

Proceedings of International Educators Conference

Hosted online from Rome, Italy.

Date: 25th November - 2024

ISSN: 2835-396X

Website: econferenceseries.com

LEGAL BASIS FOR THE ESTABLISHMENT OF FOREIGN BANKS IN THE REPUBLIC OF UZBEKISTAN

Akhmedova Zilola Khamidovna

Assistant of the Department of "State Legal Sciences", Faculty of
Law of the Samarkand State University named after Sharof Rashidov

Abstract

The article examines the legal basis for the establishment of foreign banks and their accredited representative offices, discloses the procedure and conditions for the establishment of foreign banks and accreditation of their representative offices, legislative requirements, analyzes and highlights the distinctive features of the norms of banking legislation of the Republic of Uzbekistan.

Keywords: banking legislation, accredited representative office, foreign bank, branch.

INTRODUCTION

In recent years, with the development of financial and economic relations and the internationalization of capital, the number of banks with foreign capital has increased. States are taking the necessary measures, in particular, legal measures to attract investment in the banking sector. Speaking about the legal basis for the activities of foreign banks and their accredited representative offices of foreign banks in the Republic of Uzbekistan, in our opinion, it is necessary to consider banking legislation. Banking legislation determines the specifics of legal regulation of banks, their branches and representative offices. Berezhinskaya E. rightly notes that "banking legislation is a certain system of regulatory legal acts regulating banking activities, including the activities of foreign banks" [3].

MATERIALS AND METHODS

With regard to the establishment of foreign banks and the opening of their accredited representative offices in the Republic of Uzbekistan, banking legislation can be divided into two large groups:

- 1) general regulations that have an indirect relationship to the activities of foreign banks and their accredited representative offices;



Proceedings of International Educators Conference

Hosted online from Rome, Italy.

Date: 25th November - 2024

ISSN: 2835-396X

Website: econferenceseries.com

2) special regulations that are devoted to issues of legal regulation of the activities of foreign banks and their accredited representative offices.

RESULTS AND DISCUSSION

Most sources of banking law regulating the activities of foreign banks and their accredited representative offices in the Republic of Uzbekistan are made up of regulatory acts of the Central Bank of the Republic of Uzbekistan. They contain the following definitions:

foreign bank – a subsidiary bank of a foreign bank, the authorized capital of which is fully paid by a foreign bank [1]; a bank registered and located in the territory of a foreign state, and also having a license for the right to carry out banking activities, issued by the banking supervision authority at the place of registration [2];

representative office of a bank of a foreign state – a separate division of a foreign bank, located outside the location of the bank and representing the interests of the bank without the right to carry out banking and other commercial activities and having received a certificate from the Central Bank of Uzbekistan for its accreditation in the territory of the Republic of Uzbekistan [2].

It should be noted that as of March 1, 2018, there are 5 banks with foreign capital in the Republic of Uzbekistan - JSCB Savdogar, JSCB HAMKORBANK, JSC KDB Bank Uzbekistan, JSC Ziraat Bank Uzbekistan, Subsidiary Bank of Bank Saderat Iran in Tashkent. There are two types of participation of foreign banks in the creation of new banks - full and partial formation of the authorized capital. Taking this into account, the Regulation on the registration and licensing of banks uses two terms - "subsidiary bank of a foreign bank" and "bank with foreign capital" [3], the latter does not fall under the legislative concept of foreign banks. Consequently, the banking legislation provides for an imprecise definition of the concept of foreign banks.

The banking legislation does not provide for certain exceptions to the general rules regarding the registration and licensing procedure (adoption of constituent documents - the constituent agreement, the charter, the formation of the authorized capital - 100 billion soums, filing an application for registration and licensing of the bank with the Central Bank of the Republic of Uzbekistan), however, there are the following conditions and requirements for the establishment of foreign banks:



Proceedings of International Educators Conference

Hosted online from Rome, Italy.

Date: 25th November - 2024

ISSN: 2835-396X

Website: econferenceseries.com

1. The founders of a foreign bank are foreign banks with high credit and financial indicators according to the classification of IBCA, Moody's or Standard and Poor's agencies;
2. The founders of banks with foreign capital are foreign individuals and legal entities (one of the investors must be a foreign legal entity), whose share must not be less than thirty percent [3].

As is known, banks are created in the form of joint-stock companies. The Regulation on the registration and licensing of banking activities stipulates that banks can be established in the form of a joint-stock company only if the share of a foreign investor in the authorized capital is at least 15%, with the exception of cases stipulated by decisions of the President and the Cabinet of Ministers of the Republic of Uzbekistan [3]. Considering that banking legislation uses the term investors, we consider it appropriate to apply the provisions of investment legislation insofar as they do not contradict the legislation on the establishment of banks. This will create additional legal guarantees for attracting foreign capital to the banking sector and increase the efficiency of foreign banks. In accordance with Article 16 of the Law of the Republic of Uzbekistan "On Banks and Banking Activities", commercial banks can open branches in the Republic of Uzbekistan, and banks of foreign countries can open representative offices with the permission of the Central Bank of the Republic of Uzbekistan [1]. In recent years, representative offices of such banks as the National Bank of Pakistan (Pakistan), Commerzbank AG (Germany), Landesbank Baden-Wöttemberg (Germany), JPMorgan Chase Bank (N.A. – USA), Export-Import Bank of Korea (Republic of Korea), Shinhan Bank (Republic of Korea) have operated in the Republic of Uzbekistan.

CONCLUSION

Based on the analysis of the banking legislation of the Republic of Uzbekistan, we can note that the legislation provides for certain strict requirements for the establishment of foreign banks, opening and accreditation of their representative offices of foreign banks, which is associated with maintaining the competitiveness of national banks and ensuring the stability of the banking system of the Republic of Uzbekistan. However, in order to develop banking legislation in terms of foreign capital participation, in our opinion, it is necessary:

firstly, taking into account the difference in terminology in banking legislation, it is necessary to introduce into the Law of the Republic of Uzbekistan "On banks and



Proceedings of International Educators Conference

Hosted online from Rome, Italy.

Date: 25th November - 2024

ISSN: 2835-396X

Website: econferenceseries.com

banking activities" a norm regarding the forms of participation of foreign banks in the banking sector of the Republic of Uzbekistan;

secondly, to provide for the application of investment legislation in relation to banks with foreign capital participation, which will contribute to the development of the banking sector, attracting foreign investment in the banking sector.

REFERENCES

1. Gazdyuk N.Yu. Legal capacity of banks as subjects of international private law (in the context of cross-border banking activities). // Actual problems of international public and international private law. Coll. sci. tr. - Issue 5. - Minsk, 2013. - P. 129-132.
2. Ozyumenko S.V. Legal problems of participation of foreign banks in the banking system of Russia. // Bulletin of the Peoples' Friendship University of Russia. Series Legal Sciences. - 2017, - No. 3, - P. 34-36.
3. Berezhinskaya E.A. Legal basis for the activities of foreign credit institutions on the territory of Russia. "Modern Law", 2017, No. 4, - P. 22-25.

