

**TOSHKENT DAVLAT YURIDIK UNIVERSITETI HUZURIDAGI  
ILMIY DARAJALAR BERUVCHI DSc.07/30.12.2019.YU.22.02  
RAQAMLI ILMIY KENGASH**

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**TOSHKENT DAVLAT YURIDIK UNIVERSITETI**

**MUSTANOV ILXOM ABDIVALIIONOVICH**

**O‘ZBEKISTON RESPUBLIKASIDA BANKLAR FAOLIYATINI  
TARTIBGA SOLISHNING TASHKILY-HUQUQIY ASOSLARINI  
TAKOMILLASHTIRISH**

**12.00.02 – Konstitutsiyaviy huquq. Ma’muriy huquq.  
Moliya va bojxona huquqi**

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## KIRISH (Falsafa doktori (PhD) dissertatsiya annotatsiyasi)

**Dissertatsiya mavzusining dolzarbligi va zarurati.** Dunyoda banklarning normal faoliyatini ta'minlash orqali davlatning bank-kredit tizimini barqarorlashtirish hamda bank faoliyatini zamonaviylashtirish orqali valyuta va narx barqarorligini ta'minlash tobora muhim ahamiyat kasb etmoqda. Banklarning o'z funksiyasini normal amalga oshirishida bank siyosati va qonunchiligini takomillashtirish muhim hisoblanadi. The Heritage Foundation xalqaro tadqiqot institutining 2024-yilgi tahlil natijalariga ko'ra, O'zbekiston Respublikasi iqtisodiy erkinlik indeksi bo'yicha dunyoda 103-o'rinni egalladi, xususan, bu indeks bo'yicha Qozog'iston 66, Qirg'iziston 112, Tojikiston 137, Turkmaniston 162, Estoniya 8, Litva 15, Gruzviya 32, Latviya 20, Armaniston 47, Rossiya 131, Moldaviya 99, Belarus Respublikasi 153, Ozarbayjon 70-o'rinlarni egallagan<sup>1</sup>. Ushbu ko'rsatkichlar bank faoliyatini xalqaro standartlar asosida zamonaviylashtirish va bank faoliyatiga oid qonunchilikni yanada takomillashtirishga alohida e'tibor qaratish zarurati mavjudligidan dalolat beradi.

Jahonda bank faoliyatining zamonaviy usul va vositalarini qo'llash orqali tadbirkorlik va ishlab chiqarishni rag'batlantirishga qaratilgan innovatsion loyihalarni joriy qilishga keng ahamiyat berilmoqda, jumladan, xalqaro bank standartlarini milliy qonunchilikka doimiy implementatsiya qilish, banklar faoliyatiga qo'yilgan minimum talabalarga javob berish, Markaziy bank tomonidan belgilangan normativlarga maksimum qat'iy amal qilish, bank operatsiyalarining zamonaviy turlarini joriy qilish, bank mijozlariga qulay va sifatli bank xizmatlarini taklif qilish hamda bank va mijoz o'rtasida munosabatlarda manfaatlarni himoya qilish masalasiga alohida tadqiqot yo'nalishi sifatida e'tibor qaratilmoqda.

Mamlakatimizda tadbirkorlik va investitsiyaviy muhitni rivojlantirishda, avvalo bank tizimi va siyosatini takomillashtirish yuzasidan kompleks chora-tadbirlar amalga oshirilmoqda. Shu boisdan "Bank tizimida islohotlarni jadallashtirish, bank xizmatlari bozori hajmini oshirish va sohada raqobatni rivojlantirish, xususan, bank va moliya tizimida yillik kreditlash hajmini 40 milliard dollarga yetkazish, bank omonatlari hajmini 4 barobarga oshirish, banklarni xususiylashtirish va davlat ixtiyorida 3-4 ta bankni saqlab qolish, bank bozoriga kamida 4 ta yirik nufuzli chet el banklarini jalb qilish, banklarga xalqaro tan olingan minimal standart va talablarni joriy qilish orqali me'yorlar va nazorat bazalarini takomillashtirish, kamida 3 ta tijorat banklarida islom moliyasi mezon va tartiblarini joriy etish, islom moliyasining qonuniy asoslarini shakllantirish asosiy vazifalardan biri sifatida belgilangan"<sup>2</sup>. Shu nuqtayi nazardan, O'zbekiston Respublikasida bank faoliyatini huquqiy tartibga solish mavzusida ilmiy tadqiqot ishini olib borish zarurati mavjud.

O'zbekiston Respublikasi Prezidentining "2022-2026-yillarga mo'ljallangan yangi O'zbekistonning taraqqiyot strategiyasi to'g'risida"gi PF-60-son (2022), "O'zbekiston – 2030" strategiyasi to'g'risidagi PF-158-son (2023), "2020-2025-yillarga mo'ljallangan O'zbekiston Respublikasining bank tizimini isloh qilish strategiyasi

<sup>1</sup>The Heritage Foundation xalqaro tadqiqot institutining rasmiy sayti <https://www.heritage.org/index/pages/all-country-scores>

<sup>2</sup>O'zbekiston Respublikasi Prezidentining 2023-yil 11 sentabrdagi "O'zbekiston – 2030" strategiyasi to'g'risidagi Farmoni // Qonunchilik ma'lumotlari milliy bazasi, 12.09.2023-y., 06/23/158/0694-son; 29.12.2023-y., 06/23/214/0984-son.

to'g'risida"gi PF-5992-son farmonlari (2020), Markaziy bank boshqaruvi qaror bilan tasdiqlangan "Banklar va nobank kredit tashkilotlariga nisbatan choralar va sanksiyalar qo'llash tartibi to'g'risida" nizom (2023), Markaziy bank boshqaruvi qaror bilan tasdiqlangan "Banklar va bank guruhlarining tavakkalchiliklarni boshqarish tizimiga doir talablar to'g'risida"gi nizom (2023), "Banklar va bank faoliyati to'g'risida"gi Qonun (2019), "Markaziy banki to'g'risida"gi Qonun (2019) va boshqa sohaga oid normativ-huquqiy hujjatlarda belgilangan vazifalarni amalga oshirishga mazkur dissertatsiya tadqiqoti muayyan darajada xizmat qiladi.

**Tadqiqotning respublika fan va texnologiyalari rivojlanishining ustuvor yo'nalishlariga mosligi.** Mazkur tadqiqot respublika fan va texnologiyalar rivojlanishining I. "Demokratik va huquqiy jamiyatni ma'naviy-axloqiy va madaniy rivojlantirish, innovatsion iqtisodiyotni shakllantirish" ustuvor yo'nalishiga mos keladi.

**Muammoning o'rganilganlik darajasi.** Mamlakatimizda bank huquqining turli institutlari, xususan banklar faoliyatining ayrim jihatlari ko'pgina olimlar tomonidan o'rganilgan. Xususan, A. Li, E. Xojiyev, I. Ergashev, O. Raximova, M. Yo'ldoshev, Y. Tursunov, A. Hamidov, O. Rashidov, Sh. Abdullayeva, A. Zulyarov, F. Samig'jonov, A. Omonov, T. Qoraliyev, S. Norqobilov, H. Dadaboyeva va O'. Jo'rayevlar tomonidan bank, pul va kredit masalalari tadqiq etilgan.

MDH mamlakatlarida bank faoliyati tadqiqot obyekti sifatida ko'pgina olimlar tomonidan o'rganilgan. Xususan, N. Eriashvili, Y. Tarxanova, I. Kilyasxanov, Y. Jukov, L. Yefimov, D. Alekseyev, V. Belx, S. Vinichenko, D. Gavrin, V. Popondopulo, D. Petrov, Y. Xomenko, A. Tedeyev, G. Ruchkina, Y. Polyushko, A. Venina, Y. Kasheyeva, L. Yefimova, G. Tosunyan, A. Kurbatova, N. Laktionova, A. Sherstobitov, O. Oleynik va boshqa olimlarning tadqiqot ishlarida bank faoliyatining yuridik va iqtisodiy asoslari tahlil qilingan.

Bank faoliyati tadqiqot obyekti sifatida ko'pgina xorijiy olimlar tomonidan, xususan, Sir Ross Cranston, Emilius Avgouleas, Kristin van Zwieten, Christopher Hare, Theodor van Sante, Poh Chu Chai, Iris H-Y Chiu, Joanna Wilson, Alfred M. Pollard, Raymond Natter, Penny A. Hazelton tomonidan o'rganilgan. Shunga qaramasdan, O'zbekiston Respublikasida bank faoliyatini takomillashtirish masalalaridan kelib chiqib, bank faoliyati alohida tadqiqot obyekti sifatida tadqiq qilinmaganligi ushbu mavzuda ilmiy tadqiqot olib borish zaruratini keltirib chiqaradi.

**Dissertatsiya tadqiqotining dissertatsiya bajarilgan oliy ta'lim yoki ilmiy-tadqiqot muassasasining ilmiy-tadqiqot ishlari rejalari bilan bog'liqligi.** Dissertatsiya mavzusi Toshkent davlat yuridik universitetining ilmiy-tadqiqot ishlari rejasiga kiritilib, ilmiy tadqiqotlarning ustuvor yo'nalishlari doirasida amalga oshirilgan.

**Tadqiqotning maqsadi** O'zbekiston Respublikasida banklar faoliyatini huquqiy tartibga solishning ilmiy-nazariy, amaliy va qonunchilik muammolarini tizimli o'rganish asosida taklif va tavsiyalar ishlab chiqishdan iborat.

#### **Tadqiqotning vazifalari:**

bank va bank tizimining yuridik tabiatini tahlil qilish orqali bank tushunchasi va uning xususiyatlarini ishlab chiqish hamda bank tizimi, turlari va vazifalarini tahlil qilish; milliy va xorijiy davlatlarning bank qonunchiligini tahlil qilish orqali qonunchilikdagi muammolarni aniqlash; banklarni tashkil etish va uning tashkiliy-

huquqiy asoslarini o'rganish orqali qonunchilikdagi muammolarni aniqlash va qonunchilikni takomillashtirish bo'yicha takliflar ishlab chiqish;

bank operatsiyalariga oid normalarni ilmiy-amaliy tahlil qilish va xorijiy davlatlar qonunchiligi bilan qiyoslash orqali uni huquqiy tartibga solishni takomillashtirish bo'yicha takliflar ishlab chiqish;

banklar faoliyatini nazorat qilishga oid normalarni ilmiy-amaliy tahlil qilish va xorijiy davlatlar qonunchiligi bilan qiyoslash orqali uni huquqiy tartibga solishni takomillashtirish bo'yicha takliflar ishlab chiqish;

bank va mijozlarning huquq va manfaatlarini kafolatlarining nazariy va huquqiy asoslarini tahlil qilish hamda uni huquqiy tartibga solishni takomillashtirish bo'yicha takliflar ishlab chiqish;

O'zbekistonda bank faoliyatining huquqiy mexanizmlarini takomillashtirish yo'nalishlari bo'yicha ilmiy-amaliy taklif va tavsiyalar ishlab chiqish.

**Tadqiqotning obyekti** O'zbekistonda banklar faoliyati va ularni nazorat qilish bilan bog'liq huquqiy munosabatlar tizimi hisoblanadi.

**Tadqiqotning predmeti** O'zbekistonda banklar faoliyatining tashkiliy-huquqiy asoslarini tartibga soluvchi normativ-huquqiy hujjatlar, huquqni qo'llash amaliyoti, xorijiy mamlakatlar qonunchiligi va amaliyoti hamda bank huquqida mavjud bo'lgan konseptual yondashuvlar, ilmiy-nazariy qarashlar va huquqiy kategoriyalar hisoblanadi.

**Tadqiqotning usullari.** Tadqiqot olib borishda tarixiy, tizimli-tuzilmaviy, qiyosiy-huquqiy, mantiqiy, sotsiologik, ilmiy manbalarni kompleks tadqiq etish, induksiya, deduksiya va statistik ma'lumotlar tahlili kabi usullar qo'llangan.

**Tadqiqotning ilmiy yangiligi** quyidagilardan iborat:

O'zbekiston Respublikasi bank tizimi tushunchasi kengroq tahlil qilinib, uning tarkibiga O'zbekiston Respublikasi Markaziy banki va tijorat banklari, shu'ba banklar, ularning filiallari, vakolatxonalari, operatsion idoralari (punktlari), xorijiy banklarning vakolatxonalari kirishi lozimligi asoslab berilgan;

banklarning asosiy vazifasi moliya-kredit tizimida bo'sh mablag'lardan unumli foydalanish orqali kapital bozorni moliyalashtirish va aholiga moliyaviy xizmatlar ko'rsatish hisoblanishi asoslangan;

onlayn platformalar va boshqa savdo-xizmat ko'rsatish platformalariga xizmat ko'rsatuvchi operator funksiyalarini bajarish; bank faoliyati bilan bog'liq kompyuter tizimlari va dasturlarini sotish va ijaraga berish; moliyaviy ta'lim va moliya bo'yicha kitoblar va davriy nashrlarni nashr etish; moliyaviy tadqiqotlar va so'rovnomalar o'tkazish forfeiting operatsiyalari, bank oldidagi majburiyatlarni to'lash uchun garovni sotish bank operatsiyalari (bank xizmatlari)ning alohida turi sifatida namoyon bo'lishi asoslab berilgan;

bank mijozlarining huquq va manfaatlarini himoya qilish tizimi ma'muriy, shartnomaviy va qo'shimcha choralar usullarini qamrab olishi, mazkur usullardan qo'shimcha usul doirasida O'zbekiston Respublikasida bank ombudsmani institutini joriy etish zarurligi asoslantirilgan.

**Tadqiqotning amaliy natijalari** quyidagilardan iborat:

O'zbekiston Respublikasining Banklar va bank faoliyati to'g'risidagi qonuniga O'zbekiston Respublikasi bank tizimi – O'zbekiston Respublikasi Markaziy banki va tijorat banklari, shu'ba banklar, ularning filiallari, vakolatxonalari, operatsion

idoralari (punktlari), xorijiy banklarning vakolatxonalaridan iborat” mazmunidagi normani mustahkamlash belgilashga qaratilgan taklif ishlab chiqilgan;

O‘zbekiston Respublikasining “Banklar va bank faoliyati to‘g‘risida”gi Qonuniga “Bank o‘z faoliyatini quyidagi prinsiplar asosida olib boradi: bank faoliyatiga doir prinsiplar: qonuniylik; mustaqillik; oshkoralik; bank faoliyatining ishonchliligi va xavfsizligi; bank va davlat o‘rtasidagi javobgarlikning chegaralanganligi; xalqaro bank standartlarida nazarda tutilgan boshqa umume’tirof etilgan asosiy prinsiplardan iborat. Bank va mijoz o‘rtasidagi munosabatlarga doir prinsiplar: tenglik, iroda erkinligi, halollik, oqilonalik, adolatlilik, omonatlarning sir saqlanishi, omonatlarning qaytarilishi kafolatlanganligi prinsiplardan iborat”ligi mazmunidagi normani belgilashga qaratilgan taklif ishlab chiqilgan;

O‘zbekiston Respublikasining “Banklar va bank faoliyati to‘g‘risida”gi Qonuniga Islom(iy) banki – markaziy bankning litsenziyasi asosida qonunchilikka hamda islom tamoyillariga muvofiq bank faoliyatini amalga oshiruvchi yuridik shaxs ekanligi hamda davlatlararo bank – xalqaro shartnoma asosida tashkil etilgan va faoliyat yurituvchi bank bo‘lib, uning ta’rischilari O‘zbekiston Respublikasi hukumati va ushbu shartnomani imzolagan davlat hukumati hisoblanishi mazmunidagi normani mustahkamlashga qaratilgan taklif ishlab chiqilgan;

O‘zbekiston Respublikasining “Banklar va bank faoliyati to‘g‘risida”gi Qonuniga bank ombudsmani institutini mustahkamlash, xususan, uning asosiy tushunchalari va vakolatlarini belgilashga qaratilgan taklif ishlab chiqilgan.

**Tadqiqot natijalarining ishonchliligi.** Tadqiqot natijalari milliy qonunchilik normalari, rivojlangan davlatlar tajribasi, qonunni qo‘llash amaliyoti, so‘rovnoma, ekspert baholash shakllariga asoslangan. Statistik ma’lumotlarni tahlil qilish natijalari umumlashtirilib, tegishli hujjatlar bilan rasmiylashtirilgan. Xulosa, taklif va tavsiyalar aprotatsiyadan o‘tkazilib, ularning natijalari yetakchi milliy va xorijiy nashrlarda e’lon qilingan. Olingan natijalar vakolatli tashkilotlar tomonidan tasdiqlangan va amaliyotga joriy qilingan.

**Tadqiqot natijalarining ilmiy va amaliy ahamiyati.** Tadqiqot natijalarining ilmiy ahamiyati undagi ilmiy-nazariy xulosalar, taklif va tavsiyalardan kelgusi ilmiy faoliyatda, qonun ijodkorligida, qonunni qo‘llash amaliyotida, soliq qonunchiligi normalarini sharhlashda, milliy qonunchilikni takomillashtirish hamda Bank huquqi, Moliya huquqi va Biznes huquqi fanlarini ilmiy-nazariy jihatdan boyitishga xizmat qiladi. Tadqiqot natijalaridan yangi ilmiy tadqiqotlar olib borishda foydalanish mumkin.

Tadqiqot natijalarining amaliy ahamiyati qonun ijodkorligi faoliyatida, xususan, normativ-huquqiy hujjatlar tayyorlash hamda ularga o‘zgartirish va qo‘shimchalar kiritish jarayonida, qonunni qo‘llash amaliyotini takomillashtirishda hamda oliy yuridik ta’lim muassasalarida Bank huquqi, Moliya huquqi va Biznes huquqi fanlarini o‘qitishda xizmat qiladi.

**Tadqiqot natijalarining joriy qilinishi.** Tadqiqot ishi bo‘yicha olingan ilmiy natijalardan quyidagilarda foydalanilgan:

Bank faoliyati daromad olishga qaratilgan, vakolatli organ tomonidan berilgan litsenziya doirasida bank mijozlariga bank xizmatlarini ko‘rsatish, jismoniy va yuridik shaxslarga bank hisobraqamlarini ochish va yuritish, omonatlarni qabul qilish, kreditlar berish, to‘lovlar va hisob-kitoblar va boshqa moliyaviy

operatsiyalarni amalga oshiruvchi yuridik shaxs ekanligiga qaratilgan taklif O‘zbekiston Respublikasining “Banklar va bank faoliyati to‘g‘risida”gi Qonuni 3-moddasini ishlab chiqishda foydalanilgan (O‘zbekiston Respublikasi Oliy Majlisi Palatasi Qonunchilik palatasining 2024-yil 27-martdagi 02/4-40-son ma‘lumotnomasi). Mazkur taklifning amalga oshirilishi bank tushunchasi mazmunini boyitishga xizmat qilgan;

Bank operatsiyalari banklar tomonidan litsenziyada hamda qonunchilikda amalga oshirilishiga ruxsat etilgan harakat turlari bo‘lib, mazkur harakatlar korporativ va fuqarolik vositalari orqali realizatsiya qilinishi hamda bank operatsiyalarining bir qator turlarini belgilashga qaratilgan taklif O‘zbekiston Respublikasining “Banklar va bank faoliyati to‘g‘risida”gi Qonuni 5-moddasini ishlab chiqishda foydalanilgan (O‘zbekiston Respublikasi Oliy Majlisi Palatasi Qonunchilik palatasining 2024-yil 27-martdagi 02/4-40-son ma‘lumotnomasi). Mazkur taklifning amalga oshirilishi bank operatsiyalari turlarini huquqiy asoslarini takomillashtirishga xizmat qilgan;

Bank nazorati vakolatli organ tomonidan o‘ziga yuklatilgan vazifa va funksiyalarni bajarish maqsadida qonunchilik yoki o‘zi tomonidan o‘rnatilgan qoidalarga banklar tomonidan amal qilinishini ta‘minlashga qaratilgan chora-tadbirlar majmuini tashkil etadi va uning bir turi sifatida Markaziy bank tomonidan belgilanadigan prudensial normativlar tizimi haqidagi taklif O‘zbekiston Respublikasining “Banklar va bank faoliyati to‘g‘risida”gi Qonuni 38-moddasini ishlab chiqishda foydalanilgan (O‘zbekiston Respublikasi Oliy Majlisi Palatasi Qonunchilik palatasining 2024-yil 27-martdagi 02/4-40-son ma‘lumotnomasi). Mazkur taklifning amalga oshirilishi bank nazoratining shakl va usullarini huquqiy tartibga solishni takomillashtirishga xizmat qilgan;

Markaziy bankning asosiy maqsadi moliya-kredit mexanizmlari orqali pul va narxlarning barqarorligini ta‘minlash hisoblanadi va mazkur maqsaddan kelib chiqib, moliyaviy vazifalarni bajaradi (nazorat qilish, tekshirish, monitoring qilish, normativ-huquqiy hujjat chiqarish orqali tartibga solish, litsenziyalash, maslahat, kafolat, kafil, fiskal agent, rezerv, depozitariy va boshqa vazifalar to‘g‘risidagi taklif O‘zbekiston Respublikasining “O‘zbekiston Respublikasining Markaziy banki to‘g‘risida”gi Qonuni 5-moddasini ishlab chiqishda foydalanilgan (O‘zbekiston Respublikasi Oliy Majlisi Palatasi Qonunchilik palatasining 2024-yil 27-martdagi 02/4-40-son ma‘lumotnomasi). Mazkur taklifning amalga oshirilishi Markaziy bankning maqsad va vazifalarini huquqiy tartibga solishni takomillashtirishga xizmat qilgan.

**Tadqiqot natijalarining aprobatsiyasi.** Mazkur tadqiqot natijalari 6 ta ilmiy anjumanda, jumladan, 4 ta xalqaro va 2 ta respublika ilmiy-amaliy anjumanlarida muhokamadan o‘tkazilgan.

**Tadqiqot natijalarining e‘lon qilinganligi.** Dissertatsiya mavzusi bo‘yicha jami 15 ta ilmiy ish, jumladan, 9 ilmiy maqola (2 ta xorijiy ilmiy jurnallarda) va to‘plamlar tarkibida 6 ta ilmiy maqola chop etilgan.

**Dissertatsiyaning tuzilishi va hajmi.** Dissertatsiya tarkibi kirish, uchta bob, xulosa, foydalanilgan adabiyotlar ro‘yxati va ilovalardan iborat. Dissertatsiyaning hajmi 156 betni tashkil etgan.

## DISSERTATSIYANING ASOSIY MAZMUNI

Dissertatsiyaning **kirish qismida** tadqiqot mavzusining dolzarbligi va zarurati, tadqiqotning respublika fan va texnologiyalari rivojlanishining ustuvor yo‘nalishlariga mosligi, tadqiq qilinayotgan muammoning o‘rganilganlik darajasi, dissertatsiya mavzusini dissertatsiya bajarilgan oliy ta‘lim yoki ilmiy-tadqiqot muassasasining ilmiy-tadqiqot ishlari rejalari bilan bog‘liqligi, tadqiqotning maqsad va vazifalari, obyekt va predmeti, usullari, tadqiqotning ilmiy yangiligi va amaliy natijalari, tadqiqot natijalarining ishonchliligi, tadqiqot natijalarining ilmiy va amaliy ahamiyati, ularning joriy qilinganligi, tadqiqot natijalarining aprotatsiyasi, tadqiqot natijalarining e‘lon qilinganligi, dissertatsiyaning tuzilishi va hajmi yoritib berilgan.

Dissertatsiyaning birinchi bobi **“Banklar faoliyatining nazariy-huquqiy asoslari”** deb nomlanib, unda bank va bank faoliyati tushunchasi, uning yuridik tabiati, banklar tizimi, prinsiplari, vazifalari mazmun-mohiyati, shuningdek mamlakatimizda bank qonunchiligining rivojlanish tendensiyalari tahlil qilingan.

Tadqiqotchi tomonidan A. Li, E. Xojiyev, M. Yo‘ldoshev, Y. Tursunov, O. Raximova, A. Hamidov, F. Samig‘jonov, A. Omonov, T. Qoraliyev, Sh. Xujayev, A. Rahimova, O. Rashidov, Sh. Abdullayeva, N. Eriashvili, Y. Tarxanova, A. Travkin, I. Kilyasxanova, Y. Jukova, L. Yefimova, D. Alekseyeva, V. Belx, S. Vinichenko, D. Gavrin, V. Popondopulo, D. Petrova, Y. Xomenko, A. Tedeyev, Y. Jukov, Sir Ross Cranston, Emilios Avgouleas, Kristin van Zwieten, Christopher Hare, Theodor van Sante, Poh Chu Chai, Iris H-Y Chiu, Joanna Wilson va boshqa olimlar tomonidan bildirilgan nuqtayi nazarlar tahlili asosida bank va bank faoliyati tushunchasi va uning yuridik tabiatiga xos xulosalar ishlab chiqilgan.

Tadqiqotchi milliy va xorijiy olimlarning fikrlarini hamda xorijiy davlatlarning (Rossiya, Qozog‘iston, Qirg‘iziston, Gruziya, Germaniya, Shveysariya, AQSh, Janubiy Koreya, Kanada, Singapur) bank qonunchiligini tahlil qilgan holda: “Bank – faoliyati daromad olishga qaratilgan, vakolatli organ tomonidan berilgan litsenziya doirasida bank mijozlariga bank xizmatlarini ko‘rsatish, xususan, jismoniy va yuridik shaxslarga bank hisobraqamlarini ochish va yuritish, omonatlarni qabul qilish, kreditlar berish, to‘lovlar va hisob-kitoblar va boshqa moliyaviy operatsiyalarni amalga oshiruvchi yuridik shaxs”, – degan ta‘rifni ilgari surish maqsadga muvofiq deb hisoblaydi.

Tadqiqotchi: “Bank faoliyati – banklar tomonidan qonunchilikka muvofiq o‘z ustavida va vakolatli organ tomonidan berilgan litsenziyasi doirasida amalga oshirilishi mumkin bo‘lgan bank operatsiyalar va tashkiliy-harakatlar majmui”, – degan ta‘rifni ilgari surgan.

Dissertant banklar faoliyatining yuridik tabiatini tadqiq etgan holda uning quyidagi o‘ziga xos xususiyatlarini ko‘rsatib o‘tadi: *birinchidan*, banklar foyda olishni o‘z faoliyatining asosiy maqsadi qilib olgan tijoratchi yuridik shaxs hisoblanadi, bunda markaziy bankning faoliyati istisno hisoblanadi, chunki markaziy bankning asosiy maqsadi nazorat qilish va shu orqali moliyaviy barqarorlikni ta‘minlash hisoblanadi; *ikkinchidan*, banklar mulk shakli va ulushiga ko‘ra davlatga qarashli, xususiy, chet el kapitali ishtirokidagi bank va chet el banklari sifatida faoliyat yuritishi mumkin; *uchinchidan*, banklar faoliyati alohida toifadagi faoliyat turi bo‘lganligi sababli vakolatli organdan berilgan litsenziya asosida faoliyat yuritadi; *to‘rtinchidan*, banklar asosiy faoliyat sifatida kredit, moliya va bank operatsiyalarini amalga

oshiradi; *beshinchidan*, banklar bevosita ishlab chiqarish savdo va banklar faoliyatiga xos bo‘lmagan xizmatlar bilan shug‘ullanmaydi; *oltinchidan*, banklar yuridik shaxs sifatida barcha mulkiy va nomulkiy huquqdan foydalanadi, majburiyatlarga ega bo‘ladi hamda javobgar bo‘ladi.

Tadqiqotchi milliy va xorijiy davlatlarning bank qonunchiligini tahlil qilgan holda Markaziy bankning asosiy maqsadi moliya-kredit mexanizmlari orqali pul va narxlarning barqarorligini ta‘minlash hisoblanishi va mazkur maqsaddan kelib chiqib, moliyaviy vazifalarni bajarishi (nazorat qilish, tekshirish, monitoring qilish, normativ-huquqiy hujjat chiqarish orqali tartibga solish, litsenziyalash, maslahat, kafolat, kafil, fiskal agent, rezerv, depozitariy va boshqalar), shuningdek banklarning asosiy vazifasi – moliya-kredit tizimida bo‘sh mablag‘lardan unumli foydalanish orqali kapital bozorni moliyalashtirish va aholiga moliyaviy xizmatlar ko‘rsatish hisoblanishini keltirib o‘tadi.

Tadqiqotchi tomonidan milliy va xorijiy davlatlar (Qozog‘iston, Ozarbayjon, Rossiya, Tojikiston, Turkmaniston, Armaniston va boshqa davlatlar) bank qonunchiligi tahlil qilinishi asosida milliy bank qonunchiligimizda bank tizimi to‘liq ochib berilmaganligi, O‘zbekiston Respublikasi bank tizimi – O‘zbekiston Respublikasi Markaziy banki va tijorat banklari, shu‘ba banklar, ularning filiallari, vakolatxonalari, operatsion idoralari (punktlari), xorijiy banklarning vakolatxonalaridan iboratligi asoslantirilgan, shuningdek, “Banklar va bank faoliyati to‘g‘risida”gi Qonunning 3-moddasiga o‘zgartirish va qo‘shimchalar kiritish bo‘yicha takliflar ishlab chiqilgan.

Shuningdek, tadqiqotchi huquqshunos va iqtisodchi olimlarning fikrlarini tahlil qilgan holda banklar turlari ularning mulk shakliga (davlat, xususiy), xizmat ko‘rsatish hududiga (davlat, davlatlararo, xalqaro), ta‘sischilar toifasiga (milliy, chet el ishtirokida, chet el banki), faoliyati turi va sohasiga (ipoteka, investitsiya, qishloq xo‘jaligi, sanoat-qurilish) va maqsadiga ko‘ra (tijorat va notijorat) tasniflaydi.

Dissertant bank prinsiplari bank munosabatlarini tartibga soluvchi bank qonunchiligining asosiy va bosh qoidalari hisoblanishini qayd etib, bank prinsiplarini *bank faoliyatiga doir prinsiplar va bank va mijoz o‘rtasidagi munosabatlarga doir prinsiplarga* ajratish maqsadga muvofiqligi to‘g‘risida xulosaga kelgan. Xususan, *bank faoliyatiga doir prinsiplar sifatida*: qonuniylik; mustaqillik; oshkorlik; bank faoliyatining ishonchliligi va xavfsizligi; bank va davlat o‘rtasidagi javobgarlikning chegaralanganligi; xalqaro bank standartlarida nazarda tutilgan boshqa umume‘tirof etilgan asosiy prinsiplar; *bank va mijoz o‘rtasidagi munosabatlarga doir prinsiplar sifatida*: tenglik, iroda erkinligi, halollik, oqilonalik, adolatlilik, omonatlarning sir saqlanishi, omonatlarning qaytarilishi kafolatlanganligi kabi prinsiplarni tushunish lozimligini qayd etgan.

Mazkur bob doirasida muallif tomonidan bank qonunchiligi vakolatli organ tomonidan qabul qilingan bank sohasidagi munosabatlarni tartibga solishga qaratilgan normativ-huquqiy hujjatlar tizimi hisoblanishi qayd etilib, O‘zbekiston Respublikasida bank qonunchiligi rivojlanishini olti bosqichga bo‘lib tahlil qilingan holda har bir davrning o‘ziga xos xususiyatlari o‘rganib chiqilgan.

*Birinchi bosqichda* – (1991-1994-yillar) mustaqil O‘zbekistonning bank tizimining fundamental asoslari yaratilgani; *ikkinchi bosqichda* – (1994-1996-yillar) milliy valyuta muomalaga kiritilgani va ikki pog‘onali bank tizimining huquqiy asoslari yaratilgani;

*uchinchi bosqichda* – (1997-2000-yillar) banklarni xususiylashtirilgani, aksiyadorlik tijorat banklarida boshqaruvning sifati oshirilgani va banklar faoliyatida nazorat kuchaytirilgani; *to'rtinchi bosqichda* – (2000-2010-yillar) bank tizimi yanada erkinlashtirilgani hamda bozor munosabatlariga oid qoidalar joriy etilgani; *beshinchi bosqichda* – (2010-2016-yillar) O'zbekistonda zamonaviy bank tizimi takomillashtirilgani va xalqaro bank standartlariga moslashtirilgani; *oltinchi bosqichda* – (2016-yil – h.v ) O'zbekistonda banklar xususiylashtirilgani, elektron bank xizmatlari joriy etilgani, valyuta siyosati erkinlashtirilgani va bozor iqtisodiyotiga xos bo'lgan prinsiplar joriy etilgani hamda banklarning mustaqilligi ta'minlangani to'g'risida xulosaga kelingan.

Dissertatsiyaning **“Banklar faoliyatining tashkiliy-huquqiy asoslari”** deb nomlangan ikkinchi bobida banklarni tashkil etish va uning tashkiliy-huquqiy shakli, bank operatsiyalarining yuridik mazmuni, banklararo xalqaro hamkorlikning huquqiy masalalari tahlil qilingan.

Dissertant tomonidan huquqshunos olimlarning tadqiqotlari o'rganilgan holda O'zbekiston Respublikasida banklarni ochish uchun har qanday shaxs, xususan, rezident va norezident jismoniy va yuridik shaxslarning huquqlari mavjudligi, banklarning asosiy vazifa va funksiyasidan kelib chiqib, moliyaviy mas'uliyatni oshirish hamda mijozlarning huquq va manfaatlarini ko'zlab, qonunchilikda banklarni ochish uchun bir qator talablar belgilangani, xususan, mazkur talablarni umumiy asoslarda guruhlarga ajratib, birinchi guruh – muassislarga qo'yilgan talablar, ikkinchi guruh – bank xodimlariga qo'yilgan talablar, uchinchi guruh – moliyaviy mablag'larga qo'yilgan talablar, to'rtinchi guruh – bank binosi, uskuna va dasturlarga qo'yilgan talablar, beshinchi guruh – bankning tashkiliy tuzilmasi va bankni tashkil etishga doir hujjatlarga qo'yilgan talablar to'g'risida xulosaga kelingan.

Rivojlangan davlatlar va MDH davlatlarining qonunchiligida banklarning tashkiliy-huquqiy shakli aksiyadorlik jamiyati sifatida belgilangan bo'lib, mazkur shaklning tanlanishi, jamiyatning oshkora ishlashi, mijozlarning huquq va manfaatlarini himoya qilish hamda aksiyalar orqali moliyaviy mablag'larni jalb qilishda ifodalanishi to'g'risida xulosaga kelingan.

Tadqiqotchi tomonidan milliy va xorijiy davlatlar (Xitoy, Shveysariya, Janubiy Koreya, Singapur, Germaniya, Qozog'iston, Qirg'iziston va boshqa davlatlar) bank qonunchiligi tahlil qilinishi asosida milliy bank qonunchiligimizda chet el banklarining filiallarini tashkil etishga ruxsat berish mumkinligi asoslantirilgan.

Bank ta'sischilari sifatida quyidagilar, xususan, offshor zonalar hududida yashovchi yoki ro'yxatdan o'tgan, ro'yxati Markaziy bank tomonidan belgilanadigan ishtirokchilar sifatida affillangan shaxslar bo'lgan jismoniy va yuridik shaxslar; xalqaro sanksiyalar mavjud bo'lgan davlatlarda ro'yxatdan o'tgan jismoniy va yuridik shaxslar hamda shunga o'xshash elementlarga ega shaxslar ishtirok etishi mumkin emasligi asoslantirilgan, shuningdek, “Banklar va bank faoliyati to'g'risida”gi Qonunning 12-moddasiga o'zgartirish va qo'shimchalar kiritish bo'yicha takliflar ishlab chiqilgan.

Dissertant tomonidan huquqshunos olimlar A. Zulyarov, M. Yo'ldoshev, Y. Tursunov, A. Li, E. Xojiyev, O. Raximova, Sh. Bozarov, A. Kurbatov, A. Sherstobitov, O. Oleynik, L. Yefimova, G. Tosunyanlarning tadqiqotlari tahlil qilinishi asosida bank operatsiyalari tushunchasi bo'yicha xulosa keltirilgan.

Tadqiqotchi tomonidan bank operatsiyalari markaziy bank tomonidan berilgan litsenziya asosida amalga oshiriladigan pul mablag‘lari, qimmatli qog‘oz, to‘lov, valyuta va boshqa xizmatlarni amalga oshirish bilan bog‘liq bo‘lgan moliyaviy operatsiyalar hisoblanishi to‘g‘risida xulosaga kelingan.

Dissertatsiyada “bank xizmatlari” va “bank operatsiyalari” tushunchalari bir-biriga o‘xshash va o‘zaro yaqin tushuncha hisoblanishi, ammo muallifning fikricha, bank xizmatlari kengroq bo‘lib, bank operatsiyalarini ham qamrab olishi, masalan, banklar tomonidan fuqarolarning murojaatlari ko‘rib chiqilishi bank xizmati bo‘lishi mumkinligi, ammo litsenziyada belgilangan vakolatlardan kelib chiqib, mazkur murojaatga javoban biror-bir bank operatsiyalari amalga oshirilishi yoki oshirilmaslgi mumkinligi qayd etilgan.

Tadqiqotchi tomonidan milliy va xorijiy davlatlar (Janubiy Koreya, Germaniya, Qirg‘iziston, Rossiya, Qozog‘iston, va boshqa davlatlar) bank qonunchiligi tahlil qilinishi asosida: 1) Markaziy bankning normativ-huquqiy hujjatlariga muvofiq, onlayn platformalar va boshqa savdo-xizmat ko‘rsatish platformalariga xizmat ko‘rsatuvchi operator funksiyalarini bajarish; 2) bank faoliyati bilan bog‘liq kompyuter tizimlari va dasturlarini sotish va ijaraga berish; 3) moliyaviy ta‘lim va moliya bo‘yicha kitoblar va davriy nashrlarni nashr etish; 4) moliyaviy tadqiqotlar va so‘rovnomalar o‘tkazish; 5) forfeiting operatsiyalari; 6) bank oldidagi majburiyatlarni to‘lash uchun garovni sotish kabi harakatlarni bank operatsiyalari (xizmati) sifatida tasniflash lozimligi to‘g‘risida xulosaga kelingan, shuningdek “Banklar va bank faoliyati to‘g‘risida”gi Qonunning 5-moddasiga o‘zgartirish va qo‘shimchalar kiritish bo‘yicha takliflar ishlab chiqilgan.

Dissertatsiyada xalqaro bank va moliya tashkilotlari sifatida Xalqaro valyuta jamg‘armasi, Jahon banki, Yevropa tiklanish va taraqqiyot banki, Osiyo taraqqiyot banki va Islom taraqqiyot bankining faoliyatiga to‘xtab o‘tilib, tadqiqotchining fikricha, xalqaro moliya va bank tashkilotlariga a‘zo bo‘lish hamda xalqaro bank standartlarini implementatsiya qilishdan ko‘zlangan maqsad – bank qonunchiligini doimiy takomillashtirib borish hamda bank tizimida moliyaviy inqirozlarning oldini olish hisoblanishi qayd etilgan.

Dissertatsiyada islom banki yoki islomiy bank tushunchasi tahlil qilinib, Islom banki tushunchasi ko‘proq xalqaro tashkilot ma‘nosida qo‘llansa, islomiy bank tushunchasi islom tamoyillari asosida ishlaydigan bankka nisbatan qo‘llanishi, tadqiqotchi nazarida, har ikki tushuncha ham islom qoidalari asosida ishlovchi bankni anglatishidan kelib chiqib, bir-xil ma‘noda qo‘llanishi mumkinligi to‘g‘risida xulosa qilingan hamda “Islom(iy) banki – markaziy bankning litsenziyasi asosida qonunchilikka hamda islom tamoyillariga muvofiq bank faoliyatini amalga oshiruvchi yuridik shaxs”, – degan ta‘rif ilgari surilgan.

Tadqiqotchi tomonidan milliy va xorijiy davlatlar (Indoneziya, Malayziya, Tojikiston, Qirg‘iziston, Qozog‘iston va boshqa davlatlar) bank qonunchiligi tahlil qilinishi asosida bank qonunchiligimizda islom banki faoliyatiga qo‘yilgan talablarni belgilash, xususan, islom banki foiz shaklida haq olish, unga investitsiya depozit yoki daromad qaytishini kafolatlash, tamaki ishlab chiqarish va (yoki) savdo bilan bog‘liq faoliyati, spirtli ichimliklar, qurol va o‘q-dorilar, qimor, shuningdek, tadbirkorlik va boshqa turdagi islomiy moliya tamoyillari bo‘yicha kengash tomonidan taqiqlangan faoliyatni moliyalashtirish (kreditlash) huquqiga ega emasligi to‘g‘risida xulosa qilingan, shuningdek, bank faoliyati va moliyalashtirishning islom tamoyillariga muvofiq bank

operatsiyalari va bitimlarini amalga oshirish uchun litsenziya olish tartibi, islom banklari va "Islomiy darcha"ga ega banklarning maqomi Markaziy bank tomonidan belgilanishi lozimligi asoslantirilgan, shuningdek, "Banklar va bank faoliyati to'g'risida"gi Qonun 5-moddasiga o'zgartirish va qo'shimchalar kiritish bo'yicha takliflar ishlab chiqilgan.

Dissertatsiyada islom banking operatsiyalari o'ziga xos operatsiyalar hisoblanishi qayd etilib, unga ko'ra, islom banking bank operatsiyalariga quyidagi: 1) jismoniy va yuridik shaxslarning talab qilib olinguncha foizsiz depozitlarini qabul qilish, jismoniy va yuridik shaxslarning bank hisobvaraqlarini ochish va yuritish; 2) jismoniy va yuridik shaxslarning investitsiya depozitlarini qabul qilish; 3) bank qarz operatsiyalari: Islom banki tomonidan muddatli, qaytariladigan va haq olinmasdan pul shaklida kreditlar berish; 4) jismoniy va yuridik shaxslarni tijorat krediti berish orqali sotuvchi sifatida moliyalashtirish: tovarlarni keyinchalik uchinchi shaxsga sotish shartisiz; tovarlarni keyinchalik uchinchi shaxsga sotish shartlari bo'yicha; 5) yuridik shaxslarning ustav kapitalida va (yoki) sheriklik shartlarida ishtirok etish orqali ishlab chiqarish va savdo faoliyatini moliyalashtirish; 6) lizing (ijara) shartlari bo'yicha investitsiya faoliyati; 7) islom banking bank operatsiyalarini amalga oshirishda agentlik faoliyati kabi operatsiyalar hisoblanishi ilgani surilgan, shuningdek "Banklar va bank faoliyati to'g'risida"gi Qonun 5-moddasiga o'zgartirish va qo'shimchalar kiritish bo'yicha takliflar ishlab chiqilgan.

Dissertatsiyaning **"O'zbekiston Respublikasida banklarning qonuniy faoliyatini ta'minlash masalalari"** deb nomlangan uchinchi bobida banklar faoliyatini nazorat qilishning huquqiy masalalari, bank qonunchiligini buzganlik uchun qo'llanadigan choralar hamda bank mijozlarining huquq va manfaatlari kafolatlari tahlil etilgan.

Bank nazoratining yuridik tabiatiga nisbatan olimlar S. Norqobilov, H. Dadaboyeva, O'. Jo'rayev, B. Berdiyarov, M. Yo'ldoshev, Y. Tursunov, A. Zulyarov, A. Li, O. Raximova, Sh. Bozarov, E. Xojiyev, F. Samig'jonov, V. Davlyatov, I. Ergashev, E. Rahmatov, Sh. Abdullayeva hamda boshqa olimlar tomonidan bildirilgan nuqtayi nazarlar tahlili asosida muallif tomonidan bank nazorati tushunchasi va uning shakllari bo'yicha xulosalar keltirilgan.

Tadqiqotchining fikricha, bank nazorati – moliyaviy nazoratning tarkibiy qismi bo'lib, vakolatli organ tomonidan qonunchilikda belgilangan tartibda bank tizimi barqarorligi va tartibligini ta'minlash maqsadida banklar faoliyatiga ta'sir etadigan yuridik va iqtisodiy usul (vositalar) majmui hisoblanadi.

Bank nazoratining quyidagi: banklar faoliyatini ro'yxatdan o'tkazish va litsenziyalash; banklar faoliyatini tekshirish; banklar faoliyatini masofaviy tekshirish; bank faoliyatini monitoring qilish; bank faoliyatining ayrim operatsiyalariga ruxsat berish; bank faoliyatining ayrim turlari bilan shug'ullanish uchun xabardor qilish tartibini belgilash; banklarning alohida toifadagi shaxslarini tekshirish; bank faoliyatiga oid hisobotlarni ko'rib chiqish; iqtisodiy normativlarni (kapital, rezerv, risk, likvidlik) belgilash; banklar amal qiladigan minimal va maksimal talablarni belgilash; bank va nobank tashkilotlar tomonidan yo'l qo'yilgan qonunbuzilishlar uchun chora va sanksiyalar qo'llash kabi shakllari to'g'risida fikrlar ilgari suriladi.

Tadqiqotchi tomonidan milliy va xorijiy davlatlar (AQSh, Germaniya, Kanada, Singapur, Janubiy Koreya, Qozog'iston, Qirg'iziston va boshqa davlatlar) bank qonunchiligi tahlil qilinishi asosida makroprudensial siyosat – moliya tizimining tizimli

risklarini kamaytirishga qaratilgan chora-tadbirlar majmui tushunilishi, moliya tizimining tizimli risklari deganda moliyaviy xizmatlar ko'rsatishning buzilishi, butun moliya tizimining yoki uning bir qismining moliyaviy holatining yomonlashishiga olib keladigan yoki uning barqaror ishlashiga putur yetkazadigan xatarlar tushunilishi, moliyaviy tizimning tizimli risklariga tizimli ahamiyatga ega moliyaviy tashkilotlarning risklari ham kirishi qayd etilgan, shuningdek, "O'zbekiston Respublikasining Markaziy bank to'g'risida"gi Qonuni 67-moddasiga o'zgartirish va qo'shimchalar kiritish bo'yicha takliflar ishlab chiqilgan.

Bank huquqbuzarligi bank qonunchiligida belgilangan qoidalarni buzish (harakat yoki harakatsizlik) hisoblanishi, Markaziy bank tomonidan qo'llanadigan choralar (sanksiya) bank va nobank tashkilotlarning bank qonunchiligida belgilangan qoidalarni buzganligi sababli qo'llanadigan majburlov (ta'sir) vositalari hisoblanishi to'g'risida xulosaga kelingan.

Tadqiqotchi tomonidan milliy va xorijiy davlatlar bank qonunchiligi tahlil qilinib, Markaziy bank tomonidan qo'llanadigan choralar va sanksiyalarni qo'llashdan maqsad O'zbekiston Respublikasida bank tizimining barqarorligini ta'minlash, omonatchilar, boshqa iste'molchilar va boshqa kreditorlarning manfaatlarini himoya qilish uchun tezkor javob berish hamda muammolarni tuzatish va bartaraf etish hisoblanishi to'g'risida xulosaga kelingan, shuningdek, O'zbekiston Respublikasining "Markaziy bank to'g'risida"gi Qonuni 67-moddasiga o'zgartirish va qo'shimchalar kiritish bo'yicha takliflar ishlab chiqilgan.

Tadqiqotchi tomonidan milliy va xorijiy davlatlar (Rossiya, Qozog'iston, Qirg'iziston, Kanada, Janubiy Koreya, AQSh, Shveysariya va boshqa davlatlar) bank qonunchiligi tahlil qilinishi asosida Markaziy bank tomonidan banklarga qo'llanadigan chora va sanksiyalar tizimlashtirilgan, xususan, Markaziy bank tomonidan banklarga quyidagi chora va sanksiyalar qo'llanishi: 1) ogohlantirish xati yuborish; 2) o'z kapitalining besh foizigacha miqdorda jarima undirish; 3) talab qilish; 4) iqtisodiy standartlar va talablarni oshirish; 5) cheklash yoki taqiqlash; 6) mansabdor shaxslarni olib tashlash yoki ishdan bo'shatish, boshqaruv organlarini o'zgartirish; 7) vaqtinchalik boshqaruvni joriy etish; 8) qonunda nazarda tutilgan asoslar bo'yicha litsenziyani bekor qilish; 9) ruxsat etish xususiyatiga ega hujjatlarni bekor qilish; 10) xabardor qilish tartibida amalga oshiriladigan faoliyatni to'xtatib turishga yoki tugatish kabi choralar bo'yicha qayd etilgan, shuningdek, O'zbekiston Respublikasining "Markaziy bank to'g'risida"gi Qonuni 67-moddasiga o'zgartirish va qo'shimchalar kiritish bo'yicha takliflar ishlab chiqilgan.

Tadqiqotchi tomonidan milliy va xorijiy davlatlar (Germaniya, AQSh, Singapur, Qozog'iston, Shveysariya va boshqa davlatlar) bank qonunchiligi tahlil qilinishi asosida bank mijozlarining huquq va manfaatlari 3 usulda himoya qilinishi to'g'risida xulosaga kelingan.

Tadqiqotchi fikricha, bank mijozlarining huquq va manfaatlarini himoya qilish tizimi ma'muriy usulda markaziy bank tomonidan mijozlar bilan ishlashda banklarga belgilangan minimum va maksimum talablar majburiy qonun darajasida belgilanishi; shartnomaviy usulda bank va mijoz o'rtasida tuzilgan shartnomada taraflar ayrim qoidalarni o'zaro yozma kelishishi, qo'shimcha usulda esa bank mijozlarining bankdagi omonatlarini kutilmagan xavfdan himoya qilish uchun maxsus omonatchilar fondi

tashkil etilishi, shuningdek, ayrim javobgarliklar bo'yicha sug'urtalash xizmatidan foydalanishdan iborat ekanligi to'g'risida xulosaga kelingan.

Dissertatsiyada xorijiy davlatlar tajribasi tahlil qilinib, bank ombudsmani o'z faoliyatida mustaqil bo'lgan, bank, bank operatsiyalarining ayrim turlarini amalga oshiruvchi tashkilot va qarz oluvchining huquqlari va qonun bilan himoyalangan manfaatlarini himoya qilish to'g'risida kelishuvga erishish uchun uning iltimosiga binoan bank shartnomasidan kelib chiqadigan kelishmovchiliklarni hal qiluvchi shaxs ekanligi to'g'risida xulosaga kelingan.

Tadqiqotchi tomonidan milliy va xorijiy davlatlar (Germaniya, AQSh, Singapur, Qozog'iston, Shveysariya va boshqa davlatlar) bank qonunchiligi tahlil qilinishi asosida bank ombudsmani institutini milliy qonunchilikka tatbiq etish lozimligi, mazkur institut nizolarni hal qilishning maqbul usuli sifatida oldinga chiqishi, xususan, bank qonunchiligida bank ombudsmani tushunchasi, maqomi, saylanish tartibi, faoliyatining prinsiplari, vakolati, bank ombudsmaniga qo'yiladigan talablar va u tomonidan qarorlar qabul qilish tartibining huquqiy asoslarini belgilash lozimligi qayd etilgan, shuningdek, "Banklar va bank faoliyati to'g'risida"gi Qonun 9-bobiga o'zgartirish va qo'shimchalar kiritish bo'yicha takliflar ishlab chiqilgan.

## XULOSA

"O'zbekiston Respublikasida banklar faoliyatini tartibga solishning tashkiliy-huquqiy asoslarini takomillashtirish" mavzusida o'tkazilgan tadqiqot natijasida quyidagi ilmiy-nazariy va amaliy xulosalar ishlab chiqildi:

### **I. Ilmiy-nazariy xulosalar:**

1. Bank tushunchasiga quyidagi mualliflik ta'rifi ishlab chiqildi: *"Bank – faoliyati daromad olishga qaratilgan, vakolatli organ tomonidan berilgan litsenziya doirasida bank mijozlariga bank xizmatlarini ko'rsatish, xususan, jismoniy va yuridik shaxslarga bank hisobraqamlarini ochish va yuritish, omonatlarni qabul qilish, kreditlar berish, to'lovlar va hisob-kitoblar va boshqa moliyaviy operatsiyalarni amalga oshiruvchi yuridik shaxs hisoblanadi"*.

2. Bank faoliyati tushunchasiga quyidagi mualliflik ta'rifi ishlab chiqildi: *"Bank faoliyati – banklar tomonidan qonunchilikka muvofiq o'z ustavida va vakolatli organ tomonidan berilgan litsenziyasi doirasida amalga oshirilishi mumkin bo'lgan bank operatsiyalari va tashkiliy-harakatlar majmui hisoblanadi"*.

3. Tijorat banki tushunchasi bo'yicha quyidagi xulosaga kelindi: *"Tijorat banki" tushunchasi va "bank tushunchasi" o'zaro bog'liq bo'lib, tijorat banki tushunchasining mohiyati bank faoliyati daromad olishga qaratilganligi va uning faoliyati tadbirkorlik faoliyatining bir turi sifatida moliya bozorida ishtirok etishini anglatadi.*

4. Banklar faoliyatining yuridik tabiati bo'yicha quyidagi xulosaga kelindi: *banklar foyda olishni o'z faoliyatining asosiy maqsadi qilib olgan tijoratchi yuridik shaxs hisoblanadi, bunda markaziy bankning faoliyati istisno hisoblanadi, chunki markaziy bankning asosiy maqsadi nazorat qilish va shu orqali moliyaviy barqarorlikni ta'minlash hisoblanadi; banklar mulk shakli va ulushiga ko'ra davlatga qarashli, xususiy, chet el kapitali ishtirokidagi bank va chet el banklari sifatida faoliyati yuritishi mumkin; banklar faoliyati alohida toifadagi faoliyat turi*

*bo'lganligi sababli vakolatli organdan berilgan litsenziya asosida faoliyat yuritadi; banklar asosiy faoliyat sifatida kredit, moliya va bank operatsiyalarini amalga oshiradi; banklar bevosita ishlab chiqarish savdo va banklar faoliyatiga xos bo'lmagan xizmatlar bilan shug'ullanmaydi; banklar yuridik shaxs sifatida barcha mulkiy va nomulkiy huquqdan foydalanadi, majburiyatlarga ega bo'ladi hamda javobgar bo'ladi.*

5. Banklar turlari bo'yicha quyidagi xulosaga kelindi: *banklar turlari ularning mulk shakliga ko'ra (davlat, xususiy), xizmat ko'rsatish hududiga ko'ra (davlat, davlatlararo, xalqaro), ta'sischi toifasiga ko'ra (milliy, chet el ishtirokida, chet el banki), faoliyati turi va sohasiga ko'ra (ipoteka, investitsiya, qishloq xo'jaligi, sanoat-qurilish) va maqsadi ko'ra (tijorat va notijorat) tasniflanadi.*

6. Bank prinsiplari bo'yicha quyidagi xulosaga kelindi: *"Bank prinsiplari – bank munosabatlarini tartibga soluvchi bank qonunchiligining asosiy va bosh qoidalari"*.

7. Markaziy bankning asosiy maqsadi va vazifalari bo'yicha quyidagi xulosaga kelindi: *"Markaziy bankning asosiy maqsadi – moliya-kredit mexanizmlari orqali pul va narxlarning barqarorligini ta'minlash hisoblanadi va mazkur maqsaddan kelib chiqib, moliyaviy vazifalarni bajaradi (nazorat qilish, tekshirish, monitoring qilish, normativ-huquqiy hujjat chiqarish orqali tartibga solish, litsenziyalash, maslahat, kafolat, kafil, fiskal agent, rezerv, depozitariy va boshqalar)"*.

8. Banklarning asosiy vazifasi bo'yicha quyidagi xulosaga kelindi: *"Banklarning asosiy vazifasi – moliya-kredit tizimida bo'sh mablag'lardan unumli foydalanish orqali kapital bozorni moliyalashtirish va aholiga moliyaviy xizmatlar ko'rsatish hisoblanadi"*.

9. Bank qonunchiligi bo'yicha quyidagi xulosaga kelindi: *"Bank qonunchiligi – vakolatli organ tomonidan qabul qilingan bank sohasidagi munosabatlarni tartibga solishga qaratilgan normativ-huquqiy hujjatlar tizimi hisoblanadi"*.

10. Bank qonunchiligining rivojlanish bosqichlari bo'yicha quyidagi xulosaga kelindi: *O'zbekistonda bank qonunchiligi rivojlanishining **birinchi bosqichi** (1991-1994)da mustaqil O'zbekistonning bank tizimining fundamental asoslari yaratilgan. O'zbekistonda bank qonunchiligi rivojlanishining **ikkinchi bosqichi** (1994-1996)da milliy valyuta muomalaga kiritilgan va ikki pog'onali bank tizimining huquqiy asoslari yaratilgan. O'zbekistonda bank qonunchiligi rivojlanishining **uchinchi bosqichi** (1997-2000)da banklarni xususiy lashtirish, aksiyadorlik tijorat banklarida boshqaruvning sifatini oshirish va banklar faoliyatida nazorat kuchaytirilgan. O'zbekistonda bank qonunchiligi rivojlanishining **to'rtinchi bosqichi** (2000-2010)da bank tizimi yanada erkinlashtirilib, bozor munosabatlariga oid qoidalar joriy etilgan. O'zbekistonda bank qonunchiligi rivojlanishining **beshinchi bosqichi** (2010-2016)da O'zbekistonda zamonaviy bank tizimi takomillashtirildi va xalqaro bank standartlariga moslashtirildi. **Oltinchi bosqich** (2016-2024)da O'zbekistonda banklarni xususiy lashtirish, elektron bank xizmatlari joriy etish, valyuta siyosati erkinlashtirish va bozor iqtisodiyotga xos bo'lgan prinsiplarni joriy etish hamda banklarning mustaqilligiga urg'u berildi.*

11. O‘zbekiston Respublikasida banklarni ochish bo‘yicha quyidagi xulosaga kelindi: *O‘zbekiston Respublikasida banklarni ochish uchun har qanday shaxs, xususan, rezident va norezident jismoniy va yuridik shaxslarning huquqlari mavjud. Banklarning asosiy vazifa va funksiyasidan kelib chiqib, moliyaviy mas’uliyatni oshirish hamda mijozlarning huquq va manfaatlarini ko‘zlab, qonunchilikda banklarni ochish uchun bir qator talablar belgilangan. Xususan, mazkur talablarni umumiy asoslarda, guruhlariga ajratishimiz mumkin, birinchi guruh – muassislarga qo‘yilgan talablar, ikkinchi guruh – bank xodimlariga qo‘yilgan talablar, uchinchi guruh – moliyaviy mablag‘larga qo‘yilgan talablar, to‘rtinchi guruh – bank binosi, uskuna va dasturlarga qo‘yilgan talablar, beshinchi guruh – bankning tashkiliy tuzilmasi va bankni tashkil etishga doir hujjatlarga qo‘yilgan talablar.*

12. Bank operatsiyasi tushunchasi bo‘yicha quyidagi xulosaga kelindi: *“Bank operatsiyalari – markaziy bank tomonidan berilgan litsenziya asosida amalga oshiriladigan pul mablag‘lari, qimmatli qog‘oz, to‘lov, valyuta va boshqa xizmatlarni amalga oshirish bilan bog‘liq bo‘lgan moliyaviy operatsiyalar hisoblanadi”.*

13. Bank nazorati va uning shakllari bo‘yicha quyidagi xulosaga kelindi: *“Bank nazorati – moliyaviy nazoratning tarkibiy qismi bo‘lib, vakolatli organ tomonidan qonunchilikda belgilangan tartibda bank tizimi barqarorligi va tartiblilikini ta’minlash maqsadida banklar faoliyatiga ta’sir etadigan yuridik va iqtisodiy usul va vositalar majmui hisoblanadi”.*

*Bank nazoratining quyidagi shakllari mavjud: banklar faoliyatini ro‘yxatdan o‘tkazish va litsenziyalash; banklar faoliyatini tekshirish; banklar faoliyatini masofaviy tekshirish; bank faoliyatini monitoring qilish; bank faoliyatining ayrim operatsiyalariga ruxsat berish; bank faoliyatining ayrim turlari bilan shug‘ullanish uchun xabardor qilish tartibini belgilash; banklarning alohida toifadagi shaxslarini tekshirish; bank faoliyatiga oid hisobotlarni ko‘rib chiqish; iqtisodiy normativlarni (kapital, rezerv, risk, likvidlik) belgilash; banklar amal qiladigan minimal va maksimal talablarni belgilash; bank va nobank tashkilotlar tomonidan yo‘l qo‘yilgan qonunbuzilishlar uchun chora va sanksiyalar qo‘llash.*

14. Bank huquqbuzarligi va choralar (sanksiya) bo‘yicha quyidagi xulosaga kelindi: *“Bank huquqbuzarligi – bank qonunchiligida belgilangan qoidalarni buzish (harakat yoki harakatsizlik) hisoblanadi. Markaziy bank tomonidan qo‘llanadigan choralar (sanksiya) – bank va nobank tashkilotlarning bank qonunchiligida belgilangan qoidalarni buzganligi sababli qo‘llanadigan majburlov (ta’sir) vositalari”.*

15. Bank mijozlarining huquq va manfaatlarini himoya qilish tizimi bo‘yicha quyidagi xulosaga kelindi: *Bank mijozlarining huquq va manfaatlarini himoya qilish tizimi ma’muriy (markaziy bank tomonidan mijozlar bilan ishlashda banklarga belgilangan minimum va maksimum talablar), shartnomaviy (bank va mijoz o‘rtasida tuzilgan shartnomada kelishilgan qoidalar) va qo‘shimcha usullar (omonatchilar fondi va riskni sug‘urtalash)dan iborat.*

**II. Tadqiqot natijalari bo‘yicha quyidagi qonunchilik normalarini takomillashtirishga qaratilgan taklif va xulosalar ishlab chiqildi:**

1. O‘zbekiston Respublikasining “Banklar va bank faoliyati to‘g‘risida”gi qonuni 3-moddasini quyidagi mazmundagi uchinchi xatboshi bilan to‘ldirish taklif etildi: *“O‘zbekiston Respublikasi bank tizimi – O‘zbekiston Respublikasi Markaziy banki va tijorat banklari, shu’ba banklar, ularning filiallari, vakolatxonalari, operatsion idoralari (punktlari), xorijiy banklarning vakolatxonalaridan iborat”*.

2. O‘zbekiston Respublikasining “Banklar va bank faoliyati to‘g‘risida”gi qonuni 3-moddasini quyidagi mazmundagi o‘n to‘rtinchi xatboshi bilan to‘ldirish taklif etildi: *“Davlatlararo bank – xalqaro shartnoma (bitim) asosida tashkil etilgan va faoliyat yurituvchi bank bo‘lib, uning ta‘sischilari O‘zbekiston Respublikasi hukumati (yoki u vakolat bergan davlat organi) va ushbu shartnomani (shartnomani) imzolagan davlat (davlatlar) hukumati (hukumatlari) hisoblanadi”*.

3. O‘zbekiston Respublikasining “Banklar va bank faoliyati to‘g‘risida”gi qonuniga Bank prinsiplari deb nomlanuvchi quyidagi mazmundagi 3<sup>1</sup>-moddasini kiritish taklif etiladi. *“Bank prinsiplari “Bank o‘z faoliyatini quyidagi prinsiplar asosida olib boradi: **bank faoliyatiga doir prinsiplar:** qonuniylik; mustaqillik; oshkoralik; bank faoliyatining ishonchliligi va xavfsizligi; bank va davlat o‘rtasidagi javobgarlikning chegaralanganligi; xalqaro bank standartlarida nazarda tutilgan boshqa umume’tirof etilgan asosiy prinsiplardan iborat”. **“Bank va mijoz o‘rtasidagi munosabatlarga doir prinsiplar** – tenglik, iroda erkinligi, halollik, oqilonalik, adolatlilik, omonatlarning sir saqlanishi, omonatlarning qaytarilishi kafolatlanganligi prinsiplaridan iborat”*.

4. O‘zbekiston Respublikasining “Banklar va bank faoliyati to‘g‘risida”gi Qonuni 30-moddasi birinchi qismini quyidagi mazmunda o‘zgartirish taklif etildi: *“O‘zbekiston Respublikasida chet el banklari tomonidan filiallar tashkil etilishi mumkin”*.

5. O‘zbekiston Respublikasining “Banklar va bank faoliyati to‘g‘risida”gi Qonuni 12-moddasini quyidagi mazmundagi uchinchi qism bilan to‘ldirish taklif etildi: *“Bank ta‘sischilari bo‘lishi mumkin emas: 1) offshor zonalar hududida yashovchi yoki ro‘yxatdan o‘tgan, ro‘yxati Markaziy bank tomonidan belgilanadigan ishtirokchilar sifatida affillangan shaxslar bo‘lgan jismoniy va yuridik shaxslar. Affillangan shaxslar deb tan olinadi: yuridik shaxsning muhim ishtirokchilari; xuddi shu yuridik shaxs muhim ishtirokchi bo‘lgan yuridik shaxslar; 2) BMT Xavfsizlik kengashi tomonidan qabul qilingan xalqaro sanksiyalar mavjud bo‘lgan jismoniy va yuridik shaxslar, shuningdek, BMT Xavfsizlik kengashi tomonidan ushbu shaxslar bilan huquqiy munosabatlarni taqiqlovchi va O‘zbekiston Respublikasi uchun majburiy bo‘lgan xalqaro sanksiyalar mavjud bo‘lgan davlatlarda ro‘yxatdan o‘tgan jismoniy va yuridik shaxslar; 3) belgilangan tartibda o‘z faoliyati, moliyaviy ahvoli, ishtirokchilarning a‘zoligi to‘g‘risida ma’lumot bermagan va yuridik shaxs ishtirokchilarini, shu jumladan, foydali mulkdorlarni ishonchli aniqlash va o‘rganishga imkon beradigan boshqa ma’lumotlar va hujjatlarni taqdim etmagan jismoniy va yuridik shaxslar. Yuridik shaxs ishtirokchilarini, shu jumladan, foydali mulkdorlarni, shuningdek, ularning benuqson ishbilarmonlik obro‘isini tasdiqlamagan taqdirda ishonchli aniqlamaydi va o‘rganmaydi; 4) Markaziy bank tomonidan belgilangan tartibda bank aksiyalarini sotib olish uchun ajratilgan mablag‘larning kelib chiqish manbasining*

qonuniyligini tasdiqlamagan jismoniy va yuridik shaxslar; 5) respublika yoki mahalliy byudjetlardan moliyalashtiriladigan yuridik shaxslar, O'zbekiston Respublikasi Vazirlar Mahkamasi bundan mustasno; 6) O'zbekiston Respublikasi qonunchiligiga yoki xorijiy davlat qonunchiligiga muvofiq taqiqlar yoki cheklovlar mavjud bo'lgan jismoniy va yuridik shaxslar”.

6. O'zbekiston Respublikasining “Banklar va bank faoliyati to'g'risida”gi qonuni 5-moddasini quyidagi mazmundagi xatboshilar bilan to'ldirish taklif etildi: “1) Markaziy bankning normativ-huquqiy hujjatlariga muvofiq onlayn platformalar va boshqa savdo-xizmat ko'rsatish platformalariga xizmat ko'rsatuvchi operator funksiyalarini bajarish 2) bank faoliyati bilan bog'liq kompyuter tizimlari va dasturlarini sotish va ijaraga berish 3) moliyaviy ta'lim va moliya bo'yicha kitoblar va davriy nashrlarni nashr etish (bank xizmati) 4) moliyaviy tadqiqotlar va so'rovnomalar o'tkazish (bank xizmati) 5) forfeiting operatsiyalari 6) bank oldidagi majburiyatlarni to'lash uchun garovni sotish”.

7. O'zbekiston Respublikasining “Banklar va bank faoliyati to'g'risida”gi Qonunini quyidagi mazmundagi 5<sup>1</sup>-, 5<sup>2</sup>-, 5<sup>3</sup>-moddalari bilan to'ldirish taklif etildi: **“5<sup>1</sup>-moddasi. Islom banki va tamoyillari:**

*Islom(iy) banki – markaziy bankning litsenziyasi asosida qonunchilikka hamda islom tamoyillariga muvofiq bank faoliyatini amalga oshiruvchi yuridik shaxs. O'zbekiston Respublikasida an'anaviy bank va kredit berish bilan bir qatorda bank va moliyaning islomiy tamoyillari qo'llanadi.*

*Bank va moliyaning islomiy tamoyillari – shariat me'yorlariga muvofiq bank operatsiyalari va operatsiyalarini amalga oshirish tamoyillari va qoidalari hisoblanadi. Shariat standartlari deganda islom banki faoliyatini yuritish standartlarini belgilovchi xalqaro tashkilotlar (Islomiy moliya institutlari uchun buxgalteriya hisobi va auditni tashkil etish, Islom moliyaviy xizmatlari kengashi) tomonidan ishlab chiqilgan va tasdiqlangan iqtisodiy yoki boshqa faoliyatni amalga oshirish qoidalari tushuniladi.*

#### **5<sup>2</sup>-moddasi. Islom banki faoliyatiga qo'yiladigan talablar**

*Islom banki foiz shaklida haq olish, unga investitsiya depozit yoki daromad qaytishini kafolatlash, tamaki ishlab chiqarish va (yoki) savdo bilan bog'liq faoliyati, spirtli ichimliklar, qurol va o'q-dorilar, qimor, shuningdek, tadbirkorlik va boshqa turdagi Islomiy moliya tamoyillari bo'yicha kengash tomonidan taqiqlangan faoliyatni moliyalashtirish (kreditlash) huquqiga ega emas.*

*Bank ishi va moliyalashtirishning islom tamoyillariga muvofiq, operatsiyalar va bitimlarni amalga oshiruvchi bank O'zbekiston Respublikasining bank qonunchiligi talablariga muvofiq operatsiyalar va bitimlarni amalga oshirish shartlarini mustaqil ravishda belgilashga haqlidir. Bank faoliyati va moliyalashtirishning Islom tamoyillariga muvofiq bank operatsiyalari va bitimlarini amalga oshirish uchun litsenziya olish tartibi, islom banklari va “Islomiy darcha”ga ega banklarning maqomi Markaziy bank tomonidan belgilanadi.*

*Bank va moliyalashtirishning islom tamoyillariga muvofiq faoliyat yuritadigan bankda shariat kengashi faoliyat ko'rsatishi kerak. Shariat kengashi – bank siyosati va namunaviy shartnomalarining shariat standartlariga muvofiqligi, masalalarni ko'rib chiqish va bank ishi va moliyalashtirishning islom tamoyillari*

*bo'yicha operatsiyalar bo'yicha tavsiyalar tayyorlash uchun mas'ul bo'lgan bank organi. Shariat kengashi tarkibiga Markaziy bank tomonidan belgilangan talablarga javob beradigan shaxslar kirishi mumkin. Bank shariat kengashi a'zolari bilan mehnat shartnomalari yoki boshqa shunga o'xshash bitimlar va shartnomalar tuzilmaydi va O'zbekiston Respublikasining mehnat qonunchiligi ularga taalluqli emas.*

### **5<sup>3</sup>-moddasi. Islom bankining bank operatsiyalari**

*Islom bankining bank va boshqa operatsiyalari belgilangan. Unga ko'ra, islom bankining bank operatsiyalariga quyidagi operatsiyalar kiradi: 1) jismoniy va yuridik shaxslarning talab qilib olinguncha foizsiz depozitlarini qabul qilish, jismoniy va yuridik shaxslarning bank hisobvaraqlarini ochish va yuritish; 2) jismoniy va yuridik shaxslarning investitsiya depozitlarini qabul qilish; 3) bank qarz operatsiyalari: Islom banki tomonidan muddatli, qaytariladigan va haq olinmasdan pul shaklida kreditlar berish; 4) jismoniy va yuridik shaxslarni tijorat krediti berish orqali sotuvchi sifatida moliyalashtirish: tovarlarni keyinchalik uchinchi shaxsga sotish shartisiz; tovarlarni keyinchalik uchinchi shaxsga sotish shartlari bo'yicha; 5) yuridik shaxslarning ustav kapitalida va (yoki) sheriklik shartlarida ishtirok etish orqali ishlab chiqarish va savdo faoliyatini moliyalashtirish; 6) lizing (ijara) shartlari bo'yicha investitsiya faoliyati; 7) Islom bankining bank operatsiyalarini amalga oshirishda agentlik faoliyati”.*

8. O'zbekiston Respublikasining “Markaziy bank to'g'risida”gi Qonunini quyidagi mazmundagi 67<sup>2</sup>-modda bilan to'ldirish taklif etildi.

### **“67<sup>2</sup>-modda. Makroprudensial siyosat**

*Makroprudensial siyosat deganda moliya tizimining tizimli risklarini kamaytirishga qaratilgan chora-tadbirlar majmui tushuniladi. Moliya tizimining tizimli risklari deganda moliyaviy xizmatlar ko'rsatishning buzilishi, butun moliya tizimining yoki uning bir qismining moliyaviy holatining yomonlashishiga olib keladigan yoki uning barqaror ishlashiga putur yetkazadigan xatarlar tushuniladi. Moliyaviy tizimning tizimli risklariga tizimli ahamiyatga ega moliyaviy tashkilotlarning risklari ham kiradi.*

*Tizimli ahamiyatga ega moliyaviy tashkilotlar deganda moliyaviy tizimning barqarorligi umuman barqaror ishlashiga bog'liq bo'lgan moliyaviy tashkilotlar tushuniladi. Makroprudensial siyosatni shakllantirish uchun Markaziy bank: 1) moliya tizimining tizimli risklarini muntazam ravishda kuzatib boradi; 2) moliya bozori va moliya tashkilotlarini tartibga solish, nazorat qilish va nazorat qilish bo'yicha vakolatli organ bilan kelishilgan holda moliyaviy tashkilotlarni tizimli ahamiyatga ega deb tasniflash tartibini belgilaydi; 3) tizimli muhim moliyaviy tashkilotlar ro'yxatini shakllantiradi; 4) mustaqil ravishda yoki boshqa davlat organlari bilan birgalikda o'z vakolatlari doirasida moliyaviy barqarorlikni ta'minlashga qaratilgan chora-tadbirlarni belgilaydi; 5) tizimli moliyaviy inqiroz yuzaga kelgan yoki tahdid bo'lgan taqdirda, mustaqil ravishda moliyaviy tashkilotlar tomonidan bank va boshqa operatsiyalarning ayrim turlariga cheklovlar qo'yadi”.*

9. O'zbekiston Respublikasining “Markaziy bank to'g'risidagi” Qonuni 67-moddasini quyidagi mazmundagi ikkinchi qism bilan to'ldirish taklif etildi:

*“Markaziy bank tomonidan qo‘llanadigan choralar va sanksiyalarni qo‘llashdan maqsad O‘zbekiston Respublikasida bank tizimining barqarorligini ta‘minlash, omonatchilar, boshqa iste‘molchilar va boshqa kreditorlarning manfaatlarini himoya qilish uchun tezkor javob berish hamda muammolarni tuzatish va bartaraf etishdir”.*

10. O‘zbekiston Respublikasining “Markaziy bank to‘g‘risidagi” Qonuni 67-moddasini quyidagi mazmundagi uchinchi qism bilan to‘ldirish taklif etildi: *“Markaziy bank tomonidan banklarga quyidagi chora va sanksiyalar qo‘llanadi: 1) **ogohlantirish xati yuborish:** a) qoidabuzarlikni bartaraf etish to‘g‘risida; b) faoliyatni muvofiqlashtirish; d) muayyan harakatlarni bajarish haqida; 2) **o‘z kapitalining besh foizigacha miqdorda jarima undirish;** 3) **talab qilish:** a) bankni moliyaviy reabilitatsiya qilish yoki qayta tashkil etish bo‘yicha chora-tadbirlarni amalga oshirish to‘g‘risida; b) bankning takroriy/maxsus tashqi auditini o‘tkazish to‘g‘risida; d) belgilangan muddatda bank aksiyalarini sotish to‘g‘risida; e) ma‘muriy xarajatlarni kamaytirish; f) bankning tashkiliy tuzilmasini o‘zgartirish to‘g‘risida; g) bank siyosati, qoidalari, protseduralari va boshqa ichki me‘yoriy hujjatlardagi o‘zgarish kiritish; 4) iqtisodiy standartlar va talablarni oshirish; 5) **cheklash yoki taqiqlash:** a) bank mulkini yoki mablag‘larini tasarruf etish; b) foydani taqsimlash yoki bonus mukofotlarini to‘lash; d) ko‘chmas mulk, qimmatli qog‘ozlar va boshqa bitimlar bilan investitsiyalar va bitimlar tuzish; e) bank operatsiyalarining ayrim turlarini amalga oshirish; f) bankning shu‘ba korxonalari, filiallari, vakolatxonalari va boshqa tarkibiy bo‘linmalarini tashkil etish; g) bankka aloqador shaxslar bilan bitimlar va bitimlar tuzish; h) aksiyadorning bankning keyingi faoliyatidagi ishtiroki; 6) **mansabdor shaxslarni olib tashlash yoki ishdan bo‘shatish, boshqaruv organlarini o‘zgartirish;** 7) **vaqtinchalik boshqaruvni joriy etish;** 8) **qonunda nazarda tutilgan asoslar bo‘yicha litsenziyani bekor qilish;** 9) **ruxsat etish xususiyatiga ega hujjatlarni bekor qilish;** 10) **xabardor qilish tartibida amalga oshiriladigan faoliyatni to‘xtatib turish yoki tugatish”.***

11. O‘zbekiston Respublikasining “Banklar va bank faoliyati to‘g‘risida”gi Qonunini quyidagi mazmundagi Bank ombudsmani nomli 9<sup>1</sup>-bob bilan to‘ldirish taklif etildi. **“69<sup>1</sup>-modda. Bank ombudsmani, uning maqomi va saylanish tartibi.** Bank ombudsmani – o‘z faoliyatida mustaqil bo‘lgan, bank, bank operatsiyalarining ayrim turlarini amalga oshiruvchi tashkilot va qarz oluvchining huquqlari va qonun bilan himoyalangan manfaatlarini qondirish to‘g‘risida kelishuvga erishish uchun uning iltimosiga binoan ipoteka krediti shartnomasidan kelib chiqadigan kelishmovchiliklarni hal qiluvchi shaxs.

*Bank ombudsmani o‘z faoliyatida quyidagi tamoyillarga amal qiladi:*

*1) tomonlarning tengligi; 2) ombudsmanning xolisligi; 3) bank va boshqa qonun bilan himoyalangan sirlarga rioya qilish; 4) tomonlarning huquqlari va qonun bilan himoyalangan manfaatlarini hurmat qilish; 5) qaror qabul qilish tartibining shaffofligi va qarorning asoslilikgi.*

*Bank ombudsmani jismoniy shaxs bo‘lgan qarz oluvchi va bunday qarz oluvchi bilan tuzilgan bank krediti shartnomasi yoki mikrocredit shartnomasi bo‘yicha huquq (da‘vo) berilgan shaxs o‘rtasida yuzaga keladigan nizolarni qarz oluvchining talabiga asosan hal qiladi.*

*Bank kredit shartnomasi yoki mikro kredit shartnomasi bo'yicha huquq (da'vo) berilgan shaxs bank ombudsmani bilan o'zaro aloqada bo'lishi va bank ombudsmani tomonidan bank kredit shartnomasi yoki mikro kredit shartnomasi bo'yicha majburiyatlari bo'lgan qarz oluvchiga murojaat qilganda so'ralgan har qanday ma'lumot va ma'lumotlarni taqdim etishi shart.*

*Bank ombudsmanini saylash va vakolatlarini muddatidan oldin tugatish Vakillar Kengashi tomonidan amalga oshiriladi.*

*Vakillar Kengashi quyidagilardan bittadan vakil asosida tuziladi: 1) har bir bank, bank operatsiyalari ayrim turlarini amalga oshiruvchi tashkilot; 2) iste'molchilar jamoat birlashmalarining birlashmalari (uyushmalari) va ro'yxatdan o'tgan va moliyaviy xizmatlar iste'molchilarining huquqlarini amalga oshirish va himoya qilishga qaratilgan faoliyatni amalga oshiradigan iste'molchilarning respublika jamoat birlashmalari; 3) vakolatli organ.*

*Ipoteka kreditlari beruvchi bank operatsiyalarining ayrim turlari bilan shug'ullanuvchi banklar va tashkilotlarning Vakillar Kengashida ishtirok etishi majburiydir hamda ushbu qonunda va Vakillar Kengashi tomonidan tasdiqlangan bank ombudsmanining ichki qoidalarida belgilangan tartibda amalga oshiriladi.*

*Vakillar Kengashining vakolatlari: 1) bank ombudsmani lavozimiga saylanish uchun nomzodning taklifi va uni tasdiqlash; 2) tuzilma va xodimlarni tasdiqlash; 3) bank ombudsmani faoliyatini moliyalashtirish tartibini belgilash; 4) ushbu qonunga muvofiq, bank Ombudsmani faoliyatini amalga oshirish bilan bog'liq boshqa masalalar.*

*Vakillar Kengashining Majlisi agar unda hozir bo'lgan Vakillar Kengashi a'zolari umumiy ovozlar sonining ellik foizi va undan ko'piga ega bo'lsa, vakolatli deb tan olinadi va bajariladi.*

### **III. Huquqni qo'llash amaliyotini takomillashtirishga oid taklif va tavsiyalar:**

**1.** Bank nazorati mexanizmini takomillashtirish masalasiga alohida e'tibor qaratilib, Markaziy bankning tijorat banklari faoliyatini nazorat qilish va monitoring qilish usullarini xalqaro standartlarga moslashtirish lozim. Xususan, Bazil qo'mitasining bank nazoratiga oid tavsiyalarini to'liq implementatsiya qilish hamda risk asosidagi nazorat tizimini kuchaytirish tavsiya etiladi.

**2.** Islomiy bank mahsulotlarini joriy qilish bo'yicha pilot loyihalarni amalga oshirish maqsadga muvofiq. Markaziy bank boshchiligida kamida uchta tijorat bankida islomiy moliyalashtirish prinsiplarini sinovdan o'tkazish, shuningdek, islomiy moliyaviy xizmatlarni tartibga soluvchi normativ-huquqiy hujjatlarni ishlab chiqish va joriy etish bo'yicha "yo'l xaritasi"ni ishlab chiqish tavsiya etiladi.

**3.** Bank ombudsmani institutini tashkil etish bo'yicha tashkiliy-huquqiy choralarni ko'rish zarur. Bu borada Markaziy bank, Adliya vazirligi va Moliya vazirligi hamkorligida Bank ombudsmani to'g'risidagi nizomni ishlab chiqish va tasdiqlash, shuningdek, bank xizmatlari iste'molchilarining huquqlarini himoya qilish mexanizmlarini takomillashtirish choralarni belgilash tavsiya etiladi.

**4.** Bank tizimida raqamlashtirish jarayonlarini jadallashtirish uchun Markaziy bank huzurida Bank innovatsiyalari markazini tashkil etish va unga innovatsion bank xizmatlarini ro'yxatdan o'tkazish, monitoring qilish va amaliyotga tatbiq etish

bo'yicha vakolatlar berish maqsadga muvofiq. Bu markaz yangi moliyaviy texnologiyalarni (fintex) joriy etish, bank xizmatlari infratuzilmasini rivojlantirish va moliyaviy xizmatlar ommabopligini oshirish bo'yicha dasturlarni amalga oshirishi lozim.

**5.** Bank faoliyatini nazorat qilish amaliyotini takomillashtirish yuzasidan bir qancha mulohazalar ilgari suriladi: risk asosidagi nazorat tizimiga to'liq o'tish, masofaviy nazorat mexanizmlarini kuchaytirish, banklarda ichki nazorat tizimlarining samaradorligini baholash metodikasini joriy qilish, bank nazorati bo'yicha xalqaro tajribani tizimli ravishda o'rganish va joriy etish.

**6.** Bank faoliyatida shaffoflikni ta'minlash maqsadida barcha tijorat banklari uchun majburiy bo'lgan yagona axborot e'lon qilish standartlarini ishlab chiqish va joriy etish zarur. Markaziy bank tomonidan banklarning moliyaviy hisobotlari va faoliyati natijalarini tahlil qilish va baholash bo'yicha muntazam reyting tuzish hamda uni ommaviy e'lon qilib borish amaliyotini yo'lga qo'yish maqsadga muvofiq.

**SCIENTIFIC COUNCIL DSc.07/30.12.2019.Yu.22.02 FOR  
AWARDING SCIENTIFIC DEGREES AT TASHKENT STATE  
UNIVERSITY OF LAW**

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**TASHKENT STATE UNIVERSITY OF LAW**

**MUSTANOV ILKHOM ABDIVALIIONOVICH**

**IMPROVING THE ORGANIZATIONAL AND LEGAL FRAMEWORK  
FOR REGULATING BANKING ACTIVITIES IN THE REPUBLIC OF  
UZBEKISTAN**

12.00.02 – Constitutional law. Administrative law. Financial and Customs law

**ABSTRACT  
of doctoral dissertation (PhD) on legal sciences**

**Tashkent – 2025**

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The doctoral dissertation (PhD) is available at the Information Resource Center of Tashkent State University of Law (**registered under №. \_\_\_\_\_**). (Address: 100047, Tashkent, A. Temur str., 35. Phone.: (99871) 233-66-36).

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## INTRODUCTION (Abstract of the PhD dissertation)

**Relevance and necessity of the dissertation theme.** Stabilization of the banking and credit system of the state by ensuring the normal operation of banks in the world and ensuring currency and price stability by modernizing banking activities are becoming more and more important. Improvement of banking policy and legislation is important for banks to perform their functions normally. According to the results of the 2024 analysis of the international research institute of The Heritage Foundation, the Republic of Uzbekistan took the 103rd place<sup>1</sup> in the world according to the index of economic freedom, in particular, according to this index, Kazakhstan 66, Kyrgyzstan 112, Tajikistan 137, Turkmenistan 162, Estonia 8, Lithuania 15, Georgia 32, Latvia 20, Armenia 47th, Russia 131st, Moldavia 99th, Republic of Belarus 153rd, Azerbaijan took 70th place. It is noteworthy that the Republic of Uzbekistan took the 67th place in the World Bank's Doing Business-2020 credit rating.<sup>2</sup> These indicators show that there is a need to pay special attention to the modernization of banking activities based on international standards and further improvement of legislation related to banking activities.

In the world, great importance is attached to the introduction of innovative projects aimed at stimulating entrepreneurship and production through the use of modern methods and tools of banking activity, including the continuous implementation of international banking standards into national legislation, meeting the minimum requirements set for banking activities, maximum strict adherence to the regulations set by the Central Bank, introducing modern types of banking operations, offering convenient and high-quality banking services to bank clients, and protecting interests in the relationship between the bank and the client are paid attention to as a separate research direction.

Complex measures are being implemented in our country to develop the business and investment environment, first of all, to improve the banking system and policy. Therefore, "Acceleration of reforms in the banking system, increase the size of the market of banking services and development of competition in the sector, in particular, increase the volume of annual lending in the banking and financial system to 40 billion dollars, increase the volume of bank deposits by 4 times, privatize banks and keep 3-4 banks under the control of the state, attracting at least 4 large and prestigious foreign banks to the banking market, improving standards and control bases by introducing internationally recognized minimum standards and requirements for banks, introducing Islamic finance criteria and procedures in at least 3 commercial banks, forming the legal basis of Islamic finance defined as one of the tasks."<sup>3</sup> From this point of view, there is a need to conduct scientific research on the subject of legal regulation of banking activities in the Republic of Uzbekistan.

This dissertation research, to a certain extent, serves the implementation of the tasks defined in the Decrees of the President of the Republic of Uzbekistan No.

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<sup>1</sup> <https://www.heritage.org/index/pages/all-country-scores/>

<sup>2</sup> <https://www.doingbusiness.org/content/dam/doingBusiness/country/u/uzbekistan/UZB.pdf>

<sup>3</sup> Decree of the President of the Republic of Uzbekistan on September 11, 2023 on the strategy "Uzbekistan – 2030" // National database of legislative information, 09/12/2023, No. 06/23/158/0694; 29.12.2023, No. 06/23/214/0984

PD-60 “On the Development Strategy of New Uzbekistan for 2022-2026” (2022), No. PD-158 “On the Strategy of Uzbekistan-2030” (2023), No. PD-5992 “On the Strategy for Reforming the Banking System of the Republic of Uzbekistan for 2020-2025” (2020), the Regulation “On the Procedure for Applying Measures and Sanctions against Banks and Non-Banking Credit Organizations,” approved by the resolution of the Board of the Central Bank (2023), the Regulation “On Requirements for the Risk Management System of Banks and Banking Groups,” approved by the resolution of the Board of the Central Bank (2023), the Law “On Banks and Banking Activities” (2019), the Law “On the Central Bank” (2019), and other normative legal documents in this area.

**Correspondence of the research to the priorities of the development of science and technology of the republic.** This research corresponds to the priority direction of republican science and technology development I. “Spiritual-ethical and cultural development of democratic and legal society, formation of innovative economy.”

**The degree to which the problem has been studied.** In our country, various institutions of banking law, in particular, some aspects of the activity of banks, have been studied by many scientists. In particular, A.Li, E.Khojiev, I.Ergashev, O.Rakhimova, M.Yuldoshev, Y.Tursunov, A.Hamidov, O.Rashidov, Sh.Abdullaeva, A.Zulyarov, F. Samigjanov, A.Omonov, T.Qoraliev, S.Norqobilov, H.Dadaboeva and U.Juraev have researched banking, money and credit issues.

In the CIS countries, banking activity has been studied by many scientists as an object of research. In particular, the legal and economic foundations of banking activity were analyzed in the research works of N. Eriashvili, Y. Tarkhanova, I. Kilyaskhanov, Y. Zhukov, L. Efimov, D. Alekseev, V. Belkh, S. Vinichenko, D. Gavrin, V. Popondopulo, D. Petrov, Y. Khomenko, A. Tedeev, G. Ruchkina, Y. Polyushko, A. Venina, Y. Kasheeva, L. Efimova, G. Tosunyan, A. Kurbatova, N. Laktionova, A. Sherstobitov, O. Oleynik, and other scientists.

Banking activity as an object of research has been studied by many foreign scientists, in particular, Sir Ross Cranston, Emilios Avgouleas, Kristin van Zwieten, Christopher Hare, Theodor van Sante, Poh Chu Chai, Iris H-Y Chiu, Joanna Wilson, Alfred M. Pollard, Raymond Natter, and Penny A. Hazelton. Nevertheless, based on the issues of improving banking activities in the Republic of Uzbekistan, the fact that banking activity has not been studied as a separate object of research necessitates scientific research on this topic.

**The relatedness of the research to the research plans of the scientific organization or educational institution where the dissertation was completed.** The topic of the dissertation was included in the research plan of the Tashkent State University of Law and was carried out within the priority areas of scientific research.

**The aim of the research** is to develop proposals and recommendations based on a systematic study of the scientific-theoretical, practical and legislative problems of legal regulation of banking activities in the Republic of Uzbekistan.

**The research objectives are:**

development of the concept of a bank and its features by analyzing the legal nature of the bank and the banking system, as well as analysis of the banking system, types and functions;

identification of problems in legislation by analyzing the banking legislation of national and foreign countries; identification of problems in legislation and development of proposals for improving legislation by studying the organization of banks and its organizational and legal framework;

development of proposals for improving the legal regulation of banking operations through scientific and practical analysis and comparison with the legislation of foreign countries;

development of proposals for improving the legal regulation of banking activities through scientific and practical analysis and comparison with the legislation of foreign countries;

analysis of the theoretical and legal foundations of guarantees of the rights and interests of the bank and clients and development of proposals for improving its legal regulation;

development of scientific and practical proposals and recommendations on the directions of improving the legal mechanisms of banking activity in Uzbekistan.

**The object of the research** is the system of legal relations related to the activity of banks and their control in Uzbekistan.

**The subject of the research** is normative legal documents regulating the organizational and legal basis of banking activities in Uzbekistan, law enforcement practice, legislation and practice of foreign countries, as well as conceptual approaches, scientific-theoretical views and legal categories existing in banking law.

**Research methods.** Methods such as historical, systematic-structural, comparative-legal, logical, sociological, complex research of scientific sources, induction, deduction and statistical data analysis were used in the research.

**The scientific novelty of the research is as follows:**

The concept of the banking system of the Republic of Uzbekistan was analyzed more broadly, and it was justified that it should include the Central Bank of the Republic of Uzbekistan and commercial banks, subsidiary banks, their branches, representative offices, operational offices (points), representative offices of foreign banks;

It is based on the fact that the main task of banks is to finance the capital market and provide financial services to the population through the effective use of free funds in the financial and credit system;

Performing operator functions of online platforms and other trading service platforms; sale and rental of computer systems and software related to banking; publishing books and periodicals on financial education and finance; it is justified that conducting financial research and surveys, forfeiting operations, sale of collateral for payment of obligations to the bank appear as a separate type of banking operations (banking services);

It is justified that the system of protecting the rights and interests of bank clients covers administrative, contractual and additional measures, and the need to

introduce the banking ombudsman institution in the Republic of Uzbekistan as an additional method.

**The practical results of the research are as follows:**

A proposal has been developed to enshrine in the Law of the Republic of Uzbekistan “On Banks and Banking Activities” the following norm: “The banking system of the Republic of Uzbekistan consists of the Central Bank of the Republic of Uzbekistan and commercial banks, subsidiary banks, their branches, representative offices, operating offices (points), representative offices of foreign banks”;

The Law of the Republic of Uzbekistan “On Banks and Banking Activities” states that “The Bank carries out its activities on the basis of the following principles: principles of banking activity: legality; independence; transparency; reliability and security of banking activities; limited liability between the bank and the state; other generally recognized basic principles provided for by international banking standards. A proposal has been developed aimed at establishing a norm on the principles of relations between the bank and the client: equality, freedom of will, honesty, reasonableness, fairness, confidentiality of deposits, guaranteed return of deposits”;

A proposal has been developed to enshrine in the Law of the Republic of Uzbekistan “On Banks and Banking Activities” that an Islamic bank is a legal entity that carries out banking activities in accordance with the legislation and Islamic principles on the basis of a license from the central bank, and that an interstate bank is a bank established and operating on the basis of an international treaty, the founders of which are the government of the Republic of Uzbekistan and the government of the state that signed this treaty;

A proposal has been developed aimed at strengthening the institution of the Bank Ombudsman in the Law of the Republic of Uzbekistan “On Banks and Banking Activities,” in particular, defining its basic concepts and powers.

**The reliability of the research results.** The results of the research are based on national legal norms, experience of developed countries, practice of applying the law, questionnaire, expert assessment forms. The results of statistical data analysis are summarized and formalized with relevant documents. Conclusions, proposals and recommendations were approved, and their results were published in leading national and foreign publications. The obtained results were approved by authorized organizations and implemented practice.

**The scientific and practical significance of the research results.** The scientific significance of the results of the research, from the scientific-theoretical conclusions, suggestions and recommendations, will serve in the future scientific activity, in law-making, in the practice of applying the law, in the interpretation of the norms of the tax legislation, in the improvement of the national legislation, and in the scientific-theoretical enrichment of the subjects of Banking Law, Financial Law and Business Law. The research results can be used in conducting new scientific research.

The practical significance of the research results serves in the activity of law-making, in particular, in the process of preparing regulatory legal documents and

making changes and additions to them, in improving the practice of applying the law, and in the teaching of banking law, financial law and business law in higher legal educational institutions.

**The implementation of research results.** The scientific results of the research work were used in the following:

Banking activity is aimed at earning income; it is a legal entity that provides banking services to bank customers, opens and maintains bank accounts for individuals and legal entities, accepts deposits, grants loans, makes payments and settlements and other financial transactions within the framework of a license issued by an authorized body. The proposal was used in the development of Article 3 of the Law of the Republic of Uzbekistan “On Banks and Banking Activities” (Reference No. 02/4-40 of the Legislative Chamber of the Oliy Majlis of the Republic of Uzbekistan dated March 27, 2024). The implementation of this proposal served to enrich the concept of banking;

Bank operations are the types of actions allowed by banks in the license and legislation, and the proposal aimed at defining a number of types of bank operations was used in the development of Article 5 of the Law of the Republic of Uzbekistan “On Banks and Banking Activities.” (Reference No. 2024 of the Anti-Corruption and Judiciary Issues Committee of the Legislative Chamber of the Oliy Majlis Chamber of the Republic of Uzbekistan). The implementation of this proposal served to improve the legal basis of types of banking operations;

Bank supervision is a set of measures aimed at ensuring compliance by banks with legislation or regulations established by the authorized body in order to fulfill the tasks and functions assigned to it by the authorized body, and as a type of it, the proposal on the system of prudential regulations determined by the Central Bank of the Republic of Uzbekistan was used in the development of Article 38 of the Law of the Republic of Uzbekistan “On Banks and Banking Activities” (Reference No. 2024 of the Anti-Corruption and Judiciary Issues Committee of the Legislative Chamber of the Oliy Majlis Chamber of the Republic of Uzbekistan). The implementation of this proposal served to improve the legal regulation of forms and methods of bank control;

The main goal of the Central Bank is to ensure the stability of money and prices through financial and credit mechanisms, and based on this goal, it performs financial tasks (control, inspection, monitoring, regulation by issuing normative legal documents, licensing, advice, guarantee, guarantor, fiscal agent, reserve, depository, etc.), the proposal on the duties of the Republic of Uzbekistan was used in the development of Article 5 of the Law of the Republic of Uzbekistan “On the Central Bank of the Republic of Uzbekistan” (Reference No. 2024 of the Anti-Corruption and Judiciary Issues Committee of the Legislative Chamber of the Oliy Majlis Chamber of the Republic of Uzbekistan). The implementation of this proposal served to improve the legal regulation of the goals and tasks of the central bank.

**Approval of the research results.** The results of this research were discussed at 6 scientific conferences, including 4 international and 2 national scientific-practical conferences.

**Publication of the research results.** A total of 15 scientific works, including 9 scientific articles (2 in foreign scientific journals) and 6 scientific articles in collections were published on the topic of the dissertation.

**The structure and volume of the dissertation.** The dissertation consists of an introduction, three chapters, a conclusion, a list of references and appendices. The volume of the dissertation is 156 pages.

## THE MAIN CONTENT OF THE DISSERTATION

In the introductory part of the dissertation, the relevance and necessity of the research topic, the compatibility of the research with the priority directions of the development of science and technology of the republic, the level of research of the researched problem, the connection of the dissertation topic with the research plans of the higher education or research institution where the dissertation was completed, the goals and objectives of the research, the object and the subject, methods, scientific innovation and practical results of research, reliability of research results, scientific and practical significance of research results, their implementation, approval of research results, publication of research results, structure and volume of the dissertation are explained.

**The first chapter** of the dissertation is called “**Theoretical-legal basis of banking activity,**” in which the concept of bank and banking activity, its legal nature, the banking system, principles, essence and content of tasks, as well as trends in the development of banking legislation in our country are analyzed.

The researcher developed conclusions on the concept of banking and banking activities and its legal nature based on the analysis of the points of view expressed by A.Li, E.Khojiev, M.Yuldoshev, Y.Tursunov, O.Rakhimova, A.Hamidov, F.Samigjonov, A.Omonov, T.Koraliev, Sh.Khujaev, A.Rahimova, O.Rashidov, Sh.Abdullaeva, N.Eriashvili, E.Tarkhanova, A.Travkin, I.Kilyaskhanova, E.Zhukova, L.Efimova, D.Alekseeva, V.Belykh, S.Vinichenko, D.Gavrin, V.Popondopulo, D.Petrova, E. Khomenko, A.Tedeev, E.Zhukov, Sir Ross Cranston, Emilius Avgouleas, Christine van Zwieten, Christopher Hare, Theodor van Sante, Poh Chu Chai, Iris H-Y Chiu, Joanna Wilson, and other scholars.

Analyzing the opinions of national and foreign scientists and the banking legislation of foreign countries (Russia, Kazakhstan, Kyrgyzstan, Georgia, Germany, Switzerland, the USA, South Korea, Canada, and Singapore), the researcher concluded that “banking activities are aimed at earning income, within the framework of a license issued by an authorized body considers it expedient to put forward the definition of a legal entity that provides banking services to bank customers, in particular, opening and maintaining bank accounts for individuals and legal entities, accepting deposits, granting loans, making payments and calculations and other financial transactions.”

The researcher put forward the following definition: “Bank activity is a set of banking operations and organizational actions that can be carried out by banks in accordance with the legislation in their charter and within the framework of a license issued by the authorized body.”

Researching the legal nature of bank activity, the researcher examines its following specific features: firstly, banks are commercial legal entities that make profit as the main purpose of their activity, in which the activity of the central bank is an exception, because the main purpose of the central bank is to control and thereby ensure financial stability. provision is; secondly, banks can operate as state-owned, private, foreign-owned banks and foreign banks according to the form of ownership and share; thirdly, banks operate on the basis of a license issued by an authorized body, as it is a special type of activity; fourthly, banks - perform credit, finance and banking operations as the main activity; fifthly, banks do not engage in direct production trade and services that are not characteristic of banks; sixthly, it indicates that banks, as a legal entity, use all property and non-property rights, have obligations and are responsible.

Analyzing the banking legislation of national and foreign countries, the researcher found that the main goal of the Central Bank is to ensure the stability of money and prices through financial and credit mechanisms, and based on this goal, it performs financial tasks (control, inspection, monitoring, regulation by issuing normative legal documents registration, licensing, consulting, guarantee, guarantor, fiscal agent, reserve, depository, etc.), as well as the main task of banks is to finance the capital market and provide financial services to the population through the effective use of free funds in the financial and credit system.

Based on the analysis of the banking legislation of national and foreign countries (Kazakhstan, Azerbaijan, Russia, Tajikistan, Turkmenistan, Armenia, and other countries), the researcher substantiated that the banking system in our national banking legislation is not fully disclosed, the banking system of the Republic of Uzbekistan consists of the Central Bank of the Republic of Uzbekistan and commercial banks, subsidiary banks, their branches, representative offices, operating offices (points), representative offices of foreign banks, and also developed proposals for amendments and additions to Article 3 of the Law “On Banks and Banking Activities.”

Also, analyzing the opinions of legal and economic scientists, the researcher classifies the types of banks according to their form of ownership (state, private), service area (state, interstate, international), category of founders (national, with foreign participation, foreign bank), type and field of activity (mortgage, investment, agriculture, industrial and construction), and purpose (commercial and non-commercial).

The researcher noted that banking principles are considered the basic and main rules of banking legislation regulating banking relations and concluded that it is expedient to divide banking principles into *principles related to banking activities* and *principles related to the relationship between the bank and the client*. In particular, as principles of banking activity: legality; independence; transparency; reliability and safety of banking activities; limitation of liability between the bank and the state; other generally recognized basic principles stipulated in international banking standards; noted the need to understand principles such as equality, free will, honesty, rationality, fairness, confidentiality of deposits, and guaranteed return of deposits as principles of relations between the bank and the client.

In this chapter, the author considers banking legislation as a system of normative legal documents aimed at regulating relations in the banking sector adopted by an authorized body, analyzing the development of banking legislation in the Republic of Uzbekistan into six stages and studying the specific features of each period.

In the first stage - (1991-1994) the fundamental foundations of the banking system of independent Uzbekistan were created; in the second stage - (1994-1996) the national currency was put into circulation and the legal basis of the two-tier banking system was created; in the third stage - (1997-2000) banks were privatized, the quality of management in joint-stock commercial banks was increased, and control over bank activities was strengthened; in the fourth stage - (2000-2010) the banking system was further liberalized and market relations regulations were introduced; in the fifth stage - (2010-2016) the modern banking system in Uzbekistan was improved and adapted to international banking standards; in the sixth stage - (2016-2024) it was concluded that banks were privatized in Uzbekistan, electronic banking services were introduced, foreign exchange policy was liberalized and principles specific to the market economy were introduced, and the independence of banks was ensured.

**In the second chapter** of the dissertation entitled “**Organizational-legal basis of banks’ activity,**” the issues of bank organization and its organizational-legal form, legal content of bank operations, and legal issues of inter-bank international cooperation are analyzed.

Having studied the researches of legal scholars, the researcher examines the existence of the rights of any person, especially resident and non-resident individuals and legal entities, to open banks in the Republic of Uzbekistan, based on the main task and function of banks, increasing financial responsibility and taking into account the rights and interests of customers, to open banks in the legislation a number of requirements are defined, in particular, these requirements are divided into groups on a general basis, *the first group* - requirements for founders, *the second group* - requirements for bank employees, *the third group* - requirements for financial resources, *the fourth group* - requirements for the bank building, equipment and programs, *the fifth group* - a conclusion was reached about the organizational structure of the bank and the requirements for the documents related to the establishment of the bank.

In the legislation of developed countries and the CIS countries, the organizational and legal form of banks is defined as a joint-stock company, and it was concluded that the choice of this form is reflected in the transparent operation of the company, the protection of the rights and interests of customers, and the attraction of financial funds through shares.

Based on the analysis of the banking legislation of national and foreign countries (China, Switzerland, South Korea, Singapore, Germany, Kazakhstan, Kyrgyzstan, and other countries), the researcher substantiated the possibility of allowing the creation of branches of foreign banks in our national banking legislation.

As founders of the bank, the following individuals and legal entities, in particular, living or registered in the territory of offshore zones, whose list is determined by the Central Bank, are affiliated persons as participants; it is justified that individuals and legal entities registered in countries with international sanctions and persons with similar elements cannot participate, and proposals for amendments and additions to Article 12 of the Law “On Banks and Banking Activities” have been developed.

The researcher draws a conclusion on the concept of banking operations based on the analysis of the research of legal scholars A. Zulyarov, M. Yuldoshev, Y. Tursunov, A. Li, E. Khojiev, O. Rakhimova, Sh. Bozarov, A. Kurbatov, A. Sherstobitov, O. Oleynik, L. Efimova, and G. Tosunyan.

According to the researcher, it was concluded that banking transactions are financial transactions related to the implementation of funds, securities, payments, currency and other services, which are carried out on the basis of a license issued by the central bank.

In the dissertation, the concepts of “banking services” and “banking operations” are considered to be similar and close to each other, but according to the researcher, banking services are broader and include banking operations; for example, consideration of citizens' appeals by banks can be a banking service, but based on the powers specified in the license, it was noted that in response to this appeal, some bank operations may or may not be carried out.

Based on the analysis of the banking legislation of national and foreign countries (South Korea, Germany, Kyrgyzstan, Russia, Kazakhstan, and other countries) by the researcher: 1) performance of the functions of an operator serving online platforms and other trade and service platforms in accordance with the regulatory legal acts of the Central Bank; 2) sale and lease of computer systems and software related to banking activities; 3) publication of books and periodicals on financial education and finance; 4) conducting financial research and surveys; 5) forfeiting operations; 6) it was concluded that such actions as the sale of collateral to repay obligations to the bank should be classified as banking operations (services), and also proposals were developed for amendments and additions to Article 5 of the Law “On Banks and Banking Activities.”

The dissertation examines the activities of the International Monetary Fund, the World Bank, the European Bank for Reconstruction and Development, the Asian Development Bank, and the Islamic Development Bank as international banking and financial organizations, and, according to the researcher, the purpose of joining international financial and banking organizations and implementing international banking standards is to constantly improve banking legislation and prevent financial crises in the banking system.

In the dissertation, the concept of Islamic bank or Islamic banking is analyzed, and the concept of Islamic bank is used more in the sense of an international organization, while the concept of Islamic bank is applied to a bank operating on the basis of Islamic principles, according to the researcher, both concepts can be used in the same sense, based on the fact that they mean a bank operating on the basis of Islamic rules, and the definition is put forward: “Islamic (i) bank is a legal entity that

carries out banking activities in accordance with the legislation and Islamic principles on the basis of a license from the central bank.”

Based on the analysis of the banking legislation of national and foreign countries (Indonesia, Malaysia, Tajikistan, Kyrgyzstan, Kazakhstan and other countries), the researcher concluded that the requirements for the activities of Islamic banks in our banking legislation should be established, in particular, that an Islamic bank does not have the right to receive remuneration in the form of interest, guarantee the return of investment deposits or income, finance (lending) activities related to the production and (or) trade of tobacco, alcoholic beverages, weapons and ammunition, gambling, as well as entrepreneurship and other types of activities prohibited by the Council on the principles of Islamic finance. The procedure for obtaining a license to conduct banking operations and transactions in accordance with the Islamic principles of banking and financing, the status of Islamic banks and banks with an “Islamic window” should be determined by the Central Bank, and proposals were developed to amend and add to Article 5 of the Law “On Banks and Banking Activities.”

In the dissertation, it is noted that the operations of an Islamic bank are considered specific operations, according to which the following are included in the banking operations of an Islamic bank: 1) accepting interest-free demand deposits of individuals and legal entities, opening and maintaining bank accounts of individuals and legal entities; 2) acceptance of investment deposits of individuals and legal entities; 3) bank loan operations: Issuance of loans by Islamic banks in the form of term, repayable and unpaid loans; 4) financing of individuals and legal entities as sellers through commercial lending: without the condition of subsequent sale of goods to a third party; on the condition of subsequent sale of goods to a third party; 5) financing of production and trade activities through participation in the authorized capital of legal entities and (or) on the terms of partnership; 6) investment activity under leasing (rent) terms; 7) it was proposed that when carrying out banking operations of an Islamic bank, such operations as agency activities are considered, and also proposals for amendments and additions to Article 5 of the Law “On Banks and Banking Activities” were developed.

**The third chapter** of the dissertation entitled “**Issues of ensuring the legal activity of banks in the Republic of Uzbekistan**” analyzes the legal issues of monitoring the activities of banks, the measures used for violations of banking legislation, and the guarantees of the rights and interests of bank customers.

Based on the analysis of the points of view of the legal nature of bank supervision by scientists such as S.Norqobilov, H.Dadaboeva, U.Juraev, B.Berdiyarov, M.Yoldoshev, Y.Tursunov, A.Zulyarov, A.Li, O.Rakhimova, Sh.Bozarov, E.Khojiev, F.Samigjanov, V.Davlyatov, I.Ergashev, E.Rahmatov, Sh.Abdullaeva and other scientists, the author made conclusions on the concept of bank control and its forms.

According to the researcher, bank control is a structural part of financial control, and it is a set of legal and economic methods (tools) that affect the activity of banks in order to ensure the stability and orderliness of the banking system by the authorized body.

The following aspects of bank supervision: registration and licensing of banks' activities; checking the activity of banks; remote monitoring of bank activity; monitoring of banking activities; allowing certain banking operations; determining the notification procedure for engaging in certain types of banking activities; verification of certain categories of persons of banks; review of reports on banking activity; determination of economic regulations (capital, reserve, risk, liquidity); setting the minimum and maximum requirements that banks will follow; opinions are put forward about measures and sanctions for violations of the law by banking and non-banking organizations.

Based on the analysis of the banking legislation of national and foreign countries (USA, Germany, Canada, Singapore, South Korea, Kazakhstan, Kyrgyzstan and other countries), the researcher notes that macroprudential policy is understood as a set of measures aimed at reducing systemic risks of the financial system, systemic risks of the financial system are understood as risks that lead to disruption of the provision of financial services, deterioration of the financial condition of the entire financial system or its part or damage its stable functioning, systemic risks of the financial system include the risks of systemically important financial organizations, and also developed proposals for amendments and additions to Article 67 of the Law "On the Central Bank of the Republic of Uzbekistan."

It was concluded that banking offense is a violation (action or inaction) of the rules established by the banking legislation, and measures (sanctions) used by the Central Bank are considered means of coercion (influence) used by banks and non-banking organizations due to the violation of the rules established by the banking legislation.

The researcher analyzed the banking legislation of national and foreign countries and came to the conclusion that the purpose of applying measures and sanctions applied by the Central Bank is to ensure the stability of the banking system in the Republic of Uzbekistan, to promptly respond to the interests of depositors, other consumers and other creditors, as well as to correct and eliminate problems, and also developed proposals for amendments and additions to Article 67 of the Law of the Republic of Uzbekistan "On the Central Bank of the Republic of Uzbekistan."

Based on the analysis of banking legislation of national and foreign countries (Russia, Kazakhstan, Kyrgyzstan, Canada, South Korea, USA, Switzerland and other countries) by the researcher, measures and sanctions applied to banks by the Central Bank are systematized; in particular, the following measures and sanctions are applied by the Central Bank to banks: 1) send a warning letter 2) levy a fine of up to five percent of the equity capital 3) demand: 4) increase economic standards and requirements 5) limit or prohibit: 6) remove or dismiss officials, change management bodies 7) temporary management introduction 8) cancellation of the license on the basis provided by the law 9) cancellation of authorization documents 10) measures such as suspension or termination of activities carried out in the order of notification, as well as proposals for amendments and additions to the Article 67 of the Law "On the Central Bank of the Republic of Uzbekistan" have been developed.

Based on the analysis of the banking legislation of national and foreign countries (Germany, the USA, Singapore, Kazakhstan, Switzerland, and other countries), the researcher came to the conclusion that the rights and interests of bank clients are protected in 3 ways.

According to the researcher, the system of protecting the rights and interests of bank clients by the administrative method is determined by the minimum and maximum requirements established by the central bank for banks in working with clients at the level of mandatory legislation; the conclusion is made that in the contractual method, the parties must mutually agree in writing on certain provisions in the contract concluded between the bank and the client, and in the additional method, a special fund of depositors is created to protect the deposits of bank clients in the bank from unforeseen risks, as well as the use of insurance services for certain liabilities.

The dissertation analyzes the experience of foreign countries and concludes that a bank ombudsman is an independent person in their activities, resolving disputes arising from a bank agreement at their request to reach an agreement on the protection of the rights and legally protected interests of the bank, the organization carrying out certain types of banking operations, and the borrower.

Based on the analysis of the banking legislation of national and foreign countries (Germany, the USA, Singapore, Kazakhstan, Switzerland, and other countries), the researcher notes the need to introduce the institution of a bank ombudsman into national legislation, that this institution should be promoted as an acceptable method of dispute resolution, in particular, the need to define in banking legislation the concept of a bank ombudsman, its status, procedure for election, principles of activity, powers, requirements for a bank ombudsman and the legal basis for the procedure for making decisions by him, and also developed proposals for amendments and additions to Chapter 9 of the Law “On Banks and Banking Activities.”

## CONCLUSION

As a result of the research conducted on the topic “Improving the organizational and legal framework for regulating the activities of banks in the Republic of Uzbekistan,” the following scientific-theoretical and practical conclusions were developed:

### **I. Scientific and theoretical conclusions:**

1. The following author’s definition of the concept of a bank was developed: “Bank - the activity of which is aimed at obtaining income, providing banking services to bank customers within the framework of a license issued by an authorized body, in particular, opening and maintaining bank accounts for individuals and legal entities, accepting deposits, granting loans, making payments and is a legal entity that performs calculations and other financial transactions.”

2. The following author’s definition of the concept of banking activity was developed: “Banking activity is a set of banking operations and organizational

activities that can be carried out by banks in accordance with the law in their charter and within the framework of the license issued by the authorized body.”

3. The following conclusion was reached regarding the concept of commercial bank: the concept of “commercial bank” and “bank concept” are interrelated, and the essence of the concept of commercial bank means that the bank’s activity is aimed at earning income and its activity participates in the financial market as a type of business activity.

4. Regarding the legal nature of banks’ activity, the following conclusion was reached: banks are commercial legal entities that make profit as the main goal of their activity, in which the activity of the central bank is an exception, because the main goal of the central bank is to control and thereby ensure financial stability; banks - may operate as state-owned, private, foreign-owned banks and foreign banks according to the form of ownership and share; banking activity - as it is a special type of activity, it operates on the basis of a license issued by an authorized body; banks - perform credit, finance and banking operations as the main activity; banks - do not engage in direct production, trade and services that are not characteristic of banks; banks - as a legal entity, use all property and non-property rights, have obligations and are responsible.

5. The following conclusion was reached regarding the types of banks: types of banks according to their ownership (state, private), according to the service area (state, interstate, international), according to the category of founders (national, with foreign participation, foreign bank), type of activity and classified by industry (mortgage, investment, agriculture, industrial-construction) and purpose (commercial and non-commercial).

6. The following conclusion was reached regarding banking principles: “banking principles are the main and main rules of banking legislation regulating banking relations.”

7. The following conclusion was reached regarding the main goals and tasks of the central bank: “the main goal of the central bank is to ensure the stability of money and prices through financial and credit mechanisms, and based on this goal, it performs financial tasks (control, inspection, monitoring, regulatory regulation, licensing, consulting, guarantee, guarantor, fiscal agent, reserve, depository, etc.) by issuing a legal document.”

8. Regarding the main task of banks, the following conclusion was reached: “the main task of banks is to finance the capital market and provide financial services to the population through the efficient use of free funds in the financial and credit system.”

9. The following conclusion was reached regarding banking legislation: “banking legislation is a system of regulatory legal documents adopted by an authorized body aimed at regulating relations in the banking sector.”

10. The following conclusion was reached regarding the stages of development of banking legislation: in the first stage of development of banking legislation in Uzbekistan (1991-1994), the fundamental foundations of the banking system of independent Uzbekistan were created. In the second stage of the development of banking legislation in Uzbekistan (1994-1996), the national

currency was put into circulation and the legal foundations of the two-tier banking system were created. In the third stage of development of banking legislation in Uzbekistan (1997-2000), banks were privatized, the quality of management in joint-stock commercial banks was increased, and control over the activities of banks was strengthened. In the fourth stage of development of banking legislation in Uzbekistan (2000-2010), the banking system was further liberalized and regulations related to market relations were introduced. In the fifth stage of the development of banking legislation in Uzbekistan (2010-2016), the modern banking system in Uzbekistan was improved and adapted to international banking standards. In the sixth stage (2016-2024), privatization of banks in Uzbekistan, introduction of electronic banking services, liberalization of currency policy and introduction of principles specific to market economy and independence of banks were emphasized.

11. The following conclusion was reached regarding the opening of banks in the Republic of Uzbekistan: any person, in particular resident and non-resident physical and legal entities, has the right to open banks in the Republic of Uzbekistan. Based on the main task and function of banks, increasing financial responsibility and taking into account the rights and interests of customers, a number of requirements for opening banks are defined in the legislation. In particular, we can divide these requirements into groups on a general basis: the first group - requirements for founders, the second group - requirements for bank employees, the third group - requirements for financial resources, the fourth group - requirements for the bank building, equipment and programs, the fifth group - organizational requirements of the bank requirements for documents on the structure and organization of the bank.

12. On the concept of bank operation, the following conclusion was reached: “bank operations are financial operations related to the implementation of money, securities, payment, currency and other services carried out on the basis of a license issued by the central bank.”

13. Regarding bank control and its forms, the following conclusion was reached: “Bank control is a structural part of financial control, and it is a set of legal and economic methods and tools that affect the activity of banks in order to ensure the stability and orderliness of the banking system by the authorized body in accordance with the law.”

There are the following forms of bank control: registration and licensing of bank activities; checking the activity of banks; remote monitoring of bank activity; monitoring of banking activities; allowing certain banking operations; determining the notification procedure for engaging in certain types of banking activities; verification of certain categories of persons of banks; review of reports on banking activity; determination of economic regulations (capital, reserve, risk, liquidity); setting the minimum and maximum requirements that banks will follow; application of measures and sanctions for violations of the law committed by banking and non-banking organizations.

14. The following conclusion was reached regarding bank offense and measures (sanctions): “Bank offense is a violation (act or inaction) of the rules established in banking legislation. Measures (sanctions) applied by the Central Bank

are means of coercion (influence) used by banks and non-banking organizations due to violations of the provisions established by the banking legislation.”

15. The following conclusion was reached regarding the system of protection of the rights and interests of bank customers: the system of protection of the rights and interests of bank customers is administrative (minimum and maximum requirements set by the central bank for banks in working with customers), contractual (rules agreed in the contract between the bank and the customer) and additional methods (depositor’s fund and risk insurance).

## **II. Based on the research results, proposals and conclusions aimed at improving the following legislative norms were developed:**

1. It was proposed to supplement Article 3 of the Law of the Republic of Uzbekistan “On Banks and Banking Activities” with the following third paragraph: “The banking system of the Republic of Uzbekistan - the Central Bank of the Republic of Uzbekistan and commercial banks, subsidiary banks, their branches, representative offices, operational offices ( points), consists of representative offices of foreign banks.”

2. It was proposed to supplement Article 3 of the Law of the Republic of Uzbekistan “On Banks and Banking Activities” with the following fourteenth paragraph: “Interstate bank is a bank established and operating on the basis of an international agreement (agreement), the founders of which are the government of the Republic of Uzbekistan (or a state body authorized by it) and the government (governments) of the state (states) that signed this agreement (agreement).”

3. It is proposed to introduce Article 31 of the following content, known as Banking Principles, into the Law of the Republic of Uzbekistan “On Banks and Banking Activities.” “Banking Principles” The Bank carries out its activities on the basis of the following principles: principles of banking activity: legality; independence; transparency; reliability and security of banking activities; limited liability between the bank and the state; and other generally recognized basic principles provided for by international banking standards. “Principles of relations between the bank and the client - equality, freedom of will, honesty, reasonableness, fairness, confidentiality of deposits, guaranteed return of deposits.”

4. It was proposed to change the first part of Article 30 of the Law of the Republic of Uzbekistan “On Banks and Banking Activities” as follows: “Foreign banks may establish branches in the Republic of Uzbekistan.”

5. It was proposed to supplement Article 12 of the Law of the Republic of Uzbekistan “On Banks and Banking Activities” with the following third part: “Bank founders may not be: 1) living in the territory of offshore zones or affiliated as participants whose list is determined by the Central Bank individuals and legal entities. Affiliated persons are recognized as: significant participants of a legal entity; legal entities in which the same legal entity is a significant participant 2) natural and legal entities subject to international sanctions adopted by the UN Security Council, as well as registered in countries with international sanctions prohibiting legal relations with these entities by the UN Security Council and binding on the Republic of Uzbekistan natural and legal entities 3) natural and legal entities that did not provide information about their activities, financial status,

membership of participants in the prescribed manner and did not provide other information and documents that would allow reliable identification and study of legal entity participants, including beneficial owners. It does not reliably identify and study the participants of a legal entity, including beneficial owners, as well as if they do not confirm their impeccable business reputation. funded legal entities, excluding the Cabinet of Ministers of the Republic of Uzbekistan 6) natural and legal entities subject to prohibitions or restrictions in accordance with the legislation of the Republic of Uzbekistan or the legislation of a foreign country.”

6. It was proposed to supplement Article 5 of the Law of the Republic of Uzbekistan “On Banks and Banking Activities” with the following paragraphs:

“1) Performing the functions of an operator serving online platforms and other trading and service platforms in accordance with the regulatory legal documents of the Central Bank 2) selling and renting computer systems and programs related to banking activities 3) publishing books and periodicals on financial education and finance (banking service) 4) conducting financial research and surveys (banking service) 5) forfeiting operations 6) selling collateral to pay off obligations to the bank.”

7. It was proposed to supplement the Law of the Republic of Uzbekistan “On Banks and Banking Activities” with the following Articles 51, 52, and 53:

“Article 51. Islamic banking and principles. An Islamic bank is a legal entity that carries out banking activities in accordance with the law and Islamic principles based on the license of the central bank. In the Republic of Uzbekistan, along with traditional banking and lending, Islamic principles of banking and finance are used.

Islamic principles of banking and finance are the principles and rules of banking operations and transactions in accordance with Shariah standards. Shariah standards mean the rules of economic or other activities developed and approved by international organizations (organization of accounting and auditing for Islamic financial institutions, Council of Islamic Financial Services) that determine the standards of Islamic banking.

Article 52. Requirements for Islamic banking. Islamic banks are prohibited by the Council on the Principles of Islamic Finance from receiving interest in the form of interest, guaranteeing the return of investment deposits or income, tobacco production and (or) trade, alcohol, weapons and ammunition, gambling, as well as entrepreneurship and other activities do not have the right to finance (credit) activities.

A bank that carries out operations and transactions in accordance with the Islamic principles of banking and financing has the right to independently determine the conditions of operations and transactions in accordance with the requirements of the banking legislation of the Republic of Uzbekistan. The procedure for obtaining a license to carry out banking operations and transactions in accordance with the Islamic principles of banking activity and financing, the status of Islamic banks and banks with an “Islamic window” is determined by the Central Bank.

A bank operating in accordance with Islamic principles of banking and financing should have a Shariah board. The Shariah Board is a banking body responsible for the compliance of banking policies and model contracts with Shariah

standards, review of issues and preparation of recommendations for operations on Islamic principles of banking and financing. Sharia council can include persons who meet the requirements set by the Central Bank. Labor contracts or other similar agreements and contracts are not concluded with the members of the Sharia Council of the Bank, and the labor legislation of the Republic of Uzbekistan does not apply to them.

### **Article 5<sup>3</sup>. Banking operations of an Islamic bank**

Banking and other operations of the Islamic Bank are defined. According to it, the banking operations of an Islamic bank include the following operations: 1) accepting interest-free deposits of individuals and legal entities on demand, opening and maintaining bank accounts of individuals and legal entities 2) accepting investment deposits of individuals and legal entities 3) bank loan transactions: Islam provides term, repayable and free cash loans by the bank 4) financing individuals and legal entities as a seller by issuing commercial loans: without the condition of selling the goods to a third party; under the terms of the subsequent sale of goods to a third party 5) financing of production and trade activities through participation in the authorized capital of legal entities and (or) partnership conditions 6) investment activities under the terms of leasing (rent) 7) agency activity in the implementation of banking operations of the Islamic Bank.”

8. It was proposed to supplement the Law “On the Central Bank of the Republic of Uzbekistan” with the following Article 67<sup>2</sup>.

### **“Article 67<sup>2</sup>. Macroprudential policy**

Macroprudential policy is a set of measures aimed at reducing the systemic risks of the financial system. Systemic risks of the financial system are defined as risks that lead to disruption of financial services, deterioration of the financial condition of the entire financial system or part of it, or damage to its stable operation. Systemic risks of the financial system include risks of systemically important financial organizations.

Systemically important financial organizations mean financial organizations whose stability depends on the stable functioning of the financial system as a whole. In order to formulate a macroprudential policy, the Central Bank: 1) regularly monitors the systemic risks of the financial system 2) determines the procedure for classifying financial organizations as systemically important in agreement with the competent body for the regulation, supervision and control of the financial market and financial organizations forms a list of important financial organizations 4) determines measures aimed at ensuring financial stability within its powers independently or together with other state bodies 5) in the event of a systemic financial crisis or a threat, independently imposes restrictions on certain types of banking and other operations by financial organizations.”

9. It was proposed to supplement Article 67 of the Law “On the Central Bank of the Republic of Uzbekistan” with the following second part: “The purpose of applying measures and sanctions applied by the Central Bank is to ensure the stability of the banking system in the Republic of Uzbekistan, to protect the interests of depositors, other consumers and other creditors, to respond quickly and fix and eliminate problems.”

10. It was proposed to supplement Article 67 of the Law “On the Central Bank of the Republic of Uzbekistan” with the following third part: “The following measures and sanctions are applied by the Central Bank to banks: 1) sending a warning letter: a) on eliminating the violation b) coordinating activities c) to perform certain actions 2) to levy a fine of up to five percent of the capital 3) to demand: a) to implement measures for the financial rehabilitation or reorganization of the bank b) to conduct a repeated/special external audit of the bank c) within the specified period on the sale of bank shares d) reducing administrative costs e) on changing the organizational structure of the bank f) introducing changes in bank policies, rules, procedures and other internal regulatory documents 4) increasing economic standards and requirements 5) limiting or prohibiting: a) disposal of bank property or funds b) distribution of profits or bonus awards payment c) making investments and transactions with real estate, securities and other transactions d) carrying out certain types of banking operations e) establishing subsidiaries, branches, representative offices and other structural units of the bank f) concluding transactions with persons related to the bank g) participation of the shareholder in the further activities of the bank 6) removal or dismissal of officials, change of management bodies 7) introduction of temporary management 8) cancellation of the license on the basis provided by law 9) cancellation of documents with the nature of permission 10) carried out in the order of notification to suspend or terminate the increased activity.”

11. It was proposed to supplement the Law of the Republic of Uzbekistan "On Banks and Banking Activities" with the following Chapter 91 entitled Bank Ombudsman. **“Article 69<sup>1</sup>. Bank ombudsman, his status and election procedure.**

A bank ombudsman is a bank, an organization that performs certain types of banking operations, and a person who is independent in his activities and resolves disputes arising from a mortgage loan agreement at his request in order to reach an agreement on satisfying the rights and legally protected interests of the borrower.

The banking ombudsman follows the following principles in his activities:

1) equality of the parties 2) impartiality of the ombudsman 3) observance of banking and other secrets protected by law 4) respect for the rights and interests of the parties protected by law 5) transparency of the decision-making procedure and the validity of the decision.

The bank ombudsman resolves disputes arising between a borrower who is a natural person and a person who is granted a right (claim) under a bank loan agreement or microcredit agreement concluded with such a borrower based on the borrower’s request. A person entitled to a right (claim) under a bank credit agreement or a microcredit agreement must interact with the bank ombudsman and provide any information and data requested by the bank ombudsman when contacting a borrower who has obligations under a bank credit agreement or a microcredit agreement.

The election of the bank ombudsman and the early termination of his powers are carried out by the Council of Representatives. The Council of Representatives is formed on the basis of one representative from: 1) each bank, organization that performs certain types of banking operations 2) associations (associations) of public

associations of consumers and registered and engaged in activities aimed at the implementation and protection of the rights of consumers of financial services. associations 3) authorized body.

Participation in the Council of Representatives of banks and organizations engaged in certain types of banking operations providing mortgage loans is mandatory and is carried out in accordance with the procedure established by this law and the internal rules of the bank ombudsman approved by the Council of Representatives. Powers of the Council of Representatives: 1) proposal of a candidate for the position of bank ombudsman and its approval 2) approval of the structure and staff 3) determination of the procedure for financing the activities of the bank ombudsman 4) other issues related to the implementation of the activities of the bank ombudsman in accordance with this law. The meeting of the Council of Representatives is recognized as competent and executed if the members of the Council of Representatives present at it have fifty percent or more of the total number of votes.”

### **III. Proposals and recommendations for improving law enforcement practice:**

1. Special attention should be paid to improving the banking supervision mechanism, and the methods used by the Central Bank to supervise and monitor commercial banks should be aligned with international standards. In particular, it is recommended to fully implement the recommendations of the Basel Committee on banking supervision and strengthen the risk-based supervision system.

2. It is expedient to implement pilot projects for the introduction of Islamic banking products. It is recommended to test Islamic financing principles in at least three commercial banks under the leadership of the Central Bank, as well as to develop a “roadmap” for the development and implementation of regulations governing Islamic financial services.

3. It is necessary to take organizational and legal measures to establish the institution of a Banking Ombudsman. In this regard, it is recommended to develop and approve Regulations on the Banking Ombudsman in cooperation with the Central Bank, the Ministry of Justice and the Ministry of Finance, as well as to define measures to improve mechanisms for protecting the rights of consumers of banking services.

4. To accelerate digitalization processes in the banking system, it is advisable to establish a Banking Innovation Center under the Central Bank and grant it powers to register, monitor and implement innovative banking services. This center should implement programs for the introduction of new financial technologies (fintech), development of banking services infrastructure and increasing the accessibility of financial services.

5. Several considerations are put forward to improve the practice of banking supervision: full transition to a risk-based supervision system, strengthening remote supervision mechanisms, implementing a methodology for evaluating the effectiveness of internal control systems in banks, and systematically studying and implementing international experience in banking supervision.

6. In order to ensure transparency in banking activities, it is necessary to develop and implement uniform information disclosure standards that are mandatory for all commercial banks. It is advisable for the Central Bank to establish a practice of compiling and publicly announcing regular ratings based on the analysis and evaluation of banks' financial statements and performance results.

**НАУЧНЫЙ СОВЕТ DSc.07/30.12.2019.Yu.22.02 ПО ПРИСУЖДЕНИЮ  
УЧЁНЫХ СТЕПЕНЕЙ ПРИ ТАШКЕНТСКОМ ГОСУДАРСТВЕННОМ  
ЮРИДИЧЕСКОМ УНИВЕРСИТЕТЕ**

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**ТАШКЕНТСКИЙ ГОСУДАРСТВЕННЫЙ ЮРИДИЧЕСКИЙ  
УНИВЕРСИТЕТ**

**МУСТАНОВ ИЛХОМ АБДИВАЛИЖОНОВИЧ**

**СОВЕРШЕНСТВОВАНИЕ ОРГАНИЗАЦИОННО-ПРАВОВОЙ  
ОСНОВЫ РЕГУЛИРОВАНИЯ БАНКОВСКОЙ ДЕЯТЕЛЬНОСТИ  
В РЕСПУБЛИКЕ УЗБЕКИСТАН**

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**АВТОРЕФЕРАТ**  
диссертации доктора философии (PhD) по юридическим наукам

Ташкент – 2025

Тема диссертации доктора философии (PhD) зарегистрирована Высшей аттестационной комиссией при Министерстве высшего образования, науки и инновации Республики Узбекистан за номером № В2023.4.PhD /Yu245.

Диссертация выполнена в Ташкентском государственном юридическом университете.

Автореферат диссертации размещён на трёх языках (узбекском, русском, английском (резюме)) на веб-сайте Научного совета (<https://tsul.uz/uz/fan/avtoreferatlar>) и Информационно-образовательном портале Ziyonet ([www.ziyonet.uz](http://www.ziyonet.uz)).

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Защита диссертации состоится 6 сентября 2025 года в 14:00 на заседании Научного совета DSc.07/30.12.2019.Yu.22.02 при Ташкентском государственном юридическом университете. (Адрес: 100047, г. Ташкент, ул. Сайилгох, 35. Тел.: (99871) 233-66-36; факс: (998971) 233-37-48; e-mail: info@tsul.uz).

С диссертацией (PhD) можно ознакомиться в Информационно-ресурсном центре Ташкентского государственного юридического университета (зарегистрировано за № \_\_\_\_\_). (Адрес: 100047, г. Ташкент, ул. А. Темура, 35. Тел.: (99871) 233-66-36).

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## **ВВЕДЕНИЕ (аннотация диссертации доктора философии (PhD))**

**Целью исследования** является разработка предложений и рекомендаций на основе систематического изучения научно-теоретических, практических и законодательных проблем правового регулирования банковской деятельности в Республике Узбекистан.

**Объектом** исследования является система правоотношений, связанных с деятельностью банков и контролем над ними в Узбекистане.

### **Научная новизна исследования заключается в следующем:**

дано расширенное толкование понятия банковской системы Республики Узбекистан: обосновано, что в её состав следует включать Центральный банк Республики Узбекистан, коммерческие банки, дочерние банки, их филиалы, представительства, операционные офисы (пункты), а также представительства иностранных банков;

установлено, что основной задачей банков является финансирование рынка капитала и предоставление населению финансовых услуг посредством эффективного использования свободных денежных средств в системе финансово-кредитных отношений;

обосновано, что к отдельным видам банковских операций (банковских услуг) следует относить выполнение функций оператора, обслуживающего онлайн-платформы и другие торгово-сервисные площадки; продажу и сдачу в аренду компьютерных систем и программ, связанных с банковской деятельностью; осуществление финансового образования и издание книг и периодических изданий по вопросам финансов; проведение финансовых исследований и опросов; форфейтинговые операции; реализацию предмета залога для исполнения обязательств перед банком;

доказано, что система защиты прав и интересов клиентов банков должна охватывать административные, договорные и дополнительные меры, при этом в качестве дополнительного средства целесообразно внедрение в Республике Узбекистан института банковского омбудсмена.

**Внедрение результатов исследования.** Полученные в ходе исследования научные результаты нашли применение в следующих направлениях:

предложение, касающееся закрепления в законодательстве положения о том, что банк является юридическим лицом, деятельность которого направлена на получение дохода и которое на основании лицензии, выданной уполномоченным органом, оказывает банковские услуги клиентам, открывает и ведёт банковские счета физических и юридических лиц, принимает вклады, предоставляет кредиты, осуществляет платежи, расчёты и иные финансовые операции, было использовано при разработке статьи 3 Закона Республики Узбекистан «О банках и банковской деятельности» (справка Законодательной палаты Олий Мажлиса Республики Узбекистан от 27 марта 2024 г. № 02/4-40). Реализация данного предложения способствовала уточнению и обогащению содержания понятия «банк»;

предложение, определяющее банковские операции как виды деятельности, разрешённые к осуществлению банками в соответствии с лицензией и законодательством, реализуемые посредством корпоративных и гражданско-правовых инструментов, а также устанавливающее перечень отдельных видов банковских операций, было использовано при разработке статьи 5 Закона Республики Узбекистан «О банках и банковской деятельности» (справка Законодательной палаты Олий Мажлиса Республики Узбекистан от 27 марта 2024 г. № 02/4-40). Реализация данного предложения способствовала совершенствованию правовой базы, регулирующей виды банковских операций;

предложение, в котором банковский надзор определяется как совокупность мер, принимаемых уполномоченным органом с целью обеспечения соблюдения банками законодательства и установленных им самим правил, и включающее в качестве одного из видов надзора систему пруденциальных нормативов, устанавливаемых Центральным банком, было использовано при разработке статьи 38 Закона Республики Узбекистан «О банках и банковской деятельности» (справка Законодательной палаты Олий Мажлиса Республики Узбекистан от 27 марта 2024 г. № 02/4-40). Реализация данного предложения способствовала совершенствованию правового регулирования форм и методов банковского надзора;

предложение, в котором основная цель Центрального банка определяется как обеспечение стабильности денег и цен посредством финансово-кредитных механизмов, а также конкретизируются его финансовые функции (надзор, проверка, мониторинг, регулирование посредством принятия нормативно-правовых актов, лицензирование, консультации, предоставление гарантий и поручительств, выполнение функций фискального агента, хранение резервов, депозитарная деятельность и др.), было использовано при разработке статьи 5 Закона Республики Узбекистан «О Центральном банке Республики Узбекистан» (справка Законодательной палаты Олий Мажлиса Республики Узбекистан от 27 марта 2024 г. № 02/4-40). Реализация данного предложения способствовала совершенствованию правового регулирования целей и задач Центрального банка.

**Структура и объём диссертации.** Диссертация состоит из введения, трёх глав, заключения, списка использованной литературы и приложений. Объём диссертации составляет 156 страниц.

**E'LON QILINGAN ILMIY ISHLAR RO'YXATI**  
**LIST OF PUBLISHED SCIENTIFIC WORKS**  
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Avtoreferat “TDYUU Yuridik fanlar Axborotnomasi” jurnali  
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