The Role of Agent Bank in Banking System and Credit Institutes Related to Loans of Bank (A Comparative Study in Iran)

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INTRODUCTION

Banks and credit institutes provide many tasks for people. The purpose of this article is to assess one of the mentioned tasks which are related to loans and debts.

We all as a human who live in the modern society needs loan to improve our tasks, buying things and other things.

Sometimes we take loan directly from banks or other credit institutes and sometimes use legal agency for this aim.

In this assessment we should review bank and other governmental and un-governmental institute; then we assess the role of the agencies in the case of loan.

2-History:

The route of modern banking can be traced to medieval and early Renaissance Italy, especially in the rich cities in the north like Florence, Lucca, Siena, Venice and Genoa. The Bardi and Peruzzi families dominated banking in 14th century in Florence, establishing branches in many other parts of Europe.[1]. It is interesting that one of the most famous Italian banks was the Medici Bank, set up by Giovanni di Bicci de' Medici in 1397[2]. The earliest known state deposit bank, Banco di San Giorgio Bank of St. George, was founded in 1407 at Genoa of Italy[3].

Modern banking practice which we know, including fractional reserve banking and the issue of banknotes, started in the 17th and 18th centuries.

Merchants started to store their gold with the goldsmiths of London, who possessed private vaults, and charged a fee for that service. In exchange for each deposit of precious metal, the goldsmiths issued receipts certifying the quantity and purity of the metal such as gold they held known as a bailee; these receipts could not be assigned, only the original depositor could collect the stored goods.

Gradually the goldsmiths began to lend the money out on behalf of the depositor, which started the development of modern banking practices; promissory notes which evolved into banknotes were issued for money deposited as a loan to the goldsmith.

Goldsmith became modern and paid interest on these deposits.

Since the promissory notes were payable on demand, and the advances I mean loans to the goldsmith's customers were repayable over a longer time period, this was an early form of fractional reserve banking.

Thus by the 19th century we find in ordinary cases of deposits of money with banking corporations, or bankers, the transaction amounts to a mere loan or mutuum, and the bank is to restore, not the same money, but an equivalent sum, whenever it is demanded.
Above note is said by Joseph Story, Commentaries on the Law of Bailments[4].
Also pay attention that “Money, when paid into a bank, ceases altogether to be the money of the principal; it is then the money of the banker, who is bound to return an equivalent by paying a similar sum to that deposited with him when he is asked for it.”[5].

2-1- History of Bank in Iran:
In Iran in 1960 the Central Bank of Iran which is also known as Bank Markazi was established as a bank for the government, with responsibility for issuing currency. And in 1972 legislation further defined the mentioned bank functions as a central bank responsible for national monetary policy.
We should know that in the 1960s and 1970s, the expansion of economic activity fueled by oil revenues increased Iran’s financial resources, and subsequently the demand for banking services increased exponentially. By 1977, some 36 banks (24 commercial and 12 specialized) with 8,275 branches were in operation.
After the Revolution, the government nationalized domestic private banks and insurance companies. Bank law was changed under new interest-free Islamic banking regulations. The post-Revolution reduction in economic activity and financial resources required banks to consolidate. By 1982, this consolidation, in conformity with the Banking Nationalization Act, had reduced the number of banks to nine, I mean six commercial and three specialized and the number of branches to 6,581. Subsequently, the system expanded gradually[6].
In 2011, seven state-owned and private Iranian banks were involved in a USD 2.8-billion embezzlement case, which involved forging documents to secure multi-billion-dollar loans and purchase state-owned companies

3-Agent bank:
3-1- Definition:
An agent bank which is called agency bank too is a bank that acts in some capacity on behalf of another bank.
It can be one of the banks bellow:
-The bank in a loan syndicate that advises other participating banks of advances taken and changes in interest rates for a domestic or foreign borrower. A bank which participates in the credit card program of another bank by issuing credit cards and performing other duties, excluding financing card receivables.
- A foreign bank doing business in some countries such as U.S. on behalf of its parent or principal bank, performing such tasks as issuing international letters of credit, but not accepting deposits.[7] In syndicated loan, syndicate manager receive a mandate from a borrower to arrange a syndicated loan.
After the agreement closes, the duties of the syndicate manager end.
At that point, the syndicate manager is usually appointed the agent bank, which coordinates the loan between the borrower which is normally a corporation and participating banks[8].

3-2- Role:
Borrowing by way of a loan facility can provide a borrower with a flexible and efficient source of funding. When a borrower requires a large facility or many types of facility he use syndicated loan.
This is commonly provided by a group of lenders which is known as a syndicate under a syndicated loan agreement.
As I mentioned earlier a Syndicated loan agreement is referred to as a form of loan which involves two or more lenders, who mutually provides loans either to one or more borrowers.
So, it describes a structure whereby a large number of banks lend funds for a long period of time to a single borrower or group of borrowers. There is no doubt that this kind of loan, in most cases are international, therefore a comprehensive and common legal instrument is needed to clearly state the rights and liabilities of everyone involved (borrowers, lenders or even syndicates) leaving no stone unturned but we can see syndicated loan within a country in fewer amount of money.
This is very important because, the greater the number of parties involved the broader the more complicated it is likely to be[9].
As another contracts, the parties in most cases agree to terms of the contract and the applicable law to which they all would be bound.
It will take a comprehensive view at its preparations, documentations, and varied legal issues as it arises. It will also consider relevant decided cases in different jurisdictions, as applicable.
In this case the Agent Bank perhaps plays one of the most important roles. This article highlights few important points relating to the role of the Agent Bank. Before the role of the Agent Bank comes into play, it is generally the Arranger Bank or Lead Bank that initiates the loan syndication. In many cases, the Lead Bank and the Agent Bank are the same entities.
The Leader Bank only comes forward when it is approached by the potential borrower due to any existing relationship or previous client dealings between them.

3.3-Agent Bank in Iran:

We can refer to Article 84 of the Fifth Development Plan in this case which will be discussed below:

Part D(c) and (d) and (e) of the mentioned Article said:

- To set the framework of Agency Agreements to be concluded with agent banks and to set functions and responsibilities of the agent banks within the framework of these agreements;
- To establish an internal audit system and to establish a proper internal control system;
- To confirm the rial and foreign currency financial reports and to present those to the Board of Trustees.

Note three of that Article also mentioned:

Note 3: Financial facilities subject to the provisions of this article shall be paid only through governmental and non-governmental agent banks.

J- Other rules and regulations:

a. The share of agent banks shall be set by the Board of Trustees under competitive conditions proportionate to the service charge and the specialized and expert capabilities of the agent banks.

b. The share of the Fund from resources subject to Paragraphs A and B of Article H is deposited to the account of the Fund by the Central Bank of Iran on a monthly basis. At the end of the finance year, when resources are finalized, accounts shall be cleared.

c. No financial facility should be paid by the agent bank to non-qualified applicants for proposals or business plans which lack technical, financial and economic justification. If paid, this offence shall be considered as the illegal occupation of public property. The agent bank is responsible to examine the viability and technical, financial and economic justifications of the proposals and business plans, taking into consideration the risk factor. This shall be regarded as a guarantee by the agent bank for the repayment of the interest and main capital of financial facilities offered to the applicant. The financial return of proposals and business plans should not be less than expected interest rate announced by the Board of Trustees. The Fund will provide financial facilities to investors in the agriculture, water and natural resources sectors, through agent banks or the Fund for Supporting Investment in the Agriculture Sector, in foreign currency and with lesser expected interest.

d. The total sum of financial facilities, allocated to non-governmental public institutes and organizations and their subsidiaries and related companies, from the resources of the Fund through agent banks should not exceed 20 percent of the resources of the Fund.

At the end part j of the note 3 indicated that:

j. Payment of financial facilities and issue of any securities from the resources of the Fund shall be done only through agent banks, governmental or non-governmental, as well as the Fund for Supporting Investment in the Agriculture Sector.

As a whole the last part of the Article accept both governmental and non-governmental agent bank and note three indicate the duties of agent banks related to financial tasks as it mentioned that . The agent bank is responsible to examine the viability and technical, financial and economic justifications of the proposals and business plans, taking into consideration the risk factor. This shall be regarded as a guarantee by the agent bank for the repayment of the interest and main capital of financial facilities offered to the applicant.

4- Conclusion:

As a conclusion we can say that nowadays, agent banks have an important role in international and domestic banking tasks and duties such as issues related to loan.

We mentioned that agent banks normally is one of the three kinds of agent banks which one of them is related to syndicated loans. Syndicated loans are very important loans which we know the use of them is increased in both international and domestic level.

The legal system of Iran accepted agent bank in Iranian banking system, but it should be improved. The codes related to banking system of Iran should pay attention to role of agent bank in international banking and in both domestic and international level banking system and legal codes in Iran should pay attention and make a significant framework for syndicated loan agreement and the role of agent banks in this case.

REFERENCES

"The first state deposit bank was the Bank of St. George in Genoa, which was established in 1407."