
The Independence of Securities and Exchange Apparatus of the Islamic Republic of Iran

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Abstract

Financial institutions, such as Securities and Exchange Organization (SEO), play an important role in regulating the capital market. In the past, due to the simplicity of the structure of government, the Parliament simply passed a law, the Executive was implementing it and the Judiciary was in charge of interpreting and enforcing the law. However, industrialization and engagement of governments in banking services, trading, investing, insurance services, import and export caused the creation of new financial institutions. Such financial institutions are obliged to respond promptly to the needs of society in an efficient manner and regulate the market. The High Council of Security and Exchange and SEO as main principals in the Iran's capital market are among those financial institutions. The efficiency of these institutions is intertwined with their independence. In that, the effective efficiency of such financial institutions is dependent on guaranteeing their independence. In this article, independence in regulation, supervision, structure and finance will be examined in respect to securities and exchange apparatus of Iran.

Keywords: Independence in regulation, independence in supervision, financial independence, structural independence.

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References
Books

1. Michael P. Malloy (1997), *BANKING LAW AND REGULATION*, 2nd edition, New York Wolters Kluwer Aspen Publishers;
2. Carl Felsenfeld and David Glass (2011), *BANKING REGULATION IN THE UNITED STATES*, 3rd edition, Huntington, New York, Juris Publishing, Inc.;
3. Peter L. Strauss (1989), *AN INTRODUCTION TO THE ADMINISTRATIVE JUSTICE IN THE UNITED STATES* 15, , Durham, North Carolina, Carolina Academic Press;

Articles and Journals

4. Alex Cukierman et al., (1992), "Measuring the Independence of Central Banks and Its Effect on Policy Outcomes", 6 *WORLD BANK ECONOMY REVIEW*, pp. 353-398.
5. Angel Manuel Moreno, (1989), "Presidential Coordination of the Independent Regulatory Process", 8 *Administrative Law Journal*, pp. 461-477 (citing Peter L. Strauss, *AN INTRODUCTION TO THE ADMINISTRATIVE JUSTICE IN THE UNITED STATES* 15)
6. Eric J. Pan, (2012), "Understanding Financial Regulation", *Utah Law Review* pp. 1897- 1941
7. Fabrizio Gilardi, (2005), "The Formal Independence of Regulators: A Comparison of 17 Countries and 7 Sectors", 11 *SWISS POLITICAL SCIENCE LAW REVIEW*. pp. 139-167.
8. Fabrizio Gilardi, (2005), "The institutional Foundations of Regulatory Capitalism: The Diffusion of Independent Regulatory Agencies in Western Europe", 598 *American Academy of Political and Social Science*, pp. 84-101..
9. Gadinis, Stavros, (April 2013), "From Independence to Politics in Financial Regulation", 101 *California Law Review*, 327-357.
10. Lisa Schultz Bressman & Robert B. Thompson, (2010), "The Future of Agency Independence", 63 *Vanderbilt Law Review*, pp. 599-616.
11. Marc Quintyn & Michael W. Taylor, (March 2002), "Regulatory and Supervisory Independence and Financial Stability", IMF Working Paper, WP/02/46
12. Richard H. Pildes, (2009), "Separation of Powers, Independent Agencies, and Financial Regulation: The Case of the Sarbanes-Oxley Act, 5 *New York University, Journal of Law and Business*, pp. 485-512
13. Stanley Fischer, (May, 1995), "Central-Bank Independence Revisited, *The American Economic Review*", Vol. 85, No. 2., pp. 201-206
14. Michael P. Malloy, *BANKING LAW AND REGULATION* (Aspen Publishers, 1995); Carl Felsenfeld and David Glass, *Banking Regulation in the United States* (Juris Publishing, Inc., 3rd ed. 2011).

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- 15.1 Angel Manuel Moreno, Presidential Coordination of the Independent Regulatory Process, 8 Administrative Law Journal 470 (citing Peter L. Strauss, AN INTRODUCTION TO THE ADMINISTRATIVE JUSTICE IN THE UNITED STATES 15 (1989)).
 16. Angel Manuel Moreno, Presidential Coordination of the Independent Regulatory Process, 8 Administrative Law Journal 470 (citing Marver H. Bernstein, REGULATING BUSINESS BY INDEPENDENT COMMISSION (1955)).
 17. Peter L. Strauss, AN INTRODUCTION TO THE ADMINISTRATIVE JUSTICE IN THE UNITED STATES 15 (Carolina Academic Press, Durham, North Carolina, 1989)).

Laws and Regulations

18. § 12 U.S. Code (BANKS AND BANKING)
19. § 15 U.S. Code (Title 15 - COMMERCE AND TRADE)
20. Securities Market of I.R. Iran (2005)
21. The Law Amending the 4th Economic, Social Cultural Development Plan of I.R. Iran and Implementation Policies of Principle 44 of Iran's Constitution (2008)
22. The Law on Protection of Consumers (1977)
23. The Law on National Management Services (2007)
24. The Law of Criminal Procedure (2014)
25. The Law on Cooperative Economy of I.R. Iran (1992) and further
26. amendments
27. The Law on Chamber of Commerce, Industry and Mine of I.R. Iran (1991)

Cases

28. Humphery's Executive v. US 295 U.S. 602 (1935)
29. Myers v. US, 272 U.S. 52 (1925)

Internet Sources

30. <http://www.seo.ir/> 2016/12/5
31. <http://www.csdiran.com> 2016/6/4
32. http://www.ime.co.ir/ime/fa/filemanager/99_1378502891086/9_1400928156977/multimedia/file_2016/12/5
33. http://www.ime.co.ir/ime/fa/filemanager/99_1378502891086/6_1414908985390/multimedia/file_2016/12/5
34. <http://www.ime.co.ir/ime/fa/rules/966452261.html> 2016/.6/4
35. <http://www.tse.ir/newspage.aspx?Nid=16235> 2016/12/5
36. <http://www.tse.ir/cms/Portals/1/public/file%20scan%20asasnameh.pdf> 2016/6/4

37. http://new.tse.ir/cms/Portals/1/mali/Codal_a_97160_92580. pdf
2016/12/5
38. <http://www.tse.ir/cms/Portals/1/ghavanin/pr-zavabet%20entekhab%20kanoon.pdf> 2016/12/5
39. <http://maslahat.ir/%D9%84%DB%8C%D8%B3%D8%AA%20%D9%87%D8%A7/newslist/NewsDisp.aspx?ID=1667> 2016/12/5
40. <http://rc.majlis.ir/fa/report/show/729108> 2016/6/4