ownership and Control*, 3(3), 204-208.

<sup>29</sup> Gamal El-Din Awad, *Banks' Operations from the Legal Interface, A Study of the Egyptian and Comparative Judiciary and the Legislation of Arab Countries*, 1993, p. 13.

help make these companies to present the purpose of their creation to the fullest, which made them have texts Legal regulating the work of the oversight bodies that follow up and supervise their work, and the jurisprudential and legal opinion has been established that the legal nature of commercial banks is joint stock companies, and banks cannot depart from this template, even if the banks have a special law regulating their work.<sup>30</sup>

The Central Bank of Libya also obligated the bodies subject to its control and supervision to submit their documents to a legal auditor to review them and submit his report to the general assembly of the bank. Many regulatory agencies, most of which focus on financial and accounting control, impose deterrent penalties in the event of not working with them, and slackening in taking them, so we will address in this requirement to the study of the oversight of Law No. 23/2010 AD regarding commercial activity and the extent to which it is implemented in ( First), then we move on to the legal references' oversight to learn about the role that Islamic commercial banks play in (Second).<sup>31</sup>

#### **First: Law No. (23) of 2010 regarding commercial activity oversight of Islamic banks.**

At the outset, it must be said that the legislator obligated a different legal system to control commercial companies - commercial banks - that differs from institutions and interests that are directly financed by the state, as these institutions and interests have their own control system, which is the assignment of a financial controller assigned by the Ministry of Finance in accordance with the state's financial law and its amendments However, the Islamic commercial banks that are owned by the state or by private persons, the legislator has made for them a special control system, consisting of committees and bodies that follow up and supervise them, and are assigned by the company's general assembly, and the legislator did not differentiate between public or private companies - banks - the legal regulation applies on Monday.<sup>32</sup>

The legislator has created legal texts in Law No. 23/2010 AD regarding commercial activity regulating the work of oversight on joint stock companies and called it (the Companies Control

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<sup>30</sup> Čihák, M., & Hesse, H. (2010). Islamic banks and financial stability: An empirical analysis. *Journal of Financial Services Research*, 38(2), 95-113.

<sup>31</sup> Habib Khalifa Jabouda, previous reference, p. 180.

<sup>32</sup> Al-Beshtawi, S. H., Zraqat, O. M., & Moh'd Al-hiyasat, H. (2014). The Impact of Corporate Governance on Non Financial Performance in Jordanian Commercial Banks and Islamic Banks. *International Journal of Financial Research*, 5(3), 54.



Board), which in general undertakes the oversight of the accounts, technical, legal and financial works of the company - the bank - and it imposes duties on it and imposes responsibilities on it.<sup>33</sup>

It is necessary to know that the supervision stipulated in the above-mentioned law is not binding on commercial banks, and it can be replaced by other control systems, when the bank's statute stipulates the combination of the Sharia supervisory board and the regular supervisory board stipulated in its formation by Law No. 23/2010 AD. The provisions of the Commercial Law are considered complementary to the will of the parties and public and private legal persons, and this is stated by Article (196) of the same law that (... the statutes of banks subject to the supervision of the Central Bank of Libya may not provide for the appointment of a supervisory body and may be replaced by other supervisory methods).<sup>34</sup>

Therefore, in the event that the Sharia supervisory board is not formed in the statute, and this is unlikely to happen, because it is one of the necessary conditions that must be met, there must be an ordinary supervisory board. What did the Central Bank of Libya do with this combination.<sup>35</sup>

The honorable reader may ask about the relationship between the commercial law that regulates the work of commercial companies in Islamic commercial banks, and the answer to this question can be found in Article (65) of the same Banking Law No. (1) of 2005 A.D., which stipulates that (First: A commercial bank is every company It usually accepts deposits in current accounts payable on demand or in term accounts and grants loans or credit facilities and other banking activities...), and here the legislator called those who do these works the name and form of the joint-stock company as stated in (First: Except for Exchange offices, it is required that the entities subject to the supervision of the Central Bank of Libya be established in the form of a Libyan joint stock company).<sup>36</sup>

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<sup>33</sup> Habib Khalifa Jabouda, previous reference, referred to in the margin, page 182.

<sup>34</sup> - Article (62 - first) of Law No. (1) of 2005 AD, as amended by Law No. (46) of 2012 AD regarding commercial banks and the addition of a special chapter on Islamic banking.

<sup>35</sup> Rammal, H. G. (2006). The importance of Shari'ah supervision in Islamic financial institutions. *Corporate Ownership and Control*, 3(3), 204-208.

<sup>36</sup> Mejia, A. L., Aljabrin, S., Awad, R., Norat, M. M., & Song, M. I. (2014). Regulation and supervision of Islamic banks. International Monetary Fund.

It is applied to the law of Islamic commercial banks, the law of banks first, and if it does not find it, then the commercial law. Predominance of the private commercial law over the general civil law that regulates commercial and civil business.

As a consequence, the Banking Law and the chapter on Islamic banking have priority in application, although it is not sufficient to regulate the daily work of banks, which is expanding day by day, and which was based on an incomplete law from the beginning. Rather, it came in unstable circumstances and its articles were built on the exceptions of Law No. (1) for the year 2005 AD regarding commercial banks.

Accordingly, the researcher believes that the matter needs to reorganize the banking law in Libya, and urgently, and we appeal to the legislature and the competent authorities to issue special legislation for the work of Libyan banks, to organize their work and govern their dealings with Islamic law and expand their practice of Islamic bank activities on a correct basis and sufficient legal texts to protect the bank First, and those who deal with it secondly, and to ensure an Islamic economic system that helps build the state, and strengthens its pillars and monetary policy on sound foundations.<sup>37</sup>

The general assembly of the company - the bank - is considered to be the supreme supervisory body on the work of the board of directors, and as the sole owner of the company - the bank - but the practical reality makes the process of oversight and its implementation by the general assembly, unimaginable and non-existent for several reasons, perhaps the most important of which is the absence of members of the general assembly in The company - the bank - as all of them are shareholders and have wide powers, and because of the large number of shareholders, even if they are relied upon in the supervision process, you will not find an honest woman that reflects and expresses the financial position of the bank, and they are not obligated to attend except in official meetings only, and among them is that the supervision work needs special specialization In the accounts or in the legal or technical procedures and this may not be available in the members of the association.<sup>38</sup>

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<sup>37</sup> Archer, S., & Karim, R. A. A. (2012). The structure, regulation and supervision of Islamic banks. *Journal of Banking Regulation*, 13(3), 228-240.

<sup>38</sup> - Article (60) of Law No. (1) of 2005 AD, as amended by Law No. (46) of 2012 AD regarding commercial banks and the addition of a special chapter on Islamic banking.

Law No. 23/2010 A.D. organized the organization of the monitoring body, and explained its composition, the duties imposed on it, the legal impediments that fall on the body, and their mission and responsibilities ended, and stipulated that the monitoring body shall consist of three active members and two reserve members, provided that one of its members must be a qualified holder. A university in accounting and the other in law, and it is not hidden from the practical and scientific benefit that this has due to the requirement of the members of the commission to have technical specialization in their membership, because their reports will be issued by members with specialization in accounting and legal terms, and these pillars are the most important aspects of interest to commercial banks Islamic law, after its actions comply with the provisions of Islamic Sharia.<sup>39</sup>

Because of the importance of the role provided by the supervisory body, the commercial activity law is keen to be in accordance with the proper legal quorum, so that it can present its work according to the required, by making two reserve members of the body who meet the same conditions as the original members, and the work of the supervisory body is focused on the statement of the financial and legal position of the bank Basically speaking the truth about the work of the board of directors and its records and documents, and the authority must work with complete independence from the board of directors, which is a control tool over its work, and is free from any exploitation that may affect its belief in the direction of its work, and part of the jurisprudence saw that this prohibition does not prevent The supervisory body may occasionally offer consultancy work in accounting, law, or any technical matter for the bank's account.<sup>40</sup>

## **Second: - Control and approval of the external auditor on Islamic commercial banks.**

All the regulators that organized the work of Islamic commercial banks, whether directly or indirectly, confirmed the existence of (external auditor's oversight), which is a basic control organized by law due to its importance and effective role, as stated in the text of Article No. (82) of Law No. 1 of 2005 regarding Banks that (The Central Bank of Libya, in coordination with the relevant authorities, prepares a record for auditing offices, which are able to review and examine bank accounts, and another record for offices and houses of expertise, capable of evaluating real

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<sup>39</sup> - Article (84) of Law No. (1) of 2005, as amended by Law No. (46) of 2012 regarding commercial banks and the addition of a special chapter on Islamic banking.

<sup>40</sup> - Article (83) of Law No. (1) of 2005 AD, as amended by Law No. (46) of 2012 AD regarding commercial banks and the addition of a special chapter on Islamic banking.

estate assets, and other things that are provided to banks as a guarantee for financing, loans and facilities that they grant. The Central Bank of Libya rules, conditions and procedures for registration in these two records), and this is the establishment and approval by the Central Bank of Libya of the external auditor, and stipulated that he be accredited and registered in the special register in the bank, and obligated banks and affiliated entities that are subject to the control and supervision of the Central Bank of Libya, to undertake to check their accounts annually To legal auditors selected by the general assembly of the bank, for a period of two years, renewable once only, and this choice is restricted to those who are registered in the register prepared by the Egyptian In the Central Libya, and the same article obligated that the legal auditor be approved by the Governor of the Central Bank of Libya, as a kind of activating the supervisory role of the governor, and it is stipulated that the legal auditor should not be a member of the bank's board of directors, employees, or those who obtained a loan or facility with or without a guarantee And there is no relationship between him and the members of the board of directors, or with the other legal auditor of the bank, up to the fourth degree.<sup>41</sup>

In addition to the obligations stipulated above regarding the legal auditor, the law obligates Islamic banks to have a Shariah audit and audit department that reports directly to the Board of Directors.<sup>42</sup> They also emphasized Law No. 23/2010 AD on the importance and duties of the external auditor, to review the financial statements of the company - the bank - which will be presented to the General Assembly in its regular annual session, as Article (209) of the law obligates the external auditor to submit a written report It states his opinion on the bank's accounting and financial matters, and emphasized that the report bears the extent of the correctness of the financial accounts, the validity of the final financial statements, and the extent to which these statements comply with the provisions of the relevant law. All this must be taken into account in the report prepared by the external auditor and the extent of commercial bookkeeping and inventory operations The bank and how they are carried out and the statement of the financial obligations of the bank, and the bank's

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<sup>41</sup> - Article (85) of Law No. (1) of 2005 AD, as amended by Law No. (46) of 2012 AD regarding commercial banks and the addition of a special chapter on Islamic banking.

<sup>42</sup> - Article (61) of Law No. (1) of 2005, amended by Law No. (46) of 2012 regarding commercial banks and the addition of a special chapter on Islamic banking, which states that (the Central Bank of Libya may, at any time, review the books and documents of the entities subject to its control The accounts opened by banks, and the electronic systems and files related to them, and the review is at the headquarters of each of them. It is carried out by the bank inspectors who are appointed for this purpose. The authorities must provide these inspectors with all the data and facilities necessary to perform their task. any records, papers, or information related to the inspection, except in the cases authorized by law, or when it is necessary for a judicial investigation).

board of directors and managers must provide assistance in clarifying and clarifying all documents and final financial statements, to be reviewed within sixty days from the end of the financial year.<sup>43</sup>

## **Findings**

Findings discussion related to objective of study

### **OB1: To Discover the impact of the Central Bank of Libya's control on Islamic commercial banks**

Islamic commercial banks in Libya operate in a single legal system, and under the supervision and follow-up of the Central Bank of Libya, and the Central Supreme Authority for Sharia Supervision, and all banks operating in Libya are subject to the same supervision and the same laws apply to them and the same decisions apply to them. A legal basis issued by the legislative authority of the state. The multiplicity of supervisory bodies on Islamic commercial banks comes from the multiplicity of risks that these important institutions may be exposed to, and the legislator appreciates this importance, especially with the high risks themselves and their diversity according to their nature. These banks must have their own legal system, which is clear and easy to regulate the multiplicity of these devices well, away from the existing legislative ambiguity and fog. The law in force in regulating the work and practice of the Islamic banking sector also regulates the traditional banking sector, and the legislator should have introduced a special law for the work of Islamic banks, due to the specificity of their nature and Islamic economic activity, especially after the abolition of dealing with traditional banking activity inside Libya by Law No. (1) of the year 2013 AD. Therefore, we appeal to the legislator, from this platform, to urgently issue a complete law regulating the work of Islamic banks, in accordance with the will of the legislator and an alternative to what is currently in place. It can be taken from the last amendment of Law No. (1) of 2005 AD and amended by Law No. (46) of 2012 AD, in which he added a chapter on Islamic banking, that it was not completely regulated and is inaccurate, so it contains, for example, the exceptions related to the work of banks Islamic law by law, and a decision by the Board of Directors of the Central Bank of Libya sufficed, and it is not necessary for it to be excluded by law, including what was stated in Article (100-bis/9). Although it is no longer valid for use after

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<sup>43</sup> - Article (63) of Law No. (1) of 2005 AD, as amended by Law No. (46) of 2012 AD regarding commercial banks and the addition of a special chapter on Islamic banking.

the abandonment of the activities of traditional banks and the obligation to convert them to Islamic banks, there must be a law of complete Islamic reference.

**OB2: To illustrate the legislative regulation of external supervision of Islamic banks.**

No matter how many forms and means of oversight, they still have positive and positive effects, provided that they are carried out in accordance with a legal regulation that regulates them well and that it is carried out in coordination between the various oversight bodies. The multiplicity of control bodies is also a result of the results of the separation of powers in the state from the legislative authority and the executive authority. It is not good and appropriate to monitor a financial institution simultaneously and on the same transactions and services more than three supervisory bodies. The legislative authority in Libya has granted the Audit Bureau to carry out its duties in supervising, following up and evaluating the financial performance of Islamic commercial banks in accordance with the laws regulating it. Dozens of years ago with different names and minor modifications to them, and it was not enough to this extent, as the legislative authority established another body to monitor the oversight of institutions and agencies in the state and named it the Anti-Corruption Authority. At the international level, interest in monitoring and follow-up has increased in terms of organization and efficiency, due to the increased interest in accounting departments. Which is the main source of information and to increase the size and activity of Islamic business operations in banks, which calls for the presence of external control bodies, which supervise and follow up on their work, including experts and specialized committees, and that the latter bear the task of monitoring and follow-up and keeping public funds on behalf of the state, and these bodies It has set special conditions for this work and joining it, as it always seeks to select the outstanding graduates from the faculties of law and accounting, in order to ensure that they are at the required level of performing audit and accounting work to the fullest. It is noted from the legal texts regulating the work of the Libyan Audit Bureau that they focused on financial accounts, and on the accounts of commercial banks, that is, they are financial control of the first degree, with clarification and development of some texts of laws regulating and developing them and finding faults and places of deficiencies in them, but his interest was clear in financial and accounting control, that Public institutions, in particular financial and monetary ones, must start financial control over them first, because the issue of defect, fraud and forgery comes from this point of view, which directly affects the performance of their work. Aspects and

documents of non-financial access to financial accounts for this must be taken care of of great importance.

The control process is a cooperative process between the supervisory authority and the bank that monitors it. If the bank's management discovers any financial or administrative violation by any of them, it must inform the Administrative Control Authority of these violations as a matter of urgency to take the necessary legal measures regarding it.

The authority works to follow the accompanying supervision also because of its usefulness, by informing the bank of the observations and inquiries that the authority discovers that do not rise to the level of investigation, but merely alert the management to work on settling them, responding to them and treating them.

The Authority's lack of objection to providing professional and technical advice to the management may exceed the limits of this advice, and that these works are done for a financial fee and open the door to rapprochement, and to turn a blind eye to the original works provided by the Board of Directors.

The legislator also stipulated that the commission should be made of natural persons and not of legal persons, because of the more precise definition of responsibility and obligations in this regard, so that the natural person is more worthy than the legal person to perform this task. .

It should be noted that the oversight work carried out by the authority must be separated from the work of the board's management, and not included in its work and decisions, as the board of directors is an executive tool that implements the recommendations and instructions of the general assembly, and is primarily responsible for its decisions, and that the supervisory body is an oversight tool on the work of the board The board and the bank in general, managers and employees, and each of them has a role assigned to it, as it is considered the appointment of the general assembly for the work of the bank.

Based on the foregoing, we reach a clarification and statement that the supervisory board stipulated in Law No. (23) of 2010 AD regarding commercial activity, its work and competencies were collected in the Sharia Supervisory Board stipulated in Law No. (1) of 2005 and amended by Law No. (46) For the year 2012 on Islamic banking, and we conclude that the role of the Shari'a Supervisory Board has increased in importance above its importance, and that its role did not

depend on Shari'a supervision only, but extended to technical, accounting and legal oversight as well.

It is noted from the texts of the Commercial Activity Law No. (23) of 2010 AD that the submission of the law and the work of the final accounts auditor is linked to the end of the fiscal year, in contrast to what was stated in Law No. (1) of 2005 AD that made the work of the auditor and the legal auditor to submit his report every three months and in the capacity of Periodically, and there is no doubt that his work periodically makes him follow the bank's work on an ongoing basis and submit his report first-hand, which is more accurate, beneficial and beneficial to the bank, provided that this control and the preparation of periodic reports do not obstruct the bank's work to provide its services, as error, fraud and negligence can be detected before the end of the period. The financial year, and it can be corrected and treated before it causes financial and administrative losses to the bank, and preparing periodic reports on the bank's work is one of the control accompanying its work, and it is one of the most important types of control because through it it discovers the places of defects and shortcomings while correcting them, and it completes the provision of the bank's services to its business, i.e. The bank does not stop providing its services and that it remains closely following its plan, which remains with the management with full knowledge of the bank's work, and with certainty that the bank is moving in the right direction, towards achieving profit and avoiding losses, to be Reports of the external auditor, a woman reflecting the work and reality of the bank.

As for the organization of legal accountants and auditors, it is regulated in accordance with Law No. (116) of 1973 A.D. regarding the organization of the accounting and auditing profession, according to which the Accountants and Auditors Syndicate was established to be called the Libyan Accountants and Auditors Syndicate, and it shall have the public legal personality. Therefore, it is not permissible to practice the profession of accounting or auditing in Libya, except for those who were registered in the list of working accountants and auditors, after which he may open an office in his name, with the use of the definition - a chartered accountant - and to be removed from supervision and auditing in his name and under his legal responsibility.

Law No. (116) gave the accountant and legal auditor registered in the table of working Libyan accountants and auditors the right to approve the budgets and accounts of all companies and banks, who are responsible before taxes, appeal committees, and the like from management bodies. The



legal auditor and the accountant registered in the accountants' table. The public and state-funded entities that are subject to the control of the Audit Bureau and the Administrative Control Authority are required to approve the final accounts and conclude the budget for each fiscal year by the external financial auditor and accountant, which is considered the common denominator in all activities within the state, and from His duties are to protect public and private money, and the accountant must be the master of himself and be subject only to the authority of his duty and conscience, and to be familiar with the science of accounting, accounting, financial and commercial sciences and their application in practical life, and the reality of the work of Islamic commercial banks, continuous knowledge and the formation of a scientific culture in the field of accounting and auditing Legal.

### **Recommendations**

1. Provide control widely supervisory authority for improving monitors in Libyan banks.
2. Provide professional and technical to the management, through a financial fee and open the door to rapprochement, between Board of Directors and employees.
3. the authority must be separated from the work of the board's management, and not included in its work and decisions.
4. expanding the research on the legal system for the supervision of Libyan Islamic commercial banks.
5. Attempts to compare between legal system for the supervision of Libyan Islamic commercial banks and Malaysian legal system for the supervision of Malaysian Islamic commercial banks for exploit the Malaysian experience in Islamic commercial banks.
6. addressing the political problem through amendment the legal system of Libyan Commercial Banks.

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