

SOCIAL SCIENCE AND HUMANITIES

Manuscript info:

Received November 4, 2018., Accepted November 17, 2018., Published November 30, 2018.

**LEGAL BASES OF ACCREDITATION OF
REPRESENTATION OF FOREIGN BANKS IN THE
REPUBLIC OF UZBEKISTAN**

Khujaev Shokhjakhon Akmaljon ugli,
PhD researcher of Tashkent state university of law



<http://dx.doi.org/10.26739/2573-5616-2018-12-21>

Abstract: This article analyses legal questions of creation of the accredited representations, discloses order and conditions of accreditation of representative offices of foreign banks, requirements to representations, marks out distinctive features of standard of the banking legislation of the Republic of Uzbekistan concerning opening of representations.

Key words: accredited representations, the banking legislation, foreign banks, branch, the certificate on accreditation.

Recommended citation: Khujaev Shokhjakhon. LEGAL BASES OF ACCREDITATION OF REPRESENTATION OF FOREIGN BANKS IN THE REPUBLIC OF UZBEKISTAN. 11-12. American Journal of Research P. 194-197 (2018).

Commercial banks, especially foreign banks play an important role in the financial system and the economy. As a key component of the financial system, banks allocate funds from savers to borrowers in an efficient manner. They provide specialized financial services, which reduce the cost of obtaining information about both savings and borrowing opportunities. These financial services help to make the overall economy more efficient.

Banks in many countries are already required to hold more capital and the current tsunami of new regulation, new laws and new taxes will mean that banks will become more constrained than they are now.

Development of the banking

sector requires broad attraction of foreign banking capital and participation of foreign banks. However, often opened foreign banks it is represented difficult and in this regard jars at the initial stage are opened by representations in the territory of the foreign state. Opening of representations is favorable to foreign banks from two parties:

from the economic point of view opening of representation allows to reduce possible risks;

from the legal point of view of representation protect the interests of foreign banks which indirectly participate in various financial projects.

Strong basis and basis for functioning and development of any

public institute is the legal basis of its activity. Speaking about legal bases of activity of the accredited representative offices of foreign banks in the Republic of Uzbekistan, in our opinion, it is necessary to consider the banking legislation. The banking legislation defines features of legal regulation of banks, its branches and representations.

Concerning opening of the accredited representative offices of foreign banks in the Republic of Uzbekistan, the banking legislation can be subdivided into two big groups:

1) the general regulations which have the mediated relation to activity of the accredited representative offices of foreign banks;

2) special regulations which are devoted to questions of legal regulation of activity of the accredited representations.

It is possible to carry the Civil code of the Republic of Uzbekistan, Laws of the Republic of Uzbekistan "On Currency Regulation" from December 11, 2003 No. 556-II to the general regulations, "About joint-stock companies and protection of the rights of shareholders" from May 6, 2014 No. ZRU-370, "On Foreign Economic Activity" from May 26, 2000 No. 77-II, the Resolution of the Cabinet of the Republic of Uzbekistan "About the adoption of the provision on an order of accreditation and activity of representative offices of the foreign commercial organizations in the territory of the Republic of Uzbekistan" from October 23, 2000 No. 410 and others which regulate the general questions of representations.

We can note these special regulations:

- Laws of the Republic of Uzbekistan "On the Central Bank of the Republic of Uzbekistan", "On Banks and Bank Activity";

- resolutions of Board of the Central Bank of the Republic of Uzbekistan "On the adoption of the provision on an order of registration and licensing of activity of banks" from August 15, 2009 No. 23/3 (reg. No. 2014 from 08.10.2009), "On the adoption of the provision on an order of accreditation of representative offices of banks of the foreign states in the territory of the Republic of Uzbekistan" from November 22, 2008 No. 26/6 (reg. No. 1883 from 23.12.2008).

The majority of the sources of the bank right regulating activity of foreign banks and their accredited representations in the Republic of Uzbekistan, draw up regulations of the Central Bank to the Republic of Uzbekistan. It is specified in them that representative office of bank of the foreign state - the separate division of foreign bank located out of the location of bank and which is carrying out representation of interests of bank without the right of implementation of bank and other commercial activity and received the certificate of the Central bank of Uzbekistan on its accreditation in the territory of the Republic of Uzbekistan.

According to article 16 of the Law of the Republic of Uzbekistan "On Banks and Bank Activity" commercial banks can open branches in the Republic of Uzbekistan, and banks of the foreign states are representations with the permission of the Central Bank of the Republic of Uzbekistan. In recent

years in the Republic of Uzbekistan the following representative offices of the foreign banks accredited in Uzbekistan worked:

- "National bank of Pakistan" (National Bank of Pakistan), Pakistan;

- Commerzbank AG, Germany;

- "Landesbank Baden-Vyottemberg", Germany;

- JP Morgan Chase Bank (JPMorgan Chase Bank, N.A.), USA;

- "Export-import bank of Korea" (Export-Import Bank of Korea), Republic of Korea;

- Shinkhan bank, (Shinhan Bank), Republic of Korea.

Considering that creation of branches of foreign banks in the territory of the Republic of Uzbekistan is forbidden, foreign banks can carry out protection of the interests in the territory of the Republic of Uzbekistan only by means of opening of the accredited representations.

It should be noted that the legislation of the Republic of Uzbekistan provides the purposes of opening of representative offices of foreign banks. The representative office of foreign bank is created for the purpose of studying of an economic state and a situation in the Republic of Uzbekistan, consultation, representation of interests of foreign bank in the Republic of Uzbekistan, strengthening and extension of contacts with credit institutions and also development of the international cooperation. In legal literature it is noted that branches and representative offices of foreign banks open "for the purpose of

implementation of commercial representation" or "for development of banking services".

In the Republic of Uzbekistan the order of accreditation of representative offices of foreign banks has certain features:

- first, the addressing foreign bank has to carry out the activity in the country not less than five years, have good reputation and steady a financial state;

- secondly, in accreditation it is preferred as banks which short-term obligations are not lower than A1 (or A+) on classification of the IBCA, Moody's or Standart and Poor's agencies.

- thirdly, accreditation is made for the term of no more than three years;

- fourthly, creation of representations in offshore zones is not allowed.

The foreign bank has to provide the following documents for accreditation: the statement addressed to the chairman of the Central bank of the Republic of Uzbekistan; the decision of foreign bank on opening of representation in the territory of the Republic of Uzbekistan; charter of foreign bank; the certificate of registration of foreign bank or an extract from the bank register; permission of supervisory authority of the country where the bank is registered; annual reports of bank, including cumulative balance for the last three financial years certified by the audit report and also the report on income and expenses; the power of attorney issued by authorized body of foreign bank, to the person which is carrying out negotiations on opening

of representation; information on structure of governing bodies of bank together with the certificate of bank; the charter about representation, certified by authorized body of foreign bank; the lease of the building for office of representation or the letter of guarantee of the owner of the building on readiness to provide the building for rent (with the indication of conditions and terms of rent) .

The address about accreditation is considered during monthly term. Within five days from the moment of making decision on accreditation, after implementation of payment for accreditation into the account of the Central bank of the Republic of Uzbekistan, the certificate on accreditation of representation is issued about what the corresponding entry in the book of registration of representative offices of foreign banks in the territory of the Republic of Uzbekistan is made.

After obtaining the certificate on accreditation, the representation has to be registered in tax authority in

the location and also provide the reference in the Central bank of the Republic of Uzbekistan.

Proceeding from the analysis of the banking legislation of the Republic of Uzbekistan, we can note that the legislation provides certain requirements for opening and accreditation of representative offices of foreign banks of the Republic of Uzbekistan that it is connected with maintenance of competitiveness of national banks and ensuring stability of a banking system of the Republic of Uzbekistan. However, for development of activity of foreign banks in the Republic of Uzbekistan, we consider it expedient to improve activity of the accredited representations by means of increase in term of accreditation from three to five years and also representation of advantage during creation of bank with the foreign capital to those banks which had representations in the territory of the Republic of Uzbekistan.

References:

1. The resolution of Board of the Central Bank of the Republic of Uzbekistan "On the adoption of the provision on an order of accreditation of representative offices of banks of the foreign states in the territory of the Republic of Uzbekistan" from November 22, 2008 No. 26/6 (reg. № 1883 from 23.12.2008 y.).
2. The resolution of Board of the Central Bank of the Republic of Uzbekistan "On the adoption of the provision on an order of registration and licensing of activity of banks" of August 15, 2009 No. 23/3 (reg. № 2014 from 08.10.2009 y.).
3. Gazdyuk N.Yu. Legal capacity of banks as subjects of the international private law (in the context of implementation of cross-border bank activity). Current problems of the international public and international private law: - Release 5. - Minsk, 2013.- 480 p.
4. Ozyumenko S.V. Legal problems of participation of foreign banks in a banking system of Russia. Bulletin of Peoples' Friendship University of Russia. Series Jurisprudence. 2007, No. 3. - P. 30-34.
5. <https://hbr.org/2010/06/why-we-need-banks>