

CENTRAL BANK OF LIBYA

**Banking Law No. (1) of the Year 2005
Amended by law No.(46) of the Year 2012**

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Amended by Law No. (46) of the Year 2012**

**Chapter One
The Central Bank**

**Section One
The Nature and Functions of the Bank**

Article 1

The Central Bank of Libya shall be an autonomous institution; a legal entity with an independent financial liability. In this Chapter, the word (Bank) shall refer to (the Central Bank of Libya).

Except with respect to the application of the provisions of the Penal Code and Law of Administrative Seizure, the assets of the Bank shall be deemed as its own funds, which may not be seized to pay the debts owed to other parties.

Article 2

The Bank shall be under the purview of the Legislative Authority. The Bank shall exercise its functions, and fulfill its purposes, as stipulated in this Law, within the framework of the general policy of the State. In this respect, the Bank may adopt the principles and procedures it deems appropriate. The Bank has the right to set the rules and regulations related to its operations, and its financial, administrative, technical, and other affairs, according to the decisions of the Board of Directors.

Article 3

The Head Office of the Bank shall be in the city of Tripoli. It may establish branches, or have agents or correspondents, inside and outside Libya, according to the decision of the Board of Directors.

Article 4 ^[1]

The authorized capital of the Bank is Libyan Dinar one billion. This amount may be increased by a decision of the Legislative Authority, upon the proposal of the Bank's Board of Directors.

Article 5

I - Within the framework of the general policy of the State, the Bank shall fulfill the following functions:

- 1- Issue the Libyan currency, and maintain its stability inside the country and abroad.
- 2- Manage its reserves and the State reserves of gold and foreign currency.^[2]
- 3- Regulate the monetary policy and oversee the currency conversion operations, inside and outside Libya.^[3]
- 4- Regulate the credit and banking policy and oversee its implementation, in line with the general policy of the State.
- 5- Achieve the goals of the economic policy with respect to the stability of the general level of prices, and the soundness of the banking system.

¹ Amended by Law No. (46) of 2012, issued on May 16, 2012, published in the Official Gazette on 05/07/2012.

² Amended by Law No. (46) of 2012.

³ Amended by Law No. (46) of 2012.

- 6- Manage the monetary liquidity in the national economy.
- 7- Regulate and oversee the foreign exchange market.
- 8- Provide advice to the State in the matters related to the general economic policy.

II - To fulfill the functions provided for in the preceding paragraph, the Bank may:

- 1- Control the amount, type and duration of credit available to ensure that the real needs of the economic activity, namely production and services, are met.
- 2- Adopt the appropriate measures to address the economic or financial disturbances, be they local or international.
- 3- Control and supervise the banks, exchange companies and offices, and financial leasing companies, to ensure the soundness of their financial positions; control the efficiency of their performance, and take the necessary measures to protect the rights of its shareholders, depositors and clients.^[1]
- 4- Oversee the national payments system, including the interbank clearing operations subject to the provisions of this Law, and setting the governing rules in this regard.
- 5- Adopt any other measures required for the implementation of monetary, credit and banking policies, and tight control over bank credit.

Article 6

The Bank may, while fulfilling its tasks, perform the following operations:

- 1- Buy, sell, import, export and deal with gold bullions and coins.
- 2- Buy and sell foreign currencies.
- 3- Re-discount bills and local promissory notes, according to the controls set by the Bank's Board of Directors.
- 4- Manage and increase its own and the State's gold and foreign reserves.^[2]
- 5- Buy and sell the bills and bonds issued or collateralized by the Ministry of Finance, payable in a maximum of fifteen years.
- 6- Buy and sell the bills and bonds issued or collateralized by foreign governments or international financial institutions, payable in a maximum of fifteen years.
- 7- Issue and deal in securities, for the purposes of open market operations, as appropriate for the nature and functions of the Bank.

Article 7

The Bank may discount and re-discount the loans granted by the banks subject to the provisions of this Law. The discount, rediscount and interest rates shall be determined by a decision of the Bank's Board of Directors, according to the nature and maturity of these loans, according to the public policy of money and credit.

Article 8

In the event of financial or any other economic disturbance, that affects the stability of the credit status, or calls for meeting the necessary needs in the financial market, the

¹ Amended by Law No. (46) of 2012.

² Amended by Law No. (46) of 2012.

Bank may offer the banks exceptional loans guaranteed by any of their assets, determined by the Bank's Board of Directors, and under the conditions it sets.

Article 9

The Central Bank of Libya shall provide banking services, according to the following controls:

- 1- The Bank shall carry out the banking business related to the public administrative units, and provide banking services to these units; the public administrative units shall deposit their balances in the Bank. The Bank shall not pay any interest on the amounts and balances deposited in the accounts of the public administrative units, and shall not receive any fees for the banking services rendered to these units.
- 2- The Bank may accept the deposit of the balances of public enterprises and entities; and provide banking services to them. The Bank shall receive a recompense for the banking services it offers, in accordance with the provisions of this paragraph, according to the regulations of banking services, for which a decision is issued by the Bank's Board of Directors.
- 3- Upon the approval of the Ministry of Finance, the Bank may entrust the commercial banks to keep account balances of some public administrative units, and provide banking services to them, within the limits and conditions set by the Board of Directors.

Article 10

The State may entrust the Bank to manage the bills and bonds issued by the Ministry of Finance, and the contracted loans; and undertake the service and amortization of the said debts; manage the government's contributions, and provide advice thereon .

Article 11

I- Without prejudice to the provisions of Articles 7 and 8, and paragraph (2) of this Article, the Bank may not, directly or indirectly, grant facilities or guarantees to any entity whatsoever.

II - The Bank may provide temporary advances to the Ministry of Finance, to cover any temporary deficit in the revenues of the general budget, in accordance with the conditions agreed upon between the Bank and the Ministry of Finance, which should include the following:

- a. These advances may not exceed one fifth of the sum of estimated revenues in the general budget.
- b. The advance shall be repaid at the end of the fiscal year in which the advance has been provided; and no advance may be provided to the Ministry of Finance in a fiscal year unless the advances obtained during the previous fiscal year had been repaid.

Article 12

The State may entrust the Bank with the tasks and duties arising from its membership in the international financial institutions, and with participating in the representation of the State in the communications, negotiations and operations that take place with foreign governments and international organizations, in relation to the monetary, financial or commercial matters.

Article 13

The Bank may buy or lease real estate or movables, if necessary for its offices, warehouses or accommodating its staff. The Bank may not own any other real estate or movables, except in the cases when their ownership shall be transferred to the Bank in fulfillment of a loan. These real estate or movables shall be sold within one year from the date of transfer of ownership, if they are movable, and five years if they are real estate, unless the Board of Directors decides to extend this period.

Section Two Bank Management

Article 14^[1]

The Bank shall be managed by a board of directors, as follows:

The Governor	Chairman
The Deputy Governor	Vice-Chairman
Undersecretary of the Ministry of Finance	Member
Six other members, who hold university degrees in the fields of law, finance, banking, economics, and information technology.	

Article 15

The Governor, Deputy-governor and the other members of the Board of Directors shall:

- 1- be Libyan nationals;
- 2- not have any family affinity, up to the fourth degree, with any of the other members of the Board;
- 3- not be deprived of their civil and political rights;
- 4- not have interests conflicting with their duties or influencing the impartiality of their deliberations and decision-making.

Article 16

I - The Board of Directors shall assume the responsibilities related to the realization of its goals and objectives; shall develop and implement the monetary, credit and banking policies. For this purpose, the Board of Directors may exercise all its competencies, particularly the following:

- 1- Select and determine the tools and instruments of the monetary policy; and formulate the procedures that may be followed to secure implementation.^[2]
- 2- Define the rules to be followed in valuation of the assets that correspond to the Libyan banknotes.^[3]
- 3- Set the rules governing the supervision and control of the banks, the exchange companies and offices, the financial leasing companies, and the investment funds, in accordance with the provisions set forth in this Law; and issue a governance guide in the banking sector.^[4]
- 4- Develop the supervisory criteria and controls to ensure the integrity of the financial positions of the banks and good performance; issue the decisions necessary for their implementation; assess the efforts exerted to secure control of credit provided by the banks; and monitor the implementation of the criteria for credit quality and financial soundness.

¹ Amended by Law No. (46) of 2012.

² Amended by Law No. (46) of 2012.

³ Amended by Law No. (46) of 2012.

⁴ Amended by Law No. (46) of 2012.

- 5- Approve the estimated budget, financial statements and reports prepared by the Bank on its financial position and results of operations.
 - 6- Approve the organizational structure of the Bank. This structure may include units of a special nature with technical, financial and administrative independence, and which are established pursuant to the Governor's decision.
 - 7- Appoint the directors of the executive departments within the Bank, upon the proposal of the Governor.
 - 8- Develop the bylaws on the Bank's operations; its financial, administrative, and technical affairs; the bid and tender regulation; the staff regulation; and other regulations required to realize the purposes stipulated in the Law.
 - 9- Authorize the establishment of banks of all types (commercial and specialized banks, finance and investment banks, Islamic banks, etc.), exchange companies and offices, financial leasing companies, and investment funds; develop controls that regulate the exercise of their activities; and provide samples of their articles of association and statutes.^[1]
- II -** The Board of Directors may commission one or more technical committee(s), comprising its own or other members, to study the issues presented.

Article 17

The Governor and Deputy Governor shall be appointed in accordance with decision of the Legislature, for five years. Same may be re-appointed. The other members, except for the Undersecretary, as stipulated in Article 14 of this Law, shall be appointed, and may be re-appointed, using the same tool, in consultation with the Governor, and for a period of three years.

Article 18

I - The Governor shall be the Bank's Chief Executive Officer (CEO). He shall manage the Bank and govern its ordinary business under the supervision of the Board of Directors. The Governor shall undertake the following tasks:

- 1- Invite the Board of Directors to meet; and undertake the work of the Board's secretariat and the implementation of its decisions.
- 2- Manage, supervise and control the Bank's activities.
- 3- Approve, oversee and direct the investment policies.
- 4- Sign severally on behalf of the Bank.
- 5- Assume the powers of the Bank with respect to its relation with the public entities, the third party, and before the judiciary.
- 6- Appoint or contract with the Bank's staff, and issue decisions for the secondment, delegation, transfer, promotion of staff or acceptance of their resignations.^[2]

II - The Deputy-Governor shall exercise the functions and authorities of the Governor in the absence of the latter. The Governor may commission his Deputy to undertake any of the competencies and authorities delegated to the Governor under the provisions of this Law and the regulations and decisions issued pursuant thereto. This shall include the administrative supervision of the daily work in the departments of the Bank, and

¹ Amended by Law No. (46) of 2012.

² Added by Law No. (46) of 2012.

signing the documents that entail the Bank's financial obligations, as stated in the administrative organization and regulations governing the work of the Bank.

Article 19

Upon the invitation of the Governor, or his Deputy in the absence of the Governor, the Board of Directors shall meet, at the head office of the Bank, at least once every month. The meeting may also be held upon the request of the majority of the members of the Board. The Board's meeting shall not be valid unless it is attended by more than half of the members, including the Governor or his Deputy. The Board's decisions shall be issued by an absolute majority of the number of votes of the present members, and when parity takes place, preponderance shall be to the side of the Chairman. The Board may invite to its meetings whom it deems appropriate from the experienced figures or the employees of the Bank, without having the right to vote. The meeting may be held outside the head office of the Bank, provided that this meeting shall be inside Libya.

Article 20

The Governor, Deputy Governor, and the rest of the members of the Board of Directors shall receive the remunerations determined by the Legislature, which may not be reduced during their terms of membership. These remunerations may not – in full or in part- be in the form of a commission regardless of its type, nor to be estimated on the basis of the profits of the Bank.

Article 21

All members of the Board of Directors shall, within 15 days from the date of their appointment, report the stocks and shares in the other companies, institutions or agencies, and shall report likewise each change in the abovementioned data. None of the members of the Board of Directors may obtain any credit facilities from the Bank during his term of membership.

Article 22

I – The membership in the Board shall be revoked in any of the following cases:

- 1- The member fails to meet one of the conditions of membership;
- 2- The member is sentenced in a crime involving moral turpitude or dishonesty.
- 3- The member works as an employee, a manager or a member of the Board of Directors of one of the banks subject to the provisions of this Law.

II - Pursuant to a decision by the Legislature, it is permissible to relieve a member of the Board from his office before the end of his term, if unable to perform his duties for four consecutive months due to illness or other reasons. If the post of a member is free before the end of his term, for any reason, another member may be assigned to replace him for the remaining period, using the same tool, and through consultation with the Governor.

Section Three Bank Accounts

Article 23

The fiscal year of the Bank shall start and end at the same time as the fiscal year of the State.

Article 24

The Bank shall, immediately after the end of the last day of each month, prepare and publish a statement of the assets and liabilities at the closure of its work at the end of that day, or at the end of the preceding working day, if the last day of the month is a

holiday. The Bank shall send a copy of this statement to the Legislature, and the Premiership. The statement shall be published in the Official Gazette.

Article 25

The State Audit Office shall audit the accounts of the Bank, according to the nature of activity of the central banks, and the established international standards in the fields of auditing and accounting.

Article 26

Within four months from the date of the end of its fiscal year, the Bank shall prepare the following:

- a. The financial statements for the last fiscal year, according to the nature of activity of the central banks, and the international accounting standards.
- b. A report on the financial position of the Bank in the fiscal year that ended, addressing, in particular, the economic conditions and the local and international financial, monetary and banking conditions.

During the aforementioned period, and after being approved by the Board of Directors and the State Audit Office, the financial statements and the report shall be submitted to the Legislature. The financial statements shall be published in the Official Gazette.

Article 27

- a. Book profits and losses arising from the net revaluation of the assets and liabilities of the Bank, resulting from the change in the par value of the Libyan dinar shall be entered in an account, called "Revaluation Reserve Account". These profits and losses shall be recorded in the Bank's profit and loss account unless they are realized.
- b. The losses resulting from revaluation shall be deducted from the permanent balance in the account provided for in the preceding paragraph. Should the balance be insufficient to cover these losses, the Ministry of Finance shall issue, in favor of the Bank, interest-free bonds in the value of the deficit, denominated in local currency.
- c. In case of the existence of a credit balance in the "Revaluation Reserve Account", the Bank, at the end of each fiscal year, in coordination with the Ministry of Finance, shall cover the value of bonds listed in paragraph (b). If this value is covered, the Bank shall keep (25%) of the residual balance. What exceeds this shall be used to extinguish the public debt. In case the public debt is repaid, the residual balance shall be allocated to finance the budget deficit, if any.

Article 28

After deduction of all expenses, and the Bank's contribution in the Social Security of its staff; after allocation of the appropriate amounts to face the bad and doubtful debts; the depreciation of assets, the amounts allocated to reserves; or to address any decline in the value of the assets of the Bank, any other reserves required by the international accounting standards, and other regular and contingency expenses; and after deduction of the share of the Ministry of Finance in the profits arising from the issuance of money, provided for in Article 40 of this Law: the net profit, at the end of the fiscal year, shall be added to the balance of the general reserve of the Bank, as follows:

- 1- All the net profits shall be added to the balance until the general reserve shall amount to one-half of the authorized capital.
- 2- If the general reserve amounts to one-half of the amount of the capital, 25% of the net profits shall be added to the balance until it shall become equal to the authorized capital.
- 3- If the general reserve becomes equal to the amount of the capital, 10% of the net profits shall be added until it shall become double the amount of the authorized capital.
- 4- If the reserve becomes double the amount of the authorized capital, 5% of the net profits shall be added to the balance until the general reserve shall amount to (10% or one tenth) of the total assets of the Bank.
- 5- The residual net profits shall be transferred to the Ministry of Finance.

Article 29

The Bank shall be exempted from all taxes and fees.

Section Four Issuance of Money

Article 30

The Bank alone shall have the prerogative to issue currency in Libya. In the application of the provisions of this section, currency shall mean banknotes and coins. The Board of Directors may regulate and determine the rules and principles of issuing money, and may set its specifications and denominations. Banknotes must bear the signature of the Governor.

Article 31^[1]

The monetary unit in Libya shall be the Libyan dinar. Each Dinar shall be divided into a thousand dirhams. The Board of Directors of the Bank shall set the par value of the Libyan dinar in SDRs, or any convertible foreign currency or according to the supply and demand in the foreign exchange market.

Article 32^[2]

The Bank shall set the exchange rate of the Libyan dinar against foreign currencies. It shall manage the exchange rate according to the domestic and international financial and economic developments in the interest of the national economy.

Article 33

Banknotes issued by the Bank shall have unlimited legal tender. The coins issued shall have a legal tender of payment up to LD 25. However, this currency shall be accepted in all the public treasuries and banks in Libya, whatever its value is.

Article 34

The Board of Directors of the Bank may withdraw from circulation any of the banknotes or coins issued. The Board may invalidate any of the denominations against payment of its face value thereof. In the latter case, an announcement shall be published in the Official Gazette and in local newspapers, at least two months before the date set for its cancellation. The invalidated currency, as well as the currency withdrawn from

¹ Amended by Law No. (46) of 2012.

² Amended by Law No. (46) of 2012.

circulation to be replaced with a new one, if not valid for re-issuance, shall be cancelled and destroyed according to the method defined by the Board of Directors.

Article 35

The Bank shall not be required to pay the value of any lost, burnt, damaged, disfigured or defective banknotes or coins, unless the loss in the currency is a result of the normal circulation thereof.

However, the Board of Directors may define the cases in which the value of the damaged, disfigured or defective banknotes shall be paid, according to the conditions and requirements the Board shall set.

Article 36

The total value of banknotes and coins in circulation shall be against corresponding assets as follows:

- 1- Gold bullions or coins, or convertible foreign currency, or SDRs, the value of which shall not be less than (30%) of the total assets of issuance.
- 2- Treasury notes and bonds, issued by the Ministry of Finance in Libya, where maturity period shall not exceed fifteen years from the date of acquisition by the Bank, and whose value shall not exceed (20%) of the total assets of issuance.
- 3- Securities issued or guaranteed by international financial institutions or foreign governments whose currencies may be retained, in accordance with paragraph (1) of this Article, and which shall be payable within a period that shall not exceed five years from the date of acquisition by the Bank, and whose value shall not be worth more than (50%) of the total assets of issuance. The Board of Directors may decide to retain, within this percent, foreign bonds payable within a period that shall not exceed fifteen years from the date of acquisition by the Bank, provided that the value shall not exceed (10%) of the total assets of issuance.
- 4- Other bonds determined by the Board of Directors of the Central Bank of Libya, issued by international banks and financial institutions, in convertible currencies and tradable in the international financial markets, and whose maturity shall not exceed ten years from the date of acquisition by the Bank.

Article 37

Gold, foreign currency and foreign assets, forming the cover of the issued money, shall be deposited in the Bank's safes, or in any of the authorized banks abroad. Deposit shall be in the name of, and to the credit of, the Central Bank of Libya.

Article 38

The Bank shall have a department for banknote and coin issuance. The accounts and operations of the said department shall be separately and distinctly monitored, apart from the other accounts and operations in the Bank. All the expenses arising from the preparation, issuance, circulation, withdrawal and destruction of the banknotes and coins shall be deducted from the assets of this department.

Article 39

The issuance department may not pay any banknotes or coins to the other departments or branches of the Bank, or to any person, except against payment of value thereof in Libyan currency, or against assets that constitute part of the assets of this department, and in accordance with the terms and conditions determined by the Board of Directors of the Bank.

Article 40

At the end of each fiscal year, the profits arising from the issuance of currency shall be distributed at a rate of (80%) to the Public Treasury, and (20%) to the Bank, after deduction of all the expenses, approved by the two auditors, and the allocation of adequate reserve to cover the decline in the value of the assets. The reserve shall be determined by a decision of the Board of Directors.

Section Five Regulation of Foreign Currency Transactions

Article 41

Without prejudice to the provisions stipulated in Article (42) of this Law, each natural or legal person may retain the foreign exchange he/it owns, holds, or is transferred, and may conduct any foreign exchange transactions, including transfers inside or outside the country.

Article 42

Libyan public entities may not retain foreign exchange, unless this constitutes a return on their activities. In this case, this shall be kept in an account at the Central Bank of Libya, or at one of the locally- operating national banks.

Article 43

The banks operating in Libya may open accounts in foreign exchange for natural and legal persons, fed by:

- 1- Foreign currency deposits.
- 2- Amounts transferred from abroad.
- 3- Amounts transferred from another local account in foreign exchange.
- 4- The equivalent in foreign currency that banks accept to buy from foreign banknotes or the other means of payment in foreign currency credited to the account.^[1]
- 5- The bank interest on the abovementioned accounts.
- 6- Any other legal channels.

Article 44

The accounts set forth in the previous article shall be used for the following purposes:

- 1- Cash payment in foreign currency, either to the account holder owner himself, or to any beneficiary designated by the account holder.
- 2- Transfers in foreign currency, inside or outside Libya, at the request of the account holder.
- 3- Transfers to another account in foreign currency.
- 4- Any other legal purposes.

Article 45

Banks may, upon the request or authorization of the account holder, buy part or all of the account balance in foreign currency, in exchange for any other currency, according to the exchange rates prevailing at the date of purchase, and in accordance with the rules and conditions set by the Central Bank of Libya.

¹ Amended by Law No. (46) of 2012.

Article 46^[1]

Banking activities, exchange business, investment funds, and the financial leasing activities shall be conducted upon the permission of the Central Bank of Libya. The Board of Directors shall set rules to regulations these activities, and grant or cancel licenses for engagement in such activities.

Article 47

Foreign exchange transactions shall be conducted through banks and entities licensed for this purpose by the Central Bank of Libya. Each of these banks and entities shall prepare a periodic statement of the foreign exchange sold or bought; the transfers done; remittances received; the amounts received against the export of goods and services; and the balances denominated in foreign currency at the disposal of these banks or entities. The statement shall be submitted to the Central Bank of Libya, on the dates the Bank shall set.

Article 48

The value of goods and services, inside Libya, shall be paid in Libyan dinars. The equivalent value may be accepted through the banking methods of payment approved by the Central Bank of Libya.

Article 49

The Libyan currency shall not be allowed in or out of Libya except in the cases and under the conditions determined by the Board of Directors, by a virtue of a decision that shall be published in the Official Gazette.

Article 50

Customs officers are entitled to exercise the powers they are entrusted under the Customs Law, regarding the application of the provisions of this section, and the regulations and decisions issued thereto.

Article 51

Debts due to creditors who are non-residents in Libya, and whose value cannot be transferred abroad, for any reason whatsoever, paid in blocked accounts in the names of the creditors, at the accredited banks in Libya, shall be deemed discharge of debts on the part of the debtors, provided that the Central Bank of Libya shall authorize this payment. The Bank shall set the terms and conditions for disposal of these accounts.

Article 52

Transfers and transactions of a capital nature may be made, from and to Libya, in accordance with the terms and conditions set by the Board of Directors of the Central Bank of Libya.

Article 53

Commercial banks, operating in Libya, may extend credit in foreign exchange, with adequate guarantees to restore their value in foreign exchange in due time. Interbank transactions in foreign exchange shall be permitted within the limits of balances banks are allowed to hold, and in accordance with the regulations set by the Board of Directors of the Central Bank of Libya.

¹ Amended by Law No. (46) of 2012.

Article 54

The Central Bank of Libya shall decide on cases related to foreign exchange, not covered by any provisions in this Law, in a manner that shall be consistent with the provisions of this Law.

Section Six

Banking Supervision

Article 55^[1]

I- The following shall be subject to the supervision of the Central Bank of Libya, under the provisions of this Law:

- 1- Commercial and Islamic banks.
- 2- Specialized banks.
- 3- Banks that operate abroad, and whose head office is in Libya.
- 4- The branches of foreign banks in Libya.
- 5- Representative offices of foreign banks in Libya.
- 6- Exchange offices and companies, financial leasing companies, and investment funds.

II- Without prejudice to the agreements concerning the establishment of some banks, all banks operating in Libya shall; by virtue of the provisions of this Law, be subject to the supervision of the Central Bank of Libya.

Article 56

I- The Board of Directors shall, according to the requirements of domestic monetary and credit state and the international banking standards, develop general rules for the control and supervision of the banks and other institutions provided for in the previous article, in order to regulate the following matters:

- 1- The method followed to assess the different types of assets of the entities subject to the control of the Central Bank of Libya. ^[2]
- 2- Determine the types of liquid assets, and the liquidity-to- deposit liabilities ratio to be maintained.
- 3- Areas in which the entities under supervision of the Central Bank of Libya are not allowed to invest their funds. ^[3]
- 4- The provisions that shall be available to cover the assets with values subject to severe fluctuations.
- 5- The ratios to be observed between the value of advances and the lending values of the guarantee, and assignment of the type of guarantee.
- 6- Determine or liberalize the interest rates for all accounts, and the interests on arrears. ^[4]
- 7- The permitted spread between the interest rates and the rediscount rate, set by the Central Bank of Libya, and the discount rates set by the banks to their customers, if the credit documents are eligible for rediscount or obtaining a loan against them.

¹ Amended by Law No. (46) of 2012.

² Amended by Law No. (46) of 2012.

³ Amended by Law No. (46) of 2012.

⁴ Amended by Law No. (46) of 2012.

- 8- The credit policy that banks shall follow with respect to the percentile ranking of credit; means to guide credit, including the identification of credit values and durations, be it for all or any of the banks.^[1]
 - 9- Minimum cash cover required to open letters of credit and issue letters of guarantee, in general or with respect to certain types.
 - 10- The ceilings for investment in securities, real estate finance and credit for consumption purposes.^[2]
 - 11- The terms and conditions according to which irregular loans shall be paid, in addition to setting aside, and exemption from, the interest calculated thereon.
 - 12- Rules required for regulation of the clearing operations between the banks subject to the provisions of this Law, and provision of the necessary facilities for these operations.
- II -** In addition to the rules set forth in the previous paragraph, the Central Bank of Libya shall develop the following:
- 1- Disclosure rules, the data that shall be published, and method of publication.
 - 2- Controls needed to counter money laundering and financing of terrorism operations.
 - 3- Controls and conditions that shall apply to members of the boards of directors and general managers of the banks, the exchange companies, the financial leasing companies, and the investment funds, and the approval of their nominations.^[3]
 - 4- The minimum capital adequacy criterion.
 - 5- Controls for opening accounts and exercise of banking business.
 - 6- Standards sine qua non for classification of regular and irregular bank loans and credit facilities. Each bank shall define the procedures that shall be taken to address irregular loans and credit facilities. In addition, auditors shall be obliged to ensure that the Bank management observes these standards.
 - 7- Assessment and rating of banks, according to the local and international banking standards.
 - 8- Any other monetary, financial and credit issues consistent with the purposes of the Bank, and that shall realize the interest of the national economy.

Article 57

I- All commercial banks shall deposit at the Central Bank of Libya, an interest-free statutory cash reserve, against their deposit liabilities. These reserves shall be paid in Libyan Dinars, unless the Board of Directors of the Central Bank of Libya shall allow the provision of some of the said reserves in the form of other assets.

II - The Board of Directors shall define the forms of deposit liabilities and the ratio of the statutory cash reserve to these liabilities.

III - Every adjustment above the limit determined under the provisions of the preceding paragraph shall be gradually introduced, as much as possible, and shall be

¹ Amended by Law No. (46) of 2012.

² Amended by Law No. (46) of 2012.

³ Amended by Law No. (46) of 2012.

implemented after a period not less than fifteen days from the date of notification of the banks of the said increase.

Article 58

The Board of Directors of the Central Bank of Libya may, at any time, obligate the banks to deposit reserves for any type of deposit liabilities, at a rate that shall exceed that established under the provisions of the previous article. The Bank shall pay interests on the reserves above the abovementioned limit, at a rate that shall not exceed the discount rate in effect on the date of deposit of these reserves.

Article 59

- 1- The required reserves of each bank shall, according to the provisions of the preceding two articles, be calculated on the basis of the deposit liabilities for each bank, each week, at the closure of business on the days designated by the Bank each week. On calculation of the required reserves, the commercial bank and its branches shall be deemed a single unit.
- 2- If the reserves of a bank shall fall below the required reserves, same bank must instantly complete its reserves. The Central Bank of Libya may obligate the said bank to pay an amount to cover the shortfall, at a rate not less than 1/30 of 1% for each day, from the date the Bank sets.
- 3- If a bank fails for a month to complete its reserves in full, the Board of Directors of the Central Bank of Libya may prevent or restrict this bank from the sustained extension of credit and introduction of new investments. The Board may prohibit the said bank from allocating all or part of its profits to pay the shareholders' shares.

Article 60

The Central Bank of Libya shall collect and examine the reports banks dispatch, in accordance with the provisions of this Law. The Bank shall, at the end of the last business day of each month, develop a summary report on their financial positions, and shall publish in the Official Gazette.

Article 61^[1]

The Central Bank of Libya may, at any time, examine the books and documents of the entities under its supervision, the accounts open at the banks, and the related systems and electronic files. The examination shall be conducted at the premises of the concerned bank by the Bank's inspectors, assigned for this purpose. The concerned bank shall submit to the said inspectors all the necessary data and facilities to fulfill their mission. It is prohibitive for inspectors to inform a third party or disclose information about the records, papers or any information related to inspection, except in the legally authorized cases, or when necessary for a judicial investigation.

Article 62

I – Shall the examination of data related to any of the entities under the Bank's supervision reveal that the concerned entity faces financial problems, the Governor shall, according to paragraph (III) of this Article, warn the said entity in writing of the need to adjust its position, within a period that shall not exceed two weeks from the date of receipt of the warning. The Governor may extend this period up to 30 days in total. This is feasible if proven that the concerned entity has started to take measures to address its financial problems, and has already begun to provide the necessary additional financial resources. Shall the set deadline elapse without any success in

¹ Amended by Law No. (46) of 2012.

addressing these financial problems, the Governor may take one or more of the following measures: ^[1]

- 1- Invite the General Assembly to convene, and take the appropriate action.
 - 2- Suspend the General Manager of the bank; refer him to investigation, and assign someone to manage such entity in lieu.
 - 3- Suspend the board of directors and refer to investigation; and appoint a management committee that shall temporarily manage this entity, until the situation is adjusted.
 - 4- Merge the entity with another one, after the approval of the board of directors of the latter.
 - 5- Abolish the license granted to the entity to exercise its activity, and adopt the necessary liquidation procedures.
- II – For the implementation of any of the two measures provided for in items (4) and (5) of the previous paragraph, the said measures shall be approved by the Board of Directors of the Central Bank of Libya.

III - The entity shall be considered subject to financial problems under the provision of this article in any of the following cases: ^[2]

- 1- If assets shall fail to cover their obligations.
- 2- Noticeable decline in its assets or revenues, as a result of practices that are inconsistent with the rules and standards that govern its activity.
- 3- Strong manifestations that the concerned entity shall fail to cover the creditors' requests, or meet its obligations under the normal circumstances.
- 4- Continuous inability to maintain the liquidity and statutory reserves requirements, under the provisions of this Law, for a period of sixty consecutive days, or intermittent ninety days during one year.
- 5- Constant decline in the value of shareholders' rights, or the inability to maintain the allocations that shall be formed.
- 6- Expected financial problems resulting from the integration or merger of the concerned entity.
- 7- Any other case categorized as a financial problem by the Central Bank of Libya.

IV- The actions taken by the Governor, concerning the entities under the control and supervision of the Central Bank of Libya, in accordance with the provisions set forth in this Article, shall replace the measures provided for in Articles (206) and (207) of the Commercial Code. ^[3]

Article 63

The Central Bank of Libya shall prepare a consolidated statement on the credit facilities granted by the commercial banks to each customer. For this procedure to be materialized, the banks shall submit the data required by the Central Bank of Libya, related to the debtors who are granted loans or credits, within the limits and deadlines set by the Board of Directors of the Central Bank of Libya. Any bank may ask the

¹ Amended by Law No. (46) of 2012.

² Amended by Law No. (46) of 2012.

³ Added by Law No. (46) of 2012.

Central Bank of Libya to provide a statement on the position of any customer demanding credit facilities from this bank, in accordance with the terms and conditions established by a decision of the Board of Directors of the Central Bank of Libya.

Article 64

The banks subject to the provisions of this Law shall observe the controls and rules set by the Central Bank of Libya to regulate the clearing operations and matters related to the system of national payments. All the entities that exercise business under the provisions of this Law shall implement the decisions, circulars and instructions issued by the Central Bank of Libya.

Chapter Two Commercial Banks

Section One The Establishment and Supervision of Commercial Banks

Article 65

I - Every company that regularly accepts deposits in current accounts, payable on demand, or in time accounts, and grants loans and credit facilities, and other banking business, in accordance with the provisions set forth in paragraph (II) of this Article shall be deemed a commercial bank.

Specialized banks whose main purpose is to finance and grant credit for specific activities, and where the main activities do not include acceptance of demand deposits shall not be deemed commercial banks. The Board of Directors of the Central Bank of Libya may issue a decision that shall allow the specialized banks to exercise some of the activities of commercial banks, with regard to their beneficiaries.

II - The following shall be considered some of the banking activities of commercial banks:

- 1- Provision of services for payment and collection of checks drawn for or on the customer's account.
- 2- Services related to letters of credit, documents under collection, and letters of guarantee.
- 3- Issuance and management of the instruments of payment, including cash withdrawals, financial transfers, payment and credit cards, traveler's checks, and other.
- 4- Buying and selling of the instruments of monetary market and capital market, to the credit of the bank or its customers.
- 5- Buying and selling debts, whether with or without recourse.
- 6- Financial leasing activities.^[1]
- 7- Foreign exchange transactions in the spot and futures exchange markets.
- 8- Management, coverage, distribution of, and trading in issues of securities.
- 9- Provision of advisory and other services for the investment portfolios, and provision of investment custodian services, including the management and investment of funds for a third party.
- 10- Management and safekeeping of securities and valuables.

¹ Amended by Law No. (46) of 2012.

11- Provision of custodian or financial advisor services.

12- Any other business, related to banking activity, approved by the Central Bank of Libya.

Article 66

I- Each entity under the control and supervision of the Central Bank of Libya shall, before exercise of its activity, obtain a license for that purpose from the Board of Directors of the Central Bank of Libya. This shall replace the authorization provided for in the Commercial Code. The following shall be observed before the license is granted:

- 1- The founders shall submit a request to the Central Bank of Libya, with the documents required by the Bank attached thereof. ^[1]
- 2- Subscription in capital shall be offered only after a preliminary approval from the Central Bank of Libya.
- 3- Granting the license shall not entail a violation of any provision of this Law or other laws and regulations.
- 4- The trade name of the entity that requests a banking license shall not be identical or similar to that of any other entity, to the extent that may create confusion. ^[2]

II – It is prohibited for any entity not licensed to undertake banking, currency exchange, financial leasing, or investment funds activities, in accordance with the provisions of this Law, to use the terms "bank", "exchange", "financial leasing, or "investment funds", and their synonyms, or any expression similar thereto in any language, whether in its own designation, trade domicile, or advertisements. ^[3]

Article 67

I – With the exception of the exchange offices, the entities under the control and supervision by the Central Bank of Libya shall be established in the form of a Libyan joint-stock company. The Board of Directors of the Central bank of Libya shall, by virtue of a decision issued thereof, define the rules governing the threshold of the subscribed capital, the share price, and the limits of share ownership, for the natural and public and private legal persons. The said decision shall also set the amount that shall be paid upon subscription to be not less than three-tenths of the subscribed capital; and the maximum deadline for the full payment of the subscribed capital.

Granting the license to banks to exercise their activities shall not prevent the Central Bank of Libya from fulfilling its mandate with respect to adjustment of the structures of their capitals, and adoption of the necessary corrective actions and measures, including freezing stocks, until they are adjusted. The frozen shares shall not have a voting power in the meetings of the General Assembly. ^[4]

II - Banks operating at the time of the enforcement of this Law shall adjust their positions in accordance with the provisions of the preceding paragraph, within three years from the date the Law came into force. The Board of Directors of the Central Bank of Libya may extend this term for another three years, but only once.

III - The Central Bank of Libya may authorize the establishment of banks with foreign capital, and may authorize foreign banks to contribute to local banks, or to open branches or representative offices in Libya, in accordance with the terms and

¹ Amended by Law No. (46) of 2012.

² Amended by Law No. (46) of 2012.

³ Amended by Law No. (46) of 2012.

⁴ Amended by Law No. (46) of 2012.

conditions set by the Board of Directors of the Central Bank of Libya, provided that the head office of the foreign bank shall enjoy a specific nationality; be subject to the control of a monetary authority in the country where its head office is located; and that the capital allocated for the activity of Libya's branch shall be not less than US\$ 50 million.

Article 68

I - Each of the banks under the control and supervision of the Central Bank of Libya shall be managed by a board of directors, comprising at least nine members. The General Assembly of the Bank shall issue a decision for their appointment and remuneration. The Board of Directors shall choose, from among its members, its Chairman and one or more Vice-Chairman. The statute of the Bank shall define the term of office of the Board of Directors.^[1]

II - The bank shall have a General Manager, appointed by the Board of Directors, upon the recommendation of its Chairman or two of its members.

III -The Chairman and members of the Board of Directors and the General Manager shall enjoy their civil and political rights, hold university degrees, and have at least a five-year experience in the banking sector. The above-mentioned may not serve as members of the board of directors of another local bank, or have been suspended, in accordance with the provisions of Article (119/6) of this Law. The Governor may be excluded from the requirement of holding a university degree, if the candidate has more than a ten-year experience in the banking sector.^[2]

IV - The following persons shall be prohibited from serving as members of the board of any local bank, or from any direct connection with its management:

- 1- One who has been sentenced in a crime of moral turpitude or dishonesty, or has been dismissed or disqualified by a disciplinary or judicial decision.
- 2- One who has declared bankruptcy, has stopped payment, or has entered in a protective reconciliation with his creditors.
- 3- One who has been a member of the board of directors of any bank, or had been directly related to the management of any bank, that was closed down through a judicial procedure, or its license had been cancelled due to violation of the law.

V - The Board of Directors of the Central Bank of Libya shall develop the controls and conditions it deems necessary to implement the provisions set forth in the preceding paragraphs of this Article, in accordance with the required labor standards and rules of governance in the banking sector.^[3]

Article 69

I- The Governor of the Central Bank of Libya shall be notified of the appointments of the members of the Board of Directors and the General Manager of any of the entities under the control and supervision of the Central Bank of Libya, and all the relevant data, within a week at most from the date of issuance of the appointment decision. The Governor may object to the appointment within two weeks from the date of receipt of the notification.^[4]

¹ Amended by Law No. (46) of 2012.

² Amended by Law No. (46) of 2012.

³ Added by Law No. (46) of 2012.

⁴ Amended by Law No. (46) of 2012.

II – Any person appointed as a member of the board of directors or as the general manager of any commercial bank, shall notify the Governor, within one month from the date of his appointment, through a statement about shares and quotas owned in the commercial companies; and same shall report any change in this statement, within one month from the date of the change.

Article 70

- I- Membership in the Board of Directors shall be revoked in the following cases:
- 1- If appointed General Manager of the bank.
 - 2- If one of the conditions of membership, provided for in Article (68/III and IV) of this Law, shall not be fulfilled.
 - 3- In case of death or inability to do the job. ^[1]
 - 4- In case of absence without a legitimate excuse from the Board meetings for three consecutive times or five intermittent times during the same fiscal year.
 - 5- Resignation.

II- If the post of a member becomes vacant, for any of the reasons set forth in the preceding paragraph, the candidate who had obtained the highest number of votes, following the number of votes obtained by the last member who joined the Board, shall occupy this post. If this proves infeasible, the Board of Directors shall delegate a member to replace the former, until the first meeting of the General Assembly, when a decision shall be passed concerning the approval or the appointment of an alternate member. In both cases, the alternate member shall be appointed to complete the remaining term of office. The delegated alternate member shall be subject to the adoption requirement, stipulated in Article (69/I). ^[2]

Article 71

- 1- Commercial banks shall be subject to the supervision and control of the Central Bank of Libya, which shall regulate the interbank relations; shall coordinate their work and follow-up their activities, within the framework of the general policy of the State.
- 2- Without prejudice to the provisions set forth in Articles (69/I) and (78/IV) of this Law, the decisions of the boards of directors of commercial banks, related to the long-term investments and opening or closing of branches, shall be communicated to the Central Bank of Libya, within ten days from the date of issuance. The implementation of these decisions shall be contingent on the approval of the Board of Directors of the Central Bank of Libya.

Article 72

- 1- Natural and legal persons may hold shares in the state-owned banks. The General Assembly of these banks shall comprise shareholders, proportionate to the share in the capital.
- 2- The Board of Directors shall, by virtue of a decision passed thereof, define the remuneration of the staff in a commercial bank.

¹ Amended by Law No. (46) of 2012.

² Amended by Law No. (46) of 2012.

Section Two Duties of Banks

Article 73

Each bank shall maintain a capital reserve. Before the distribution of profits, the bank shall transfer to this reserve not less than 25% of the net profits, until the reserve amounts to one-half of the paid-up capital. The bank shall then transfer an amount equal to 10% of the net profits, until the reserve becomes equal to the capital.

Article 74

Each bank based abroad shall appoint – upon the approval of the Central Bank of Libya – a resident director for its branch/es in Libya, pursuant to a formal document that authorizes the director to receive judicial notifications, requests, declarations and other documents required by the nature of activity; and that shall render the director fully accountable before the Libyan public agencies. An official copy of this document shall be kept at the Central Bank of Libya.

Article 75

Each bank shall always maintain funds in Libya, not less than the total obligations payable in Libya, in addition to an amount equivalent to the paid-up capital of the bank. In the application of this provision, the funds banks keep abroad shall be included in the calculation of funds available in Libya.

Article 76

No bank may distribute dividends, until after deduction of all expenses, including the expenses of establishment and management of the bank, and coverage of losses incurred, and any other expenses that do not correspond to real assets.

Article 77

A commercial bank shall be prohibited from conducting the following operations:

- 1- Wholesale and retail trade, including import and export, or undertake the role of brokers and commercial agents, with the exception of the requirements of financial leasing activities, exercised by the bank under the provisions of Article (65/II/6), or as required by the Islamic banking services, authorized by the Central Bank of Libya, in accordance with the provisions of Article (65/II/12).^[1]
- 2- Acquisition of joint-stock companies' shares in the bank's capital.
- 3- Acquisition of shares of other joint-stock companies, with a value that shall exceed (10%) of the paid-up capital per company. The nominal value of the total shares the bank owns in these companies shall not exceed one-half of its paid-up capital and the capital reserve. Where necessary, the aforementioned thresholds may be increased, upon the approval of the Board of Directors of the Central Bank of Libya. The calculation of these two thresholds shall not include the shares transferred to the bank as a payment of a third party's debt to the bank, provided that the bank shall dispose of these shares within two years from the date of their transfer. The Board of Directors may extend this period for a maximum of two years.
- 4- Enter as a joint-partner in a partnership and the like.
- 5- Acceptance of the shares that comprise the bank's capital as a loan guarantee, or trading in or acquisition of such shares, unless the shares had been transferred to the bank as a payment of a third party's debt, provided that the bank shall sell these shares within one year from the date of their transfer.

¹ Amended by Law No. (46) of 2012.

- 6- Purchase of shares in the capital of any bank operating in Libya, including those based abroad, only with the approval of the Board of Directors of the Central Bank of Libya. ^[1]
- 7- Issuance of bearer notes payable on-demand.

Article 78

It shall be prohibited for any bank to open a credit, or provide a financial guarantee or any other credit facility for the following persons:

- 1- The staff of the bank, if the transaction shall include an obligation whose value exceeds the employee's salary for a two-year period, unless the concerned employee shall provide an adequate guarantee, provided that the transaction shall observe the same conditions that apply to the bank's customers.
- 2- The Board of Directors of the bank, except with the approval of the General Assembly. This prohibition shall apply to all establishments where the board member shall have an interest, such as being a partner, a manager, an agent or guarantor to this establishment. This shall also apply to any person the member shall act as a guarantor for.
- 3- The General Manager of the bank, his deputies and assistants and the branch managers, except with the approval of the Board of Directors.
- 4- Any person where the transaction shall include an obligation on the bank with a value above the ratio set by the Board of Directors of the Central Bank of Libya to its total capital and reserves. The provision of this paragraph shall not apply to the interbank and inter-branch transactions; or to buying of commercial papers, where funds shall be paid abroad for exports from Libya, or advances provided against these papers.

Article 79

I – The Board of Directors of each bank shall, within the framework of the credit policy approved by the Central Bank of Libya, establish the rules regulating the extension of credit, the procedures to be followed to ensure the credit worthiness, the validity of the provided information and data, and the method of monitoring the use of credit for the purposes and areas defined in the credit approval.

II - The party to be offered the credit shall have a good reputation, and shall provide an adequate guarantee, with a feasibility study attached thereof to prove that the expected cash flows of the activity for which credit has been granted shall be adequate to meet the related obligations. A consultant's report shall be prepared for this purpose in accordance with the provisions of Article (83/III) of this Law.

The bank may, whenever the Board of Directors deems necessary, request periodical re-valuation of the guarantees provided to ensure that the said guarantees meet the obligations of the credit granted. The bank may ask the customer to provide additional in-kind guarantees or of any other type the bank may accept.

III- The bank may assign to another person any of its rights; a credit granted to its customer, his personal or in-kind security; or may accept any transfer in its favor, without the need to obtain the consent of the debtor, the customer, the mortgagor or the guarantor, unless there is an agreement that shall stipulate otherwise.

¹ Amended by Law No. (46) of 2012.

Article 80

Each bank shall establish a system for immediate and continuous registration of the positions of its customers who obtain loans and credit facilities from this bank. This system shall be linked to the consolidated database of the Central Bank of Libya. The bank shall submit to the Central bank, within ten days of the end of each month, a statement on the position of every customer who obtains loans or credit facilities, and any changes that occur therein.

Article 81

Every bank must have an internal audit department, reporting directly to the board of directors. The Board shall, by virtue of a decision thereof, appoint the director of this department. The Board shall define the functions of this department, which shall include the following:

- 1- Review and audit the daily operations of the bank.
- 2- Prepare a quarterly report on its activities, to be submitted to the bank's Board of Directors.
- 3- Coordinate between the Management and external auditors.

Article 82

The Central Bank of Libya shall, in coordination with the relevant agencies, prepare a register of the audit firms, capable of auditing and examining the banks' accounts; and another register of the consulting firms and offices, capable of valuation of real estate and other assets provided to the banks as a guarantee for the finance, loans and facilities granted. The Central Bank of Libya shall establish the rules, conditions and procedures for registration in the two registers.

Article 83

I - Each entity, under the control and supervision of the Central Bank of Libya, shall assign two chartered auditors to annually audit its accounts. The related General assembly shall choose the said auditors from those enrolled in the register provided for in the preceding article, for a period of two years, renewable only once. The assignment decision shall be effective only after the Governor's approval, according to the provision provided for in Article (69/ I). Each auditor shall not:⁽¹⁾

- 1- Be a member of the Board of Directors, an employee, an agent, or has obtained a loan or facility, with or without a guarantee.
- 2- Be family-related, until the fourth degree, to any of the members of the Board of Directors, or the other external auditor of the Bank.

II – The two auditors provided for in the preceding paragraph shall, each separately:

- 1- Prepare a report on the annual financial statements of the bank. The report shall include the means followed to validate the existence of the assets; methods of asset valuation; estimation of existing commitments; and compliance of the transactions, each audited, with the provisions of the law.
- 2- Prepare a semi-annual report on monitoring the bank's financial and administrative performance, and conformity with the local and international banking standards.
- 3- Send a copy of the two reports mentioned in the two previous items to the Central Bank of Libya, within the period set by the Governor.

Without prejudice to the penalties set forth in Articles (109/2), and (112) of this Law, each of the two chartered auditors shall be accountable any deficiency in any of the

¹ Amended by Law No. (46) of 2012.

two reports presented. In this case, the Central Bank of Libya may remove the auditor from the register provided for in the preceding article.

III - Each bank shall entrust a consulting firm or office to evaluate the real estate and other asset presented to the bank, to guarantee the finance, loans and facilities extended. The consulting firm or office shall be enrolled in the register provided for in the previous article. No employee in the firm or office may have obtained a loan or facility, with or without a guarantee. Without prejudice to the penalties set forth in Articles (109/2), and (112) of this Law, the valuation office or consulting firm and its director shall be accountable for any deficiency in the valuation report submitted to the Bank. In this case, the Central Bank of Libya may remove the valuation office or consulting firm from the register provided for in the preceding article.^[1]

IV - Each bank shall establish, within its administrative structure, an administrative unit, called "Compliance Unit", which reports directly to the Board of Directors, and shall undertake the following functions:

- a) Monitor the supervisory instructions issued by the Central Bank of Libya, and verify the compliance of the bank's departments and branches with these instructions.
- b) Monitor the bank's compliance with and observance of the standards that govern the daily banking activities, paramount among which:
 - 1- Capital adequacy.
 - 2- Maintain the statutory liquidity.
 - 3- Maintain the statutory reserves.
 - 4- International banking supervision standards.
- c) Prepare a periodical report on the Department's activity, to be submitted to the Board of Directors.
- d) Any other business the Board of Directors shall assign to the Department.

Article 84^[2]

Each entity, under the control and supervision by the Central Bank of Libya, shall display throughout the year, in a visible place at its headquarters and all its branches, a copy of its latest and audited financial statements. The said statements shall be published in the Official Gazette and a local newspaper, and on its electronic website on the internet.

Article 85

I- Each bank shall submit the following to the Central Bank of Libya:

- 1- Monthly data on its financial position, within a period that shall not exceed fifteen days from the end of each month, and according to the forms developed by the Central Bank of Libya.
- 2- Monthly data that include details of the advances or financial credits the bank had extended, with or without guarantee, to the company or companies in which the bank or any member of its Board of Directors has an interest, such as being a member of the Board of Directors, a manager, an agent or a guarantor of this company or companies.
- 3- A copy of its latest and audited financial statements, within four months from the end of its fiscal year.

¹ Amended by Law No. (46) of 2012.

² Amended by Law No. (46) of 2012.

- 4- A copy of each report submitted to the shareholders on the bank activities, within a maximum of five days as of the date of its submission; and a copy of the minutes of each meeting of the General Assembly of shareholders, within fifteen days from the date of the meeting of the Assembly.
- 5- A statement of each change in the members of the Board of Directors, within fifteen days from the date of its occurrence.
- 6- Any other data or clarifications on the transactions the bank shall undertake, according to the form and timeframe the Central Bank of Libya shall set.

II -The Governor of the Central Bank of Libya may issue, within one month from the date of receipt of the financial statements, and the report provided for in item (4) of the preceding paragraph, a decision for not to approve the proposed dividends to the shareholders, in case of a shortfall in appropriations; a decline in capital adequacy standard below the minimum threshold; or any reservation embedded in the report of the auditors, that shall have an impact on the distributable profits.

Article 86^[1]

Shareholders who hold at least one tenth of the total shares in the capital of any of the banks, under the control and supervision of the Central Bank of Libya, or the depositors with deposits not less than one tenth of the total deposits held by the bank, may ask the Central Bank of Libya to inspect and audit the bank's activities. The Central Bank of Libya may delegate one or more employees to conduct the required inspection and auditing. The staff of the concerned bank shall provide the inspectors with the books, accounts, data and documents they require, and provide the required information and data, at the headquarters of the bank. The entrusted inspector shall, immediately upon completion of his mission, submit a report to the Governor on the outcomes of the said mission. If the Governor observes something that shall comprise the rights of the shareholders or the depositors, he may adopt any of the procedures provided for in Article (62/I/ 2 and 3) of this Law, with the application of the provision set forth in paragraph (IV) of the above-mentioned Article.

Article 87

A bank may merge with another bank only after the approval of the Board of Directors of the Central Bank of Libya. The Governor shall, by virtue of a decision issued thereof, define the procedures to be followed in this case.

Article 88

A bank may cease its operations only upon a prior permission from the Board of Directors of the Central Bank of Libya. This permission shall be issued after validation that the bank has fully fulfilled its obligation towards the depositors and other creditors, in accordance with the terms and conditions set by the Central Bank of Libya.

Article 89

I - The license granted to the bank to exercise its activity may be cancelled, in any of the following cases:

- 1- In case of violation of the provisions of the law or the regulations issued for implementation of these provisions. If the bank has not undertaken to eliminate the violation, within the period and conditions the Central Bank of Libya has set.
- 2- In case the license has been granted based on erroneous data provided by the bank.

¹ Amended by Law No. (46) of 2012.

- 3- In case the bank follows a policy detrimental to the interests of the depositors or shareholders.
- 4- In case the bank ceases to function.
- 5- In case the bank declares bankruptcy or a decision of liquidation has been passed.
- 6- In case the bank shall merge with another bank.

II- The license shall be abolished by virtue of a decision by the Board of Directors of the Central Bank of Libya, upon the recommendation of the Governor. In the cases stated in items (1, 2, 3 and 4) of the preceding paragraph, this decision shall be issued after the bank has been notified by means of a registered letter, so that the bank may present its defense in writing, within two weeks from the date of notification.

Article 90

Consequent to the decision to abolish the license, the bank shall cease to function. In this case, the Board of Directors of the Central Bank of Libya may decide to liquidate the bank's activities immediately, and authorize the bank to undertake the operations existing at the time of abolishment, in accordance with the terms and conditions set by the Board.

Article 91

I- A fund designated (Depositors' Guarantee Fund) shall be formed, to ensure the security of deposits held in the banks operating in Libya. This Fund shall be a legal entity with an independent financial liability. The membership shall include all the operating banks that accept deposits. The Fund shall be under the supervision of the Central Bank of Libya, and shall be based in the city of Tripoli.

II – The Premiership shall issue a decision concerning the statute of the Fund, upon the proposal of the Board of Directors of the Central Bank of Libya. The statute shall particularly include the following:

- 1- The purposes of the Fund and means to realize these purposes; and regulating the relation between the Fund and its member banks.
- 2- Financial resources of the Fund, including membership subscription, annual subscriptions of the member banks, and the rules and channels of disbursement.
- 3- The system of work in the Fund, and the formation and mandate of the Board of Directors.
- 4- Scope of deposit guarantee, and setting the maximum ceiling of guarantee.
- 5- Auditing system with respect to the Fund accounts.

III - The surplus shall be carried forward from one fiscal year to the next.

IV- The Governor of the Central Bank of Libya may, upon the proposal of the Board of Directors of the Fund, take any of the following actions, in case one of the member banks in the Fund violates the provisions of the statute or the decisions issued to implement these provisions:

- 1- Issue a warning against the bank in violation.
- 2- Impose a penalty that shall not exceed 5% of the value of the annual subscription due on the bank during the year in which the violation occurred. The penalty shall maximally amount to 10% if the bank commits another violation within two years from the date of the previous violation. The amounts of the imposed penalties shall, pursuant to the provisions of this Article, be added to the Fund's resources.

Article 92

A federation may be established for banks subject to the provisions of this Law. The Board of Directors of the Central Bank of Libya shall issue a decision concerning the establishment and statute of the Federation, to be published in the Code of Procedures.

Section Three

General Provisions

Article 93

Depositors shall not be restricted from disposition of their account balances at the banks subject to the provisions of this Law, according to the terms agreed upon on opening these accounts. The aforementioned balances may not be compromised or seized except through a judicial or administrative seizure. The interests paid on savings balances shall be exempt from all taxes and fees.

Article 94

Banks shall keep their customers' accounts, balances and all banking transactions confidential. No one may examine, disclose information or provide data on the abovementioned to a third party, except through the written permission of the account holder or a competent judicial authority.

Article 95

The chairmen and members of the boards of directors, bank managers and employees shall be prohibited from provision or disclosure of any information or data about the customers, their bank accounts or balances, or from enabling a third party to examine the said information or data in other than the cases permitted under the provisions of this law. The prohibition shall apply to anyone shall, directly or indirectly, examine such data and information by virtue of his profession, position or work.

Article 96

The provisions of the two previous articles shall not be prejudice to the following:

- 1- The duties bank auditors are legally entrusted to undertake; and the mandate of the Central Bank of Libya as defined by law.
- 2- The bank's commitment to issue, upon a claimant's request, a certificate about the reasons for refusal of disbursement of a check.
- 3- The bank's right to disclose all or some of the data concerning the customer's transactions, to establish its right in case of a legal dispute that shall arise between the bank and its customer with respect to these transactions.
- 4- Actions taken concerning the returned checks, and measures taken to counter money laundering and financing of terrorism.

Article 97

- 1- The provisions of the Civil and Commercial Codes shall apply to banks, in a manner that shall not contradict with the provisions of this Law.
- 2- Electronic documents and signatures, in the context of banking transactions and other transactions related thereof, shall be honored and deemed valid in substantiating the data contained therein.

- 3- Computer outputs, related to banking transactions, shall be deemed, as stipulated in the preceding paragraph, equivalent to the legal books stipulated in the Commercial Law and its complementary laws. Banks may retain, for the period prescribed by the Law, miniature copies on hard, floppy and compact disks, or other modern technology devices with respect of data or information storage, instead of the original books, records, statements, documents, correspondences, telegrams, notices, and other papers related to its activities. These mini-copies shall be as valid as the original for evidentiary purposes.

Article 98

Decisions issued to grant or revoke a license to a bank to exercise its activity, or to approve its merger, shall be published in the Official Gazette.

Article 99

With the exception of the provisions prescribed under the Law on Official Holidays, the Governor of the Central Bank of Libya may determine the days when banks shall be closed, and the working hours during which banks shall be open to the public.

Article 100

Without prejudice to the period stipulated in Article (67/II), banks operating at the time this Law shall come into force shall adjust their positions, and modify their bylaws, in accordance with the provisions stipulated in this Law, within a period that shall not exceed one year from the date of its implementation.

Section Four⁽¹⁾

Special Provisions on Islamic Banking

Article 100 bis (1)

In the application of the provisions of this section, the following expressions shall bear the meanings attached thereof, unless the context shall indicate otherwise:

I - Islamic Bank: the bank where the articles of incorporation and statute shall include a commitment to undertake Islamic banking activities, with respect to acceptance of depositors' money; areas of sales, finance and investment; or the provision of other banking services, so as to realize an economic and social added value, as approved by Central Sharia Supervision Authority.

II- Islamic banking: Provision of banking services, and the practice of finance and investment activities, according to the forms of banking transactions, consistent with the provisions of Islamic Sharia.

III- Central Sharia Supervision Authority: The Authority formed at the Central Bank of Libya, according to the provisions stipulated in Article 100 bis(6) .

⁽¹⁾ The provisions of this Law, added by virtue of the preceding article of this Law, shall apply to the branches and windows the banks are licensed to open, to undertake the Islamic banking activities, before implementation of the provisions of this Law. The concerned banks shall adjust the position of their branches and windows in consistency with the provisions of the said Law, maximum by the end of the 2012 fiscal year. Until the issuance of the law on Islamic banking, the provisions of the Banking Law shall apply to the Islamic banks' activities, provided that the Section on Islamic Banking, added by virtue of Article 3 of this Law, shall entail no provision in this respect. It is conditioned that the provisions shall not contradict with the type of activities, and the related operations and transactions.

IV- Sharia Supervisory Board: The Board designated by the General Assembly of the bank with Islamic banking activities, in accordance with the provisions set forth in Article 100 bis (7).

V- Sharia-compliant Audit Department: The Department, reporting to the bank's Board of Directors, assigned to conduct a Sharia- compliant auditing of the daily banking activities, according to the established international standards with respect to the audit of Islamic banks' accounts.

VI- Islamic Banking Branches: Bank branches approved by a conventional bank, to undertake the Islamic banking activities, provided that these branches shall have financial positions independent from that of the parent bank. These branches shall be under the purview of a special department for Islamic banking.

VII- Islamic Banking Windows: The windows approved by a conventional bank, to provide Islamic banking services and funding at its branches, through separate offices, provided that these windows shall technically report to the Islamic Banking Department.

Article 100 bis (2)

I- The establishment of Islamic banks shall be subject to the terms, regulations and conditions set forth in Articles (66), (67), (68), (69), (70), (71) and (72) of this Law.

II- The Board of Directors of the Central Bank of Libya shall provide a model contract for the establishment of an Islamic bank, and another form for its statute, upon the suggestions of the Central Sharia Supervision Authority. Each form shall include the following, in particular:

- 1- The bank shall undertake Islamic banking activities, as set forth in the provisions of this section, and the regulations, decisions, circulars and instructions issued thereupon.
- 2- The investment account holders, who hold stable accounts in the Islamic bank, for a period of not less than three years, are entitled to attend the meetings of the General Assembly, as observers. Same holders shall have the right to choose a member, from their group, to represent them in the Board of Directors of the Islamic bank.

Article 100 bis (3)

Banks licensed to undertake Islamic banking activities may conduct the following banking operations, according to the controls, limits and conditions determined by the Board of Directors of the Central Bank of Libya, based on the propositions of the Central Sharia Supervision:

- 1- Acceptance of the money of customers, in current accounts.
- 2- Acceptance of the money of investors, in joint investment accounts, be they absolute or earmarked.
- 3- Exercise the banking activities, stipulated in Article (65/II) of this Law, consistent with the provisions of the Islamic Sharia, whether for the interest of the Islamic bank, a third party, or in conjunction with that party.
- 4- Financing of economic activities, provided these activities shall be Sharia-compliant, using Sharia-compliant contracts, such as Modarba, Musharakah, Murabah sale, Salam sale, Istisna', operating ejara, and ejara ending with ownership, and other forms of complementary contracts. These shall be suggested

by the Sharia Supervisory Boards in banks and approved by the Central Sharia Supervision Authority.

- 5- Utilization of the customers' money in joint investment accounts with the resources of the Islamic bank, according to the joint Modarba system; or in an earmarked investment account, based on a special agreement with the customer.
- 6- Exercise direct or financial investment activities, in the interest of the Islamic bank, a third party, or in conjunction, including acquisition of movables; conclusion of Musharakah contracts; establishment of companies that undertake or contribute to various aspects of economic activity.
- 7- Exercise any other Islamic banking activities, approved by the Board of Directors of the Central Bank of Libya, on the proposal of the Central Sharia Supervision Authority.

Article 100 bis (4)

It shall be prohibited for Islamic banks to exercise the banking activities and services non-compliant with the provisions of Islamic Sharia, including:

- 1- Interests on loans, received or paid in all cases of lending, borrowing or deposit, including any fee paid by the borrower without an offset service that shall entail a value-based effort, according to the opinion of the Sharia Supervisory Board.
- 2- Sale interests, in the exchange transactions executed within a given period, in addition to the interests related to similar transactions.
- 3- Any acts or transactions prohibited by Sharia, pursuant to the decisions of the Central Sharia Supervision Authority.

Article 100 bis (5)

I- Islamic banking activities shall be subject to the banking supervision provisions, stipulated in this Law, provided that these activities shall be consistent with the provisions set forth in this section, and the nature of these activities. The established standards shall be observed with respect to banking supervision. Banks licensed to exercise these activities shall be subject to the obligation stipulated in this Law, concerning the submission of financial statements to the Central Bank of Libya, to be adjusted in line with the established standards regarding the audit of Islamic bank accounts.

II- The Board of Directors of the Central Bank of Libya shall develop the controls regulating the work of the banks licensed to undertake Islamic banking activities, including:

- 1- Rules governing the ratios of statutory cash reserve, liquidity and capital adequacy, and the concentration of investments.
- 2- Rules to be followed for calculation of appropriations to address asset risks.
- 3- Standards for auditing of final accounts.
- 4- Necessary norms, standards, controls and mechanisms to transform the conventional bank into an Islamic bank, or to open branches and windows for Islamic banking activities.
- 5- Terms and conditions to be followed concerning the bank's relation with its customers and shareholders.

III- The Central Bank of Libya may set, for banks licensed to exercise Islamic banking activities, maximum limits in the following areas:

- 1- Value of transactions related to a particular activity.
- 2- Capital contribution in the companies that the bank shall establish, or shall own shares in their capital, or the percent of its share in each project, for at least twice the percent provided for in Article (77/3) of this Law.
- 3- Commitment of each individual customer towards the bank.
- 4- Funds that can be invested abroad, compared with the total bank investments.
- 5- Any other limits the bank shall deem necessary to regulate Islamic banking activities.

IV- The Central Bank of Libya shall secure, for the banks licensed to undertake Islamic banking activities, the use of the financial instruments in line with the nature of their activities, so as to provide equal opportunities for these and other banks. The Bank shall, through investment of the funds of these banks, observe the rules, controls and standards governing the activities of Islamic banking.

Article 100 bis (6)

The Central Bank of Libya shall have a Central Sharia Supervision Authority, whose members shall be not less than five specialists in the field Sharia and jurisprudence of transactions, in addition to three other members specialized in the fields of law, economics and banking. The Board of Directors shall issue a decision concerning the formation of the Authority; definition of its mission and mandate; the appointment of its members, and the determination of their remunerations. The decisions of the Central Sharia Supervision Authority shall be binding for the Sharia supervisory boards in the banks and establishments working in the field of Islamic banking and Islamic finance.

Article 100 bis (7)

Each bank exercising the activities of Islamic banking shall have a Sharia supervisory board, with at least three members specialized in the disciplines of Sharia, law, and Islamic banks; and experienced in the jurisprudence of transactions. The General Assembly of the concerned bank shall issue a decision concerning their appointment and remunerations, for a three-year term. The members may be re-appointed. For the Sharia Supervisory Board, the following shall be observed:

I- Members of the Board shall be appointed from those enrolled in the register of auditors of the Central Bank of Libya, which shall be prepared by virtue of a decision issued by the Governor, based on the recommendation of the Central Sharia Supervision Authority. Same decision shall define the rules, procedures and conditions of registration.

II- The provision stipulated in Article (96/I) of this Law shall apply to the appointment and approval of selection of the members of the Sharia Supervisory Board. It shall be prohibited for the member to be an employee in another local bank, or member of the board of directors, or in its Sharia Supervisory Board. The Central Bank of Libya may – in the cases where it deems appropriate – allow membership in more than one Sharia supervisory board.

III- The Sharia Supervisory Board shall, as stipulated in the statute of the concerned bank, undertake the following tasks and functions provided by the Statute of the bank, provided these tasks shall include, *inter alia*:

- 1- Monitor the work and activities of the bank, to ensure compliance with the provisions of Islamic Sharia.
- 2- Audit the bank's balance sheets and final accounts, and dividend ratios; and validate the integrity of its performance, in accordance with the standards adopted by the Central Sharia Supervision Authority.
- 3- Approve the forms of the necessary contracts for the activities and work of the Islamic bank.
- 4- Any other tasks assigned by the Central Bank of Libya, upon the proposal of the Central Sharia Supervision Authority.

Article 100 bis (8)

In addition to the obligations provided for in Article (83) of this Law, concerning the auditors, and the Compliance Unit, each bank engaging in Islamic banking activities shall have the following:

- I- A Sharia-compliant Audit Department, directly reporting to the Board of Directors of the bank. The Board of Directors shall issue a decision concerning the appointment of the director of this Department, upon a proposal from its chairman or two of its members. The Board of Directors shall define the functions of this Department, which shall include the following:
 - 1- Sharia-compliant audit of the daily bank activities, according to the established international standards regarding the audit of Islamic banking operations.
 - 2- Preparation of a quarterly report on its work, and submission of the report to the Board of Directors, with the referral of a copy of the report to the Sharia Supervisory Board.
 - 3- Coordination between the Management of the concerned bank on one hand and each of the Sharia Supervisory Board and the external auditors on the other hand.
- II- Islamic Banking Department that shall report to the general manager of the bank, and shall include administrative divisions and units, and functions required to provide certified Islamic banking services, financing and products. This Department shall be entrusted with the execution of all the activities of Islamic banking, and coordination with other departments, to ensure the independence and development of the Islamic banking business.

Article 100 bis (9)

- I- Islamic banking activities shall not be governed by any provision set forth in the applicable laws that may contradict with the nature or requirements of these activities.
- II- The exception set forth in the preceding paragraph shall include the following issues:
 - 1- The minimum capital of the Islamic bank.
 - 2- The minimum amount allocated for investment in Islamic banking activities, at the banks licensed to engage in these activities, through branches or windows.
 - 3- The prohibited activities for the banks.
 - 4- Taxes payable on the registration of property contracts and business contracts concluded by the bank, for the purpose of trading, in the field of Islamic banking.
 - 5- The scope of the Islamic banks' membership in the Depositors' Guarantee Fund, stipulated in Article 91 of this Law, shall be restricted to the demand deposits these banks shall hold, provided that the utilization of the Fund for the subscriptions of

Islamic banks shall be conducted separately, and in the Sharia-compliant channels.

A special fund shall be established for the finance and investment transactions, to guarantee the risks of infringement and negligence, with the possibility of establishing other funds and instruments compatible with the nature of Islamic banking activities, such as the Endowment Fund allocated to *qard hasan* loan; Zakat Fund for on the return of Islamic banking activities, liquidity management and other tools, upon the suggestion of the Central Sharia Supervision Authority.

- 6- Any other matters required by the nature of Islamic banking activities, and determined by the Board of Directors of the Central Bank of Libya, on the proposal of the Central Sharia Supervision Authority.

Chapter Three Penalties

Article 101

I- Without prejudice to any more severe penalty provided for in the Penal Code or in any other law, the crimes stated in the following articles shall be penalized as provided therein.

II- The Board of Directors of the Central Bank of Libya shall impose the penalties stipulated in Articles (102), (104), (106), (107), (108), (109), (110), (111) and (114) of this Law.^[1]

Article 102

Each entity or bank in violation of the provisions of Article (42) of this Law shall be penalized by a fine of not less than five thousand dinars and not to exceed twenty thousand dinars, in addition to the closure of the account in violation. The penalty shall be doubled in the event of recurrence.

Article 103

Whoever violates the provisions of Article (49) of this Law shall be penalized by a fine equivalent to double the amounts on account of which the criminal action has been filed. The penalty shall be doubled in the event of recurrence. In all cases, the amounts under legal action shall be confiscated; and if not seized, an additional fine shall be imposed equivalent to the value of these amounts.

Article 104

A bank that fails to implement the decisions issued by the Central Bank of Libya, pursuant to the banking supervision provisions, set forth in Article (56), or violates the provisions of Articles (58) and (59) of this Law shall be penalized by a fine of not less than ten thousand dinars and not to exceed one hundred thousand dinars. The bank in violation shall be obliged to eliminate the violation.

Article 105

I- Any person who violates the provisions set forth in the following items, with respect to the condition of authorization or licensing, shall be penalized as indicated therein:

- a. A violation of the provisions of Article (46) of this Law shall be penalized by a fine of no less than five thousand dinars.

¹ Amended by Law No. (46) of 2012.

- b. A violation of the provisions of Article (47) of this Law shall be penalized by a fine of no less than ten thousand dinars.
- c. A violation of the provisions of Article (66) of this Law shall be penalized by a fine of no less than fifty thousand dinars.

II- The penalty shall be doubled in the event of recurrence. In all cases, the court shall decide the publication of a summary of the conviction in one or more local newspapers, at the expense of the convicted party.

Article 106

Any bank in violation of the provisions of any of the Articles (73), (75), (76) and (77) of this Law, shall be penalized by a fine of not less than twenty thousand dinars, and not to exceed one hundred thousand dinars.

Article 107

Failure to submit the data stated in Articles (47) and (85/I) of this Law, on the deadlines set therein or the deadlines set by the Central Bank of Libya, shall be penalized by a fine of not less than one thousand dinars, and not to exceed ten thousand dinars.

Same penalty shall apply in case of refraining from providing books, records, documents and papers to the staff of the Central Bank of Libya assigned for the purpose of inspection and examination, without prejudice to the requirement of submission of these documents.

Article 108

Any bank that violates the provisions of any of the Articles (81) and (83/I, III and IV) of this Law, shall be penalized by a fine of not less than ten thousand dinars and not more than fifty thousand dinars.

Article 109

- 1- Any person who fabricates, with the intent of fraud, incorrect facts or conceals some papers or facts in the statements, minutes, or other papers submitted to the Central Bank of Libya, or its representatives, shall, according to the provisions of this Law, be penalized by a fine of not less than one thousand dinars, and not more than five thousand dinars.
- 2- The penalty shall be doubled in the event of recurrence, or in case the act is committed by the chartered auditor or valuation expert, stipulated in Article 83 of this Law.

Article 110

Any person who violates the provisions of Article (95) of this Law shall be penalized by a fine of not less than one thousand dinars, and not more than ten thousand dinars. The penalty shall be doubled in the event of recurrence.

Article 111

Any bank that fails to apply the provisions of Article (100) of this Law shall be penalized by a fine of not less than ten thousand dinars, and not more than fifty thousand dinars. The penalty shall be doubled if the bank does not adjust its position eighteen months from the date on which this Law enters into force. If the violation persists for two years from the date the Law enters into force, the provisions of Article (89 /I) of the Law shall apply to the bank.

Article 112^[1]

Any chartered auditor who violates the obligations stipulated in Article (83/II), or does not observe professional rules in his report, shall be penalized by a period not less than six month imprisonment , and a fine that shall not exceed fifty thousand dinars, or by one of these penalties.

Same penalty shall apply to any real estate valuation expert who violates the provisions of Article (83/III), or who does not observe the required precision in his report.

Article 113

I- Any person who presents to any bank forged, or fake documents or papers with incorrect data, with the intent to obtain a loan or credit facility, shall be penalized by a fine of not less than ten thousand dinars.

II- Same penalty shall apply, with a 50-percent increase in the limits of the penalty, to any banker or valuation expert who helps in or facilitates obtaining a loan or credit facility, in violation to the established conditions and controls in this respect. The penalty of the employee or the expert shall be doubled if the intent is to obtain a return of any type, or in the event of recurrence.

III- The penalty set forth in the preceding two paragraphs shall not compromise the penalties stipulated in the Penal Code or in any other law.

Article 114

Any person who violates any of the other obligation or prohibition provisions, enshrined in this Law and the regulations and decisions issued in implementation thereof, shall be penalized by a fine of not less than one thousand dinars, and not more than five thousand dinars.

Article 115

In cases where the crime is attributed to the bank, the person responsible for the actual management of the bank shall face the same penalty prescribed for this crime, if proven that he was knowledgeable of the crime and took no action to prevent its occurrence. In case the violation was through a bank's branch, the branch manager shall be accountable.

The bank shall jointly be responsible for the payment of the adjudicated financial penalties or damages if the crime is committed by one of its employees, in the name of or on behalf of the bank.

Article 116

By virtue of the provisions of Article (50) of this Law, the employees of the Central Bank of Libya , designated pursuant to the decision of the Governor, shall have the right to act as law enforcement officers, for the crimes committed in violation of the provisions of this Law and the regulations and decisions issued pursuant thereto.

As such, these employees shall have the right to have access to the records and accounts receivable, other documents and papers, and electronic systems. Same employees must maintain the confidentiality of the information or data they examine; or the data or information acquired during fulfillment of their mission.

¹ Amended by Law No. (46) of 2012.

Article 117

I- No criminal action may be filed, or any investigative measure be taken without the permission of the Governor, in the crimes attributed to the employees of the Central Bank of Libya, with respect to the performance of their functions.

II- No criminal action may be filed, or any investigative measure be taken, in the crimes stipulated in this Law, except at the request of the Governor, without prejudice to the enquiry procedures of the customs authorities, in accordance with the provision stipulated in Article 50 of this Law.^[1]

III- The Governor may resort to reconciliation in the crimes referred to in the preceding paragraph, at any stage of the lawsuit, before a final and irrevocable ruling is ruled, provided that the claims of the bank are fully paid, according to the terms of the reconciliation process.

IV- The reconciliation, provided for in the preceding paragraph, shall be documented in a certified process-verbal signed by its parties, and shall have the force of a writ of execution. The investigation authorities or the competent court shall be notified of this settlement. This reconciliation shall be considered as a waiver of the claim, and shall result in the termination of the legal action of the case under settlement.

Article 118

Financial rewards may be granted to anyone who guides, facilitates or helps in the detection or seizure of any of the crimes stipulated in this Law, within the limits and in accordance with the conditions established by virtue of a decision issued by the Board of Directors of the Central Bank of Libya.

Article 119

Without prejudice to the penalties provided for in this Law or any other law, and the procedures that may be taken according to Article (62), the Governor of the Central Bank of Libya may, when proven that one of the banks or entities set forth in Article (55) is in violation of any of the provisions of this law or the regulations or decisions issued pursuant thereto, take any of the following actions:

- 1- Issue a notice.
- 2- Issue a warning.
- 3- Reduce or suspend the credit facilities for the bank in violation.
- 4- Demand the chairman of the Board of Directors of the bank in violation to invite the Board to convene and consider the violations attributed to the bank, and take the necessary actions to eliminate these violations. In this case, one or more representatives of the Central Bank of Libya shall attend the meeting of the Board of Directors.
- 5- Appoint an observer member in the Board of Directors of the bank in violation, from among the staff of the Central Bank of Libya, for the period prescribed by the Governor. This member may participate in the discussions of the Board, and record his opinion about the decisions taken.
- 6- Suspend the bank's General Manager or Board of Directors, or both of them; and assign a temporary management committee to manage the bank for a period that shall not exceed six months, and may be renewed once for another period. The Committee shall, during the time it is commissioned, present the matter to the

¹ Amended by Law No. (46) of 2012.

general assembly of the bank, to choose a new board of directors; merge in another bank; or dissolve and liquidate the bank. Otherwise, the Governor shall ask the Board of Directors of the Central Bank of Libya to revoke the license granted to the bank to practice banking business.

Article 120

Law No. (1) of the year 1993, concerning banking, money and credit shall be repealed; and any provision that violates the provisions of this Law shall also be repealed. The previous regulations and decisions shall remain effective, in line with the provisions of this Law, and until amended or repealed by new regulations and decisions.

Article 121

This Law shall be published in the Official Gazette, and come into force from the date of its publication.