

The Adoption of Digital Banks as a Mechanism for the Modernization of Competition in the Algerian Banking Sector

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Introduction:

In light of the tremendous digital revolution witnessed globally over the past decades, which has transformed patterns of life and contributed to facilitating numerous transactions and services via the Internet across all economic and social spheres, the banking sector has not been immune to its impact, Indeed, all sectors have increasingly come to rely entirely on advanced technologies to provide their services without the need for traditional branches, thereby accelerating transactions and enhancing the quality of services delivered.

Accordingly, the changes and transformations witnessed in the modern banking environment have generated a new reality, one that can be regarded as a new business paradigm whose central characteristic is “competition.” this competition constitutes the principal challenge facing contemporary banks, representing a factor that is continuously evolving and shifting, consequently, banks are required to grow and develop in ways that enable them to transcend traditional boundaries. In this regard, reliance on digital technology emerges as one of the fundamental challenges for business organizations and banks alike, being considered a strategic option and an essential factor in achieving competitive advantage, this is due to the significant role it plays in enabling such institutions to improve their performance, maximize profitability, and strengthen their economic power within the banking market¹.

With the advancement of technology, digital transformation in the banking sector has become an urgent necessity that requires implementation, this is due to the role of digitization in improving and enhancing the efficiency of banking institutions, as well as in increasing their

¹-Assia Mahdjoub, Commercial Banks and Competition within a Contemporary Financial Environment: The Case of Algerian Banks, Master’s Thesis in Economic Sciences, Specialization in Financial Strategy, University of May 8, 1945 – Guelma, Academic, 2010/2011, p. 80.

profitability and market share through the adoption of more digital technologies, which are considered among the most significant tools of competition in the banking sector.²

In light of the challenges brought about by changes in the international banking environment, most countries have adopted a series of reforms aimed at facilitating their adaptation to these transformations, these countries have come to recognize the advantages of relying on digital technology within the banking sector, which has increasingly been oriented toward the pursuit of economic efficiency and the search for opportunities to achieve distinction and superiority over competitors, this is accomplished through the provision of banking services in ways that are easier, faster, more effective, and of higher quality.

Within this context, Algeria has been compelled in recent years to adopt a set of reforms in order to align with global trends, particularly in light of the wave of economic liberalization and the reliance on advanced technologies in managing and directing its economy, these reforms have encompassed several sectors, including the financial and banking sector, the enactment of Law No. 23-09 on Monetary and Banking Law reflects the clear intention of the Algerian financial authorities to rely on digital technology within this sector, as well as to liberalize and open it to competition, this development paved the way for the Algerian legislator to regulate the modalities of establishing and accrediting digital banks through Regulation No. 24-04, which defines the specific conditions for the establishment, accreditation, and operation of digital banks in Algeria.

Given the unconventional nature characterizing digital banks, which Algeria seeks to integrate into its existing banking system, the following research problem arises: **“How can the adoption of digital banks contribute to reshaping the contours of competitiveness within the Algerian banking sector in light of current technological and regulatory challenges?”**

This problem opens the way for an in-depth study of the adoption of digital banks as a strategic mechanism for modernizing competition within Algeria’s banking sector, the study relies on a descriptive and analytical methodology, aimed at both clarifying the key concepts related to this topic and examining the most relevant legal texts governing it, based on the following structure:

First Section: The Freedom to Establish Digital Banks as a Tool for Achieving Competitiveness in the Algerian Banking Sector.

Since competition constitutes a defining feature of any free economic activity, the freedom to enter and engage in economic activities represents a fundamental pillar supporting the principle of free competition within the economic systems of all states, consequently, the freedom to establish digital banks and financial institutions stands as a clear reflection of the principle of economic freedom³ Accordingly, the Algerian legislator has focused on

²-Belaiachi Mayada, The Impact of Electronic Banking on Monetary Policy, Unpublished Doctoral Dissertation, Specialization in Monetary, Banking, and Financial Markets Economics, Mohamed Khider University – Biskra, 2015, p. 25.

³-Briache Abdelkader, Banking Liberalization and the Requirements for Developing Banking Services and Enhancing the Competitiveness of Algerian Banks. Doctoral Dissertation in Economic Sciences, specialization in Money and Finance, Faculty of Economics and Management, University of Algiers, 2006, p. 102.

encouraging the entry of digital banks into the banking sector through investment _whether national or foreign _ in digital banking activities, particularly given the limited scope of this sector prior to the reforms introduced by the legislator, However this freedom is not applied in an absolute manner; rather, it has been restricted by a set of regulations, in view of both the sensitivity of the sector and the inherently legal character that generally distinguishes the banking profession.

First Subsection: The Legal Basis for the Adoption of Digital Banks in Algeria.

Although Algeria's experience in the digital field remains at an early stage, similar to that of many other countries, it has nonetheless witnessed notable development, the Algerian government is striving to strengthen digital transformation across all sectors, including e-government, distance education, and banking operations⁴, electronic commerce also forms part of this transformation. In this context, the establishment of digital banks is inspired by the qualitative reform that has affected the Algerian banking sector, a reform instituted by the Algerian legislator through Law No. 23-09 on Monetary and Banking Law, as well as Regulation No. 24-04 concerning the specific conditions for licensing, establishment, accreditation, and operation of digital banking activities, in addition to other related legal instruments.

Section One: The legal basis for the Adoption of Digital Banks in the Fundamental Algerian Legislation.

In accordance with the instructions of the President of the Republic of Algeria, Mr. Abdelmadjid Tebboune, who ordered the acceleration of the digitalization of all active sectors in Algeria to be completed by the end of 2024, the move toward digital transformation in the banking sector has emerged as an urgent necessity, this shift is essential for enabling Algerian banks to benefit from digitalization in enhancing their competitive advantage⁵ this is particularly relevant in light of the wide-ranging transformations witnessed globally since the beginning of the 21st century, driven by significant advancements in information technology. These developments have impacted all aspects of life and various sectors, including the banking sector, which now operates within an increasingly competitive environment⁶.

Digital transformation in the field of finance and business is defined as: "the process through which companies shift to business models that rely on digital technologies to support the development and innovation of the products and services they offer, this also includes the

⁴-Banking operations :are understood to mean the provision of banking and financial services, such as payment services, the collection of funds from the public, the granting of loans, and foreign exchange transactions. They also encompass various Islamic and electronic banking operations, the investment of securities, as well as any financial products offered by banks or financial institutions to their clients.

⁵-The competitive advantage of a bank refers to "the position that enables it to interact with various banking markets and surrounding environmental factors more effectively than its competitors. In other words, competitive advantage reflects the extent to which a bank is capable of performing in a manner that its competitors are unable to replicate."

⁶ -Belayachi Mayada, op. cit., p. 25.

provision of new marketing channels and employment opportunities that enhance the value of the offered products, whether goods or services.”⁷

The digital transformation taking place in the banking sector is also described as: “the process of shifting from a traditional system of financial and banking transactions to a digital system based on information and communication technology (ICT) across all areas of banking operations, in light of a set of dimensions and requirements, most notably the establishment of a digital transformation strategy.”⁸

Digitalization in the banking sector also means: "the conversion of traditional banking operations into digital processes that utilize technology and computing to deliver banking services more efficiently and seamlessly through the use of the internet and mobile applications to conduct these operations."

Referring to the provisions related to the Algerian Constitution, it is evident that the constitutional founder did not explicitly enshrine the use of digital technologies in its latest amendmen, No clauses were included concerning citizens’ rights to internet access, benefiting from digital services, ensuring electronic privacy, or promoting a digital economy, however, there are ongoing efforts by the Algerian state aimed at institutionalizing digitalization across various governmental and economic sectors⁹.

This is clearly evident upon examining Article 61 of the 2020 Algerian Constitution, which falls under Chapter One of the Second Title concerning fundamental rights and public freedoms. The article states that: “Freedom of trade, investment, and enterprise is guaranteed and exercised within the framework of the law”¹⁰,Accordingly, the provisions of this article may be applied to the establishment of digital banks in Algeria from several perspectives, which may be outlined as follows:

First: Ensuring the freedom to establish digital banks.

The 2020 Algerian Constitution enshrines, in Article 61, the principle of freedom of investment and entrepreneurship as one of the fundamental pillars of the national economy,

⁷-wamid Kamel Mohamed ein Kamel Allam, “Digital Transformation and Its Impact on Enhancing the Competitive Advantage of Banking Services from the Perspective of Customer Service Officials: A Field Study Applied to the Banking Sector in Upper Egypt,” *The Scientific Journal of Economics and Commerce*, 2021, p. 188.

⁸-it is worth noting that digitalization in the banking sector also encompasses the use of artificial intelligence technologies and big data analytics to improve service delivery, as well as the application of strong encryption to protect financial data. Moreover, it includes the provision of online and mobile banking services to facilitate customer access.

⁹ -Aisha Abdel Hamid, "The Legal and Legislative Framework for Digitalization and Artificial Intelligence," *International Journal of Artificial Intelligence in Education and Training*, 2021, p. 7.

¹⁰-Article 61 of the Constitution of the People's Democratic Republic of Algeria, 2020, issued by Presidential Decree No. 20-442 dated December 30, 2020, concerning the issuance of the constitutional amendment ratified in the referendum of November 1, 2020, published in the Official Gazette of the People's Democratic Republic of Algeria, Issue No. 82, dated December 30, 2020.

consequently, any natural or legal person who meets the legal and regulatory requirements has the right to engage in economic activity, including banking activities.¹¹

From this perspective, the establishment of digital banks constitutes a practical extension of the constitutionally enshrined principle of freedom of investment, the new legal framework provides an opportunity for various economic actors (whether domestic or foreign investors) to contribute to the development of the banking sector through the adoption of digital technologies. It also offers traditional Algerian banks the opportunity to expand their operations by establishing digital branches to deliver their services, this indicates that the constitutional embodiment of the freedom of investment and commerce is not limited to newly emerging financial activities but also extends to the modernization of traditional operations. Accordingly, this constitutional framework serves as a solid legal foundation for encouraging innovation and updating the Algerian banking system.

Second: The Legal Regulation of Digital Banking Activities.

The adoption of digital banks is not limited to merely recognizing their establishment; it necessarily requires the implementation of a legal framework that regulates their activities and ensures the proper functioning of the banking system, this requirement can be inferred from the wording of Article 61 mentioned above, which stipulates that the freedom of trade and investment shall be exercised 'within the framework of the law.' This aligns with Bank of Algeria Regulation No. 24-04 concerning the specific conditions for authorizing the establishment and operation of digital banks, as well as with Monetary and Banking Law No. 23-09, A strict regulatory framework has thus been established to define the conditions for licensing, establishment, and the exercise of digital banking activities, For instance, the creation of digital banks outside the prescribed legal framework is prohibited, including a ban on establishing them as branches of foreign banks and the requirement that an Algerian bank must hold at least 30% of the share capital.¹²

Third: Balancing Economic Freedom and Prudential Regulation.

Although Article 61 of the 2020 Algerian Constitution enshrines the freedom of trade, investment, and entrepreneurship, this freedom is not absolute, Rather, it allows the state to intervene in the regulation of financial markets and the protection of the banking system, this balance between economic freedom and prudential oversight constitutes one of the fundamental pillars underpinning competition in any economic activity, especially in sectors characterized by their sensitivity and particularity, such as the banking sector, this is reflected in the restrictions imposed on digital banks, including the limitation of the deposit ceiling for each

¹¹-This approach reflects the intent of the Algerian constitutional legislator to establish an investment environment founded on the principle of free initiative, free from unjustified restrictions or monopolistic practices, while promoting fair and lawful competition.

¹² -Article 05 of Regulation No. 24-04 dated 13 October 2024, concerning the specific conditions for the authorization, establishment, and operation of digital banks, Official Gazette of the People's Democratic Republic of Algeria, No. 77, issued on 19 November 2024.

customer to 1% of total deposits, and the prohibition on granting loans to large enterprises during the first five years of operation.¹³

Section Two: The Legal Basis for the Authorization of Digital Banks in Ordinary Legislation.

While the Algerian Constitution establishes the general framework for enshrining the freedom of investment and trade, thereby permitting, in principle, the establishment of digital banks, the practical implementation of this principle can only be achieved through ordinary legislation that specifies detailed rules governing the operation of such banks, accordingly, the Algerian government has, in recent years, initiated a series of banking reforms that began with the assumption of office by the President of the Republic in 2019, On this basis, attention will be drawn to the efforts made by the Algerian authorities to prepare Algerian banks for the challenges posed by the contemporary financial environment and to keep pace with technological advancements in the sector, which will play a significant role in facilitating the adoption of digital banks in Algeria.¹⁴

First: Establishing the Authorization of Digital Banks in the Monetary and Banking Law.

As part of the reforms initiated by the Algerian public authorities to modernize the national economic sector in 2023 (which President Abdelmadjid Tebboune described as a year of exceptional economic significance) a series of legal amendments related to economic activities were enacted, with banking activities being among the most prominent, Despite the previous reforms undertaken in the banking sector, the Algerian legislator deemed it necessary to further modernize this sector, which still faces significant challenges and suffers from certain deficiencies, these circumstances necessitate the continuation of reforms to align the sector with the recent transformations and developments occurring in both the domestic and international banking environments.¹⁵

In the context of these reforms, Law No. 23-09, which comprises the Monetary and Banking Law, was enacted¹⁶,The newly designated term was introduced to encompass the most significant aspects subject to development, particularly those related to enhancing contemporary competition, this involves modernizing banking activities and upgrading the banking system to promote financial inclusion, as well as aligning with the recent developments in the new Investment Law and the Public Finance Reform Law, thereby enabling compliance with the practices of central banks at the international level.

¹³- The underlying objective is to direct the activities of digital banks toward financing individuals and small to medium-sized enterprises, while granting them a transitional period to build a solid foundation of expertise and financial solvency before engaging in large-scale, high-risk financing operations.

¹⁴-Rennan Mokhtar, “The Third Generation of Monetary and Banking Reforms in Algeria: An Analysis of Law 23-09,” Contemporary Economic Research Journal, Vol. 06, No. 02, October 2023, p. 290.

¹⁵-Taher Latrache, Banking Technologies, unpublished edition, University Publications Office, Algiers, 2003, p. 194.

¹⁶- Law No. 23-09 dated 3 Dhu al-Hijjah 1444 AH, corresponding to 21 June 2023, comprising the Monetary and Banking Law, Official Gazette, No. 43, issued on 27 June 2023.

Within the framework of the new Central Banking Law's establishment of the principle of freedom of entry into the banking market, this law permits the creation of digital banks and entities referred to as "Payment Service Providers (PSPs)," which may be established in the form of a joint-stock company, a simplified joint-stock company, or a limited liability company, additionally, the law introduces the central bank digital currency developed, issued, managed, and supervised by the Bank of Algeria, known as the "Digital Dinar"¹⁷.

This underscores the strong intent of the Algerian legislator to digitize activities within the banking sector through the introduction of a digital form of currency, represented by the Algerian Digital Dinar, which is developed, managed, and supervised by the Bank of Algeria.

Furthermore, the scope of payment methods has been expanded to include electronic currency by authorizing the establishment of digital banks and digital service providers, All these measures reflect the opening of the Algerian banking sector to global technological advancements and the enhancement of financial inclusion within the monetary and banking environment in Algeria.¹⁸

It can therefore be asserted that the enactment of the Monetary and Banking Law constitutes a new milestone in the series of economic digital transformations undertaken by Algeria, notably, the new law will facilitate the advancement towards the modernization of the Algerian banking sector to keep pace with current and future developments, particularly in its technological dimension, with the aim of providing an appropriate environment for economic actors to utilize and optimally invest in all modern banking instruments.¹⁹

Second: The institutionalization of the reliance on digital banks within the framework of Regulation No. 24-04 issued by the Bank of Algeria.

At the end of 2024, the Bank of Algeria issued a new regulation establishing the conditions for the establishment and licensing of digital banks, which provide their services exclusively through digital platforms utilizing modern technology, this regulation, signed by the Governor of the Bank of Algeria under No. 24-04, provides a legal definition of digital banks and outlines the manner in which they operate.

The Algerian legislator defined digital banks in Article 2 of Regulation No. 24-04, which sets out the specific conditions for licensing the establishment, accreditation, and operation of digital banks, as follows: "A digital bank is any bank that exclusively provides banking services and products through digital channels, platforms, or infrastructures, relying

¹⁷-Article 02 of Law No. 23-09 relating to the aforementioned Monetary and Banking Law.

¹⁸-Rennan Mokhtar, *supra* reference, p. 292.

¹⁹-Fouad Mokhresh, *Establishing the Principle of Freedom of Competition in the Banking Sector*, PhD thesis in Private Law, specializing in Business Law, Faculty of Law, University of Frères Mentouri Constantine 1, 2024, p. 58.

on modern technologies, namely information and communication technologies and financial technology, within the framework of conducting its activities.”²⁰

The regulation requires that one of the shareholders of the digital bank must be an Algerian bank with expertise in electronic banking services, holding at least 30% of the capital. Additionally, the establishment of a digital bank as a branch of a foreign bank is prohibited, it is also mandated that the digital bank establish a registered office in Algeria to host its operational platform.²¹

The regulation stipulates that digital banks are subject to the same prudential controls imposed on traditional banks, including setting a cap on individual deposits and prohibiting loans to large enterprises, except for small and medium-sized enterprises (SMEs), whose eligibility was subsequently expanded. Moreover, an independent office must assess the bank’s infrastructure and cyber security prior to granting the final license, paragraph 4 of Article 12 of Regulation No. 24-04 provides that after five years, digital banks may request exemptions from certain restrictions, provided they increase their capital to 150% of the minimum required threshold, the regulation also prohibits any unlicensed entity from using designations that imply it is a licensed digital bank.²²

Third: The formal recognition of digital banks within Investment Law No. 22-18.²³

Investment Law No. 22-18 embodies the new vision of economic reforms undertaken by the Algerian government to establish a modern, open, and flexible business environment capable of accommodating emerging economic activities, including digital financial services, this reflects the implementation of the government’s new policy, which arose in response to the legitimate demands of the blessed popular movement of 2019.²⁴

The new law incorporates several positive provisions that should be recognized and diligently implemented, particularly regarding foreign investment without the requirement of an Algerian partner under the 49/51 ownership rule, the new Investment Law outlines key conditions for foreign investment in Algeria and establishes a dedicated one-stop window

²⁰ -Article 02 of Regulation No. 24-04 dated October 13, 2024, concerning the specific conditions for licensing the establishment, accreditation, and operation of digital banks, Official Journal of the Algerian Republic, Issue No. 77, published on November 19, 2024.

²¹-Pursuant to the provisions of Article 5 of Regulation No. 24-04 concerning the specific conditions for the licensing, establishment, accreditation, and operation of digital banks, as previously mentioned.

²² - Articles 12 and 13 of Regulation No. 24-04, concerning the specific conditions for licensing, establishing, accrediting, and operating digital banking activities, as previously mentioned.

²³-Law No. 22-18 dated 25 Dhu al-Hijjah 1443 AH, corresponding to 24 July 2022, relating to investment, published in the Official Gazette of the People’s Democratic Republic of Algeria, No. 50, issued on 29 Dhu al-Hijjah 1443 AH, corresponding to 28 July 2022.

²⁴-The new Investment Law was enacted after years of anticipation and following a period of stagnation in the investment file since 2019, prior to the outbreak of the COVID-19 pandemic.

exclusively tasked with monitoring and promoting foreign investments²⁵, consequently, Investment Law No. 22-18 provides for the possibility of partially or fully relocating economic activities to Algeria²⁶, by guaranteeing the freedom of foreign investment without the requirement for a foreign partner to hold 51% of the total investment, this provision enables foreign companies and brands to access the Algerian market, which had previously been inaccessible to them before the enactment of this law.

Among the most prominent provisions of the new law (which has long attracted criticism from foreign partners) is the expansion of guarantees regarding the transfer of invested funds and the returns generated the reform to foreign investors. Previously, foreign companies operating in Algeria faced difficulties and obstacles concerning the repatriation of profits and the lack of clarity in the application of the relevant regulatory provisions²⁷, the law also provides for the imposition of the highest penalties on any individual who, in any way, hinders investment operations, regardless of their position or the nature of their responsibility²⁸, for decades, the business and investment climate has been a focal point of criticism from public opinion, local entrepreneurs, and foreign companies alike, due to the complex and burdensome administrative procedures, which have led to a climate of investor reluctance, In response, the new Investment Law has introduced the digitization of application submissions and the tracking of investment files through the Investor Platform, this digital transition is expected to eliminate the longstanding bureaucratic inefficiencies characteristic of certain Algerian administrative bodies, while also facilitating access to information regarding the various sectors targeted for investment.²⁹

Through this brief overview of the key provisions introduced by the new Investment Law No. 22-18, it may be concluded that the law does not directly regulate the accreditation of digital banks, rather, it aims to provide a set of guarantees sought by investors _particularly foreign investors_ in order to carry out their investment projects with greater freedom and confidence, free from concerns related to legal stability and the conditions and procedures of implementation.

Accordingly, an investor seeking to invest capital in the Algerian banking sector would find no more favourable environment than that currently offered in Algeria, both in terms of the incentives and advantages granted to investors and the guarantees provided for the

²⁵ -The new Investment Law mandates the transformation of the National Agency for Investment Support (a government entity) into the Algerian Agency for Investment Promotion, granting it the role of promoter and facilitator for both foreign and domestic investments.

²⁶- Article 4 of Law No. 22-18 concerning investment, as previously mentioned.

²⁷-Article 8 of Law No. 22-18 concerning investment.

²⁸-Pursuant to the provisions of Article 37 of the same law.

²⁹-Article 23 of Law No. 22-18 provides as follows: A digital platform for investors shall be established and placed under the management of the Agency. This platform shall provide all necessary information, particularly regarding investment opportunities in Algeria, the availability of land, investment-related incentives and benefits, as well as the relevant procedures.

protection of investments, especially when this new law is compared to previous investment-related legislation.³⁰

Accordingly, the principle of freedom to establish digital banks is considered one of the key pillars supporting and reinforcing free competition within the banking sector. It also encourages the entry of private actors _whether national or foreign_ into the banking profession, this is particularly important given that the Algerian banking sector remains local in scope and limited in scale, and thus requires significant efforts to enhance its capacity to compete at the international level, one of the initial steps in this regard is to resort to partnerships, since foreign partners are unlikely to invest their capital unless they are assured of the competitiveness of their products and services. Indeed, competitive advantage is the sole guarantor of profitability, achieving this requires the realization of the first and most essential element of free competition: unrestricted access to the banking sector without barriers or obstacles imposed by either the state or private actors, a condition that would allow for the diversification of economic operators in this vital sector.³¹

This has indeed been achieved through the Monetary and Banking Law, which allows for the establishment of banking institutions that comply with standards and requirements determined by the nature of their activity and the objectives set for them.

Section Two: Conditions for the Establishment of Digital Banks in Algeria.

Banks are legal entities whose ordinary and primary function is to carry out banking activities. Accordingly, the law excludes the possibility of conducting banking operations by any natural person, a bank must, therefore, be a legal person, which means that it must be established in the form of a company³², accordingly, access to the banking profession is subject to a set of conditions that may be considered as departing from the conventional and ordinary rules governing commercial activities, these conditions are divided into formal requirements , and substantive requirements, some of which relate to the banking institutions themselves and their legal form, while others pertain to shareholders and managers.

Subsection One: Formal Requirements for the Establishment of Digital Banks.

Regulation No 24-04 sets out a number of formal requirements for the establishment of a digital bank, and refers in this regard to the provisions applicable to traditional banks. Accordingly, any investor must, prior to undertaking any digital banking activity, fulfil two fundamental establishment requirements: obtaining prior authorization and accreditation, while taking into account the specific characteristics of the digital environment in which such activities are conducted.

First: The Authorization Procedure.

³⁰-Fouad Mekharbech, op. cit., p. 79.

³¹-Boualkhadra Noura. The Principle of Freedom of Competition in the Algerian Banking Sector, Master's thesis in Law (Economic Reforms Law), University of Jijel, 2006, p. 68.

³²-Article 91 of Law No. 23-09 on the Monetary and Banking Law provides: 'Banks and financial institutions subject to Algerian law must be established in the form of joint-stock companies. The Council shall examine the feasibility of allowing a bank or financial institution to be organized as a cooperative.'

Given that digital banking activity is considered a sensitive sector and a fundamental pillar of a country's economy (and in view of the potential risks it may pose to individuals and to the national economy) it is essential that the establishment of any bank, financial institution, independent intermediary, exchange office, or payment service provider subject to Algerian law, as well as the opening of branches of foreign banks in Algeria or representative offices of foreign financial institutions, be subject to prior authorization from the Monetary and Banking Council, accordingly, the concerned party must submit an application that complies with the legal requirements established for this procedure.³³

Accordingly, Article 8 of Regulation No. 24-04 stipulates that the application for authorization to establish a digital bank must be submitted to the Chairman of the Monetary and Banking Council, along with the required documentation for the establishment license, this is further affirmed by Article 90 of Law No. 23-09 on the Monetary and Banking Law, which provides: The Council must grant authorization for the establishment of any bank, financial institution, independent intermediary, exchange office, or service provider subject to Algerian law....³⁴

1/ Types of Licenses: There are various forms of licenses for the establishment of banks and financial institutions as defined by Monetary and Banking Law No. 23-09, which can be summarized as follows:

(a) Licensing for Establishment:

No investment project in the form of a bank or financial institution, whether domestic or foreign, may be established without first obtaining a license for establishment³⁵, the application for a license to establish a bank or financial institution, whether national or foreign, must be submitted to the Money and Credit Council, this procedure is in accordance with the provisions of Monetary and Banking Law No. 23-09, as well as Regulation No 24-01, which sets out the conditions for the licensing and approval of the establishment of banks and financial institutions³⁶, accordingly, it may be concluded that this type of licensing is applicable to the establishment of digital banks in Algeria.

(b) Residency License:

³³-Licensing is defined as a legal procedure aimed at lifting a specific legal prohibition. In this context, it is considered an administrative declaratory decision rather than a constitutive one. This gives the impression that there are different types of licenses, through which the administration can exercise strict control over these activities.

³⁴- Article 90 of Law No. 23-09 on the Monetary and Banking Law.

³⁵ -Ben Yahia, Raziqa. Investment Policy in Algeria: From the Declaration System to the Authorization System. Master's thesis in Law, specialization in Public Business Law, Faculty of Law, University of Abderrahmane Mira, Béjaïa, 2013, p. 11.

³⁶- Regulation No. 24-01 of 6 February 2024, establishing the conditions for the licensing and approval of the establishment of banks and financial institutions, Official Gazette of the People's Democratic Republic of Algeria, No. 18, published on 13 March 2024.

Article 93 of Law No. 23-09 on Monetary and Banking Law stipulates: "The Council may authorize the opening of branches in Algeria by foreign banks and financial institutions, taking into account the principle of reciprocity."

The residency license is similar to the establishment license in terms of required conditions and documentation; however, it differs in that some of the requirements are less stringent, given that the evaluation is based on the parent bank, whose headquarters is located abroad.

Accordingly, this type of license cannot be granted for the establishment of a digital bank, as it conflicts with the provisions of Article 04 of Regulation No. 24-04, which expressly prohibits the establishment of a digital bank in the form of a branch of a foreign bank.³⁷

(c) Representation License:

This type of license pertains to representative offices of foreign banks and financial institutions in Algeria, as stipulated in Article 92 of Law No. 23-09 on the Monetary and Banking Law: "*The opening of representative offices of foreign banks in Algeria must be subject to authorization by the Council.*"

This form of licensing cannot be applied to the representation of foreign digital banks in Algeria, as it conflicts with the provisions of Article 04 of Regulation No. 24-04, which governs the specific conditions for the licensing, approval, and operation of digital banks.

(d) Amendment License:

This refers to the amendment of the bylaws of banks. According to Articles 101 and 103 of Law No. 23-09 on the Monetary and Banking Law, if the amendment does not affect the licensed purpose of the company, its capital, or its shareholders, the amendment license may be granted by the Monetary and Banking Council, replacing the authority previously vested in the Governor of the Bank of Algeria under the former law.

However, if the amendment to the bylaws "whether before or after the granting of the license" relates to the bank's purpose, its capital, or involves its branches or financial institutions, it must be submitted for approval to the Monetary and Banking Council.³⁸

2/ Conditions for License Application:

Regulation No. 24-04, concerning the specific conditions for the licensing, approval, and operation of digital banks, delegates the authority to determine the licensing conditions to the Monetary and Banking Council. This is exercised through a regulation issued by the Bank of Algeria under No. 24-01, which sets forth the conditions for licensing the establishment and approval of banks and financial institutions.

Article 04 of this regulation provides: The Monetary and Banking Council shall decide on granting the establishment or opening license based on a report prepared by the Bank of Algeria, which includes an assessment of the following elements:

³⁷ -Article 04 of Regulation No. 24-04, concerning the specific conditions for the licensing, approval, and operation of digital banks, as previously mentioned.

³⁸ -In accordance with the provisions of Articles 101 and 103 of Law No. 23-09 on the Monetary and Banking Law.

(a) Description of the project including the identification of the requesting institution as stipulated in Article 2 above, along with the main methods for selection, reception, accountability, and service delivery, specifying the scope of these services while respecting the principle of proportionality.

(b) Provision of information regarding the shareholders, as well as the management and audit offices, with clarification of their academic qualifications, experience, and expertise in the banking and financial sectors, where applicable, including their commitment to professional and ethical standards.

(c) Consistency of the draft statutes of the bank or financial institution, and the basic organizational and management framework, with the proposed legal form, as well as with the applicable experience and regulations.

(d) The technical, economic, financial, and strategic study related to the project, including the medium- and long-term plan, as well as the activity program for a period of five (5) years.

(e) The nature of contributions, the provision of capital, as well as the specified and documented sources of funding, and the assurance of conformity between the chosen business model and the submitted financial resources³⁹.

Applicants are also required to submit a descriptive document outlining the arrangements for incorporating the provisions of the legislative and regulatory framework to ensure the proper functioning of the following components: the information and statistical system; the internal control and risk management system associated with the activity; the accounting system; the prudential system; in addition to the anti-money laundering and counter-terrorism financing (AML/CFT) framework. The document must also include a list of the principal managers, as defined in Article 98 of the Monetary and Banking Law, as well as the policies governing confidentiality, data protection, and the safeguarding of assets and values.

Pursuant to Article 09 of Regulation No. 24-04, in addition to the aforementioned requirements, the application file must contain sufficient information to assess the managers' knowledge and understanding of the risks inherent to the adopted digital banking model. This is intended to ensure that the digital bank possesses the capacity to effectively meet technological challenges, manage its operations with high efficiency, implement sound risk management practices, and address the specific security and financial challenges characteristic of this new form of banking activity.

3/ License Granting Decision:

If the requisite conditions for the establishment of a digital bank are met primarily the substantive requirements in addition to those accompanying the incorporation application file

³⁹- In addition, the license application may include an Annex I, which provides answers to questions related to the bank to be established and information concerning its managers. A second annex may also be included, relating to the description of the proposed project, specifying its legal form, the draft articles of association, and a description of the intended business activity to be developed...

the Monetary and Banking Council shall issue a decision regarding the granting of the license⁴⁰, Formerly known as the Monetary and Credit Council, the Monetary and Banking Council shall issue a decision on the granting of the license within a maximum period of two months from the date of submission of the application file. The license shall enter into force as of the date of its notification.

Accordingly, based on the assessment conducted by the Council, through which it verifies the fulfillment of all required conditions, a decision is made regarding the approval of the establishment of the bank, this decision may be negative, by rejecting the requested license, or positive, by granting the license, depending on the circumstances.⁴¹

The Council enjoys broad discretionary powers, as it may either approve or reject the application, the legislator has not specified the grounds for rejection, which implies that the Council may refuse to grant the license for any reason it deems justified, in such cases, the concerned party must resubmit the application no sooner than ten months following the notification of the initial rejection, the second application is considered an administrative appeal against the first decision, submitted to the same authority, given that the Council functions as an independent administrative body.⁴²

Second: Obtaining Accreditation.

Compliance with the necessary legal procedures and obtaining the licensing decision alone are insufficient for a digital bank to commence its operations. It must also obtain accreditation granted by the Monetary and Banking Council after verifying all the previously established conditions. Accreditation is considered the official authorization to engage in digital banking activities. Article 10 of Regulation No. 24-04, which pertains to the specific conditions for licensing, establishing, accrediting, and operating a digital bank, stipulates that the applicant must submit an accreditation file to the Governor of the Bank of Algeria following the issuance of the license for establishing a digital bank⁴³, accordingly, accreditation emerges as a necessary procedure for engaging in digital banking activities or commencing the operation of an investment project within the banking sector, following the completion of certain legal procedures and conditions required by law.

1/Conditions and Procedures for Granting Accreditation:

A bank that has obtained a license from the Monetary and Banking Council must request accreditation within a maximum period of twelve (12) months from the Governor of the Bank of Algeria, after fulfilling the following conditions and procedures:

⁴⁰- Pursuant to the provisions of Article 64 of Monetary and Banking Law No. 23-09, the authority responsible for granting the license is the Monetary and Banking Council.

⁴¹-Aazizi Jalal, op. cit., p. 40.

⁴² -The second application holds significant importance as it contributes to reducing potentially prolonged administrative litigations. For instance, if the initial rejection was due to non-compliance with a certain requirement, this deficiency may be rectified through the second application.

⁴³- Article 10 of Regulation No. 24-04 concerning the specific conditions for licensing, establishing, accrediting, and operating a digital bank.

- The bank must have obtained a license from the Monetary and Banking Council, whether it is a license for establishment, residence, or amendment.
- The institution must have fulfilled all the conditions prescribed by the laws and regulations relating to the bank and its managers.
- Compliance with any specific conditions that may be linked to the license, such as verification that the bank has carried out the legal requirements of publication and disclosure.
- Obtaining prior approval from the Governor of the Bank of Algeria before making any amendments to the bank's articles of association, objectives, capital, or shareholders⁴⁴.

_Submission of the accreditation application, accompanied by the required documents and information in accordance with laws and regulations, to the Governor of the Bank of Algeria within a maximum period of twelve (12) months from the date of license issuance.

_Submission of a list of members of the Board of Directors or Supervisory Board appointed by the founding general assembly of the banks and financial institutions, along with a statement of their professional background, for approval by the Governor of the Bank of Algeria.

_A certified true copy of the commercial register.

_A certified true copy of the tax identification certificate, issued by the tax office at the location of the registered office.

In addition to the above-mentioned documents and information constituting the file, the applicant must provide all elements of the basic infrastructure, technological systems, information security, and the effectiveness level of these systems, as well as their capacity to securely support the digital bank's activities and ensure business continuity.⁴⁵

Thereafter, the accreditation application file is submitted to the Governor of the Bank of Algeria, pursuant to the provisions of paragraph four of Article 100 of Monetary and Banking Law No. 23-09, the competent authority for granting accreditation is the Governor of the Bank of Algeria, who stipulates: "Accreditation is granted by a decision of the Governor and published in the Official Journal of the People's Democratic Republic of Algeria".

2/ Accreditation Decision:

The Governor of the Bank of Algeria issues a decision pursuant to Article 100 of Monetary and Banking Law No. 23-09, either approving or rejecting the application, If the application file fulfills all the establishment or residence conditions, accreditation shall be granted; otherwise, a decision of rejection shall be issued.

⁴⁴ -Articles 100, paragraphs 2, 3, and 4 of Monetary and Banking Law No. 23-09, as well as Articles 7 and 8 of Regulation No. 24-01, which specify the conditions for licensing, establishing, and accrediting banks and financial institutions.

⁴⁵-paragraph 2 of Article 10 of Regulation No. 24-04 concerning the specific conditions for licensing, establishing, accrediting, and operating a digital bank.

If the accreditation application file is accepted, accreditation shall be granted by a decision issued by the Governor of the Bank of Algeria,⁴⁶ the accreditation decision, once granted, is published in the Official Journal, It specifies the category of the banking institution whether it is a bank, a financial institution, or a branch of a foreign bank or financial institution and includes the company's registered office, trade name, the value of its share capital, and the names of its key executives, while the license explicitly enters into force upon its notification, no provision expressly mentions the notification of the accreditation. However, publication in the Official Journal may be deemed sufficient for legal awareness and may substitute formal notification.

Upon receiving accreditation, the bank or financial institution is authorized to carry out banking operations permitted for its respective category. Accordingly, the law grants the Governor of the Bank of Algeria full discretionary power in deciding whether or not to grant accreditation. The Governor has complete freedom to issue a decision he deems appropriate, based on the extent to which the required conditions are met, He also considers the institution's business plan, technical and financial resources, and other relevant factors, as well as the institution's capacity to achieve its development objectives within the framework of the sound functioning of the banking system.

As for the legal effect of the accreditation decision, it grants accredited banks the authority to engage in various licensed digital banking operations in accordance with the applicable laws and regulations, this includes the authorization to carry out ancillary activities related to the core functions of banks and financial institutions. Consequently, accreditation confers upon its holder the legal right to conduct digital banking activities.⁴⁷

Section Two: Substantive Conditions for the Establishment of Digital Banks.

The Algerian legislator requires that digital banks adopt a specific corporate form. In addition, conditions have been established concerning the nature and forms of capital contributions, as well as the requirement to possess a minimum level of share capital, given the inherent risks associated with banking activities particularly considering that these institutions deal in depositors' funds the legislator deemed it necessary to impose safeguards to prevent opportunists and bad-faith actors from entering the banking sector through digital banks, these safeguards include a set of conditions, some of which pertain to the digital banking institution itself, while others concern its shareholders and managers.

First: The Legal Form of the Digital Bank.

⁴⁶- Prior to the implementation of the reform process, the authority to grant licenses and accreditation belonged to the Minister of Finance, a power exercised since independence. However, with the enactment of Monetary and Credit Law No. 90-10, these powers were withdrawn from the Minister, which may be interpreted as a deliberate step by the state to relinquish certain sovereign prerogatives during the transitional phase. This approach was reaffirmed by the most recent amendment to the Monetary and Credit Law, as embodied in Law No. 23-09 on the Monetary and Banking System.

⁴⁷-Fouad Mekherbech, op. cit., p. 81.

According to Article 92, paragraph 1 of the Monetary and Banking Law, banks and financial institutions must adopt the legal form of joint-stock companies (Société par Actions)⁴⁸, it is a type of capital company (société de capitaux) that is based on financial consideration and the monetary contributions of its shareholders⁴⁹, such companies may be established either through public savings (i.e., public subscription) or without resorting to public savings.⁵⁰

Accordingly, any digital bank or digital financial institution subject to Algerian law must be established in the form of a joint-stock company, and is therefore subject to the provisions of the Commercial Code governing this type of company.⁵¹

The joint-stock company itself is subject to several conditions for its incorporation, which may also be applied to digital banks and digital financial institutions, the company must meet general substantive requirements, which are the essential elements of any contract, such as the minimum capital requirement, consent, object, and cause, the absence of any of these elements results in the nullity of the company's incorporation contract.⁵²

It is also subject to specific substantive conditions in accordance with the provisions of Article 116 of the Commercial Code, which concern the essential elements specific to the company contract, namely the plurality of partners⁵³, the contribution of shares, the distribution of profits and losses, and the intention to participate are also required. Additionally, it is subject to formal requirements related to documentation in writing⁵⁴, Registration and entry in the commercial register⁵⁵.

Second: Conditions Related to the Managers and Shareholders of the Digital Bank.

Considering the importance and sensitivity of the banking sector in general, as it includes credit institutions that mobilize public funds as well as state funds and directly contribute to

⁴⁸-Article 592 of the Commercial Code defines a joint-stock company as follows: "A company whose capital is divided into shares and is composed of partners who are liable for losses only up to the value of their contributions, The number of partners may not be fewer than seven."

⁴⁹-In contrast to partnerships (sociétés de personnes), which are founded on personal considerations and mutual trust between partners, joint-stock companies are based on financial considerations. As a result of this fundamental distinction, joint-stock companies are regarded as instruments of economic advancement due to their significant capacity to attract large-scale capital.

⁵⁰-Review Articles 595 to 609 of Ordinance No. 75-59 of 19 December 1975, comprising the Commercial Code, published in Official Gazette No. 101, as amended and supplemented.

⁵¹ -Articles 592 to 799 bis 4 of the same Ordinance.

⁵²-Article 416 of the Algerian Civil Code.

⁵³- Article 592 of the aforementioned Algerian Commercial Code.

⁵⁴ -Article 418 of the Algerian Civil Code: "The company contract must be in writing; otherwise, it shall be null and void."

⁵⁵- Article 417 of the same Code: "The company, upon its formation, is considered a legal person; however, this legal personality does not constitute a valid claim against third parties until the completion of the registration procedures prescribed by law."

financing economic projects, and given the risks inherent in the digital operations of banks which require extensive knowledge of information and communication technology risks and significant expertise in electronic transactions the legislator has held the shareholders of digital banks responsible for the management of these financial entities. Accordingly, specific conditions must be met by the shareholders and managers of these digital institutions.

1/ **Managers:** The burdens, responsibilities, and other challenges borne by managers in digital banks, considering them as the primary and essential element for the success of digital banking operations, given the inherent demands and complexities of the banking profession and specialization⁵⁶, they are thus subject to a set of conditions specified by the Commercial Code concerning company managers in general, in addition to a set of special requirements imposed by the monetary and banking law as well as Decree No. 24-04 related to the establishment of digital banks, they are required to provide high-quality and distinguished banking services to their clients, therefore, the decree emphasizes conditions that are more technical and professional in nature, primarily concerning the number of managers, their expertise, and integrity.

The monetary and banking law mandates that the number of managers shall not be fewer than two, as stipulated in Article 98 of Law No. 23-09: "At least two persons must be responsible for determining the actual directions of the activities of banks and financial institutions and bear the burdens of their management".

Pursuant to Article 9 of Decree No. 24-04, banks are required to select qualified managers who are capable of assuming their duties and responsibilities, these conditions must be met before their appointment, meaning that the managers must possess the necessary qualifications upon entering the banking profession and prior to their installation in their roles, and these requirements continue to apply throughout their tenure, the purpose of this is to ensure the competence and suitability of the bank's managers in performing their duties in a manner that protects the bank's clients, particularly depositors, from any loss and safeguards their interests.

Additionally, managers are required to submit a letter of undertaking, in which they affirm that all information provided in their file is accurate and truthful, and does not conflict with the prohibitions set forth in Article 87 of the Monetary and Banking Law No. 23-09, which outlines the conditions related to good conduct and integrity⁵⁷.

2/ **Shareholders:**

The Monetary and Banking Law, as well as Decree No. 24-04 related to the establishment of digital banks, do not explicitly specify the conditions required for shareholders of digital banks, unlike the provisions concerning managers, therefore, the same conditions applicable to managers, as previously mentioned, may be extended to shareholders, these specific requirements include the following ;

⁵⁶-Najat Tibaâ, The Specificity of the Legal System of Banking Activity, Master's Thesis, Faculty of Law, University of Jijel, 2006, p. 9.

⁵⁷- Article 87 of Law No. 23-09 comprising the Monetary and Banking Code.

- Shareholders must possess supervisory and guiding authority to ensure sound and prudent management of the institution.
- Shareholders must have sufficient financial solvency to demonstrate their ability to cover any anticipated deficits within the bank or in the event of financial difficulties.
- Additionally, pursuant to Article 5 of Decree No. 24-04, a shareholder of the digital bank must be a bank governed by Algerian law, possessing expertise in online banking services. This shareholder bank must hold no less than 30% of the capital of the digital bank, while the individual shareholding percentage of each other shareholder must not reach this threshold; in other words, each individual shareholder's stake must be less than 30%.⁵⁸

Section Two: The Reality of Banking Competition Following the Adoption of Digital Banks.

In the pursuit of achieving the paramount objective behind permitting the establishment of digital banks (namely, the modernization of competition within the banking sector to keep pace with the significant technological advancements affecting this sector) and also in order to ensure the proper conduct and quality of banking operations, a balance must be struck between the freedom to establish and create digital banks, which represents one of the most important forms of reinforcing banking competition through opening the field to banking activities on one hand, and regulating the exercise of this freedom on the other.

Therefore, it is necessary to shed light on the main supervisory mechanisms related to the establishment of digital banks and the practice of associated activities, which can be considered as constraints preceding the digital bank's entry into competition with its market rivals, furthermore, it is essential to identify the most significant outcomes that have resulted from the adoption of this type of bank on competition in the banking sector in general.

First Requirement: Regulation of Digital Banking Activities as a Mechanism to Achieve Fair Banking Competition.

The establishment of the principle of freedom to create digital banks and their entry into the banking market to modernize competition within the banking sector, without implementing regulations and controls, will inevitably lead to undesirable adverse consequences, this is due to the severe repercussions that may afflict the banking sector if this principle is applied absolutely, without restrictions or safeguards especially considering banks and financial institutions' pursuit of maximum profit and their ambition to dominate the market in which they operate, therefore it was necessary for the legislator to intervene and define a legal framework within which the competitive dynamics exercised by digital banks take place, ensuring that digital banking activities are conducted through legitimate means without causing harm to other competitors or consumers, whether in the short or long term. In other words, this principle must operate within certain limits, achieved by establishing supervisory mechanisms over the legal

⁵⁸-Article 5 of Decree No. 24-04, concerning the specific conditions for licensing, establishing, authorizing, and practicing digital banking activities.

existence of digital banks in the banking market, and by prohibiting certain behaviors that harm the competitive process or undermine the proper conduct of banking activities.⁵⁹

First Section: Administrative Oversight of the Legal Existence of the Digital Bank.

Every economic system operating under the pressures of competition requires a set of principles and foundations upon which it relies, and administrative oversight of these activities is among the most important, it is impossible to speak of a successful, effective, and integrated economic system without the presence of an administrative supervisory framework, as it serves as the evaluative tool for the efficiency of any system, the banking sector, like other sectors, cannot dispense with administrative oversight, which plays a major role in identifying its strengths, striving to maintain them, and working to enhance its competitive capabilities, this is particularly crucial to confront ongoing developments, especially technological advancements and the spread of electronic commerce, within the context of market openness to free competition at both national and international levels.⁶⁰

Administrative oversight over the establishment and creation of digital banks is based on the powers granted to sectoral regulatory authorities in supervising banking activity, which distinguishes it from the oversight applied to institutions operating in other economic sectors, this form of oversight relies on the supervision of banking regulatory bodies, namely the Banking Commission and the Monetary and Banking Council, which act as both the guiding and protective authorities of the sector, these bodies intervene in the banking field to regulate the sector, ensure its proper functioning, and safeguard its stability.⁶¹

First: Supervision by the Banking Commission over the Establishment of Digital Banks.

The Algerian legislator has granted the Banking Commission⁶², the Commission holds highly significant powers that directly contribute to regulating banking activity and ensuring its proper functioning, it is vested with several competencies that make its role effective in safeguarding competition, notably by monitoring the compliance of banks and financial institutions with the applicable laws and regulations, overseeing their adherence to the rules of sound banking practice, and identifying violations and breaches.

Pursuant to Article 116 of Law No. 23-09 comprising the Monetary and Banking Law, the second paragraph provides: "...The Banking Commission is tasked with the following: monitoring the extent to which banks and financial institutions comply with the legislative and regulatory provisions applicable to them; imposing sanctions for any observed irregularities; examining the conditions under which banks and financial institutions operate; overseeing the

⁵⁹-Fouad Mekherbech, op. cit., p. 80.

⁶⁰-Fatiha Khtir, Banking Supervision in Algeria, Doctoral Thesis in Legal Sciences, specializing in Banking Law, Faculty of Law and Political Science, Djillali Liabes University of Sidi BelAbbès, 2017–2018, p. 3.

⁶¹- Fouad Mekherbech, op. cit., p. 87.

⁶²- The Banking Commission was established pursuant to Article 143 of Law No. 90-10 on Money and Credit (now repealed), Legal scholars have differed in determining its legal nature: some consider it an authority with a regulatory or sovereign character, others classify it as an administrative body, while a third opinion views it as a body vested with judicial powers.

quality of their financial positions; and ensuring compliance with the rules of sound banking practice”.

This supervision covers the provisions related to the conditions for the establishment of both traditional and digital banks and financial institutions, as well as their branches, particularly with regard to legal form and the procedural requirements for engaging in banking activities⁶³, Moreover supervisory oversight is not limited to compliance with the Monetary and Banking Law alone, but also extends to the observance of other related legal and regulatory frameworks, in particular, the Commercial Code must be respected, as its provisions are mandatory in matters concerning the establishment of banks and financial institutions, given that such entities are constituted in the form of joint-stock companies, the rules of which are governed by commercial law, likewise, the Civil Code is relevant with regard to its definition of companies and its regulation of general provisions applicable thereto, In addition, supervision includes compliance with the provisions of Decree No. 24-04, which sets forth the specific conditions for licensing, establishing, authorizing, and operating digital banks, as it serves as the primary legal reference governing their creation.

Second: Supervision by the Monetary and Banking Council.

Under previous legislation governing the banking sector, the body was not referred to as the "Monetary and Banking Council" but rather as the "Money and Credit Council." However, with the enactment of Law No. 23-09 comprising the Monetary and Banking Law, the Council was given its current name, reflecting the updated terminology introduced by the new legal framework, this renaming signals the introduction of new concepts and broader powers compared to previous legislation.

Accordingly, the establishment of the Monetary and Banking Council is regarded as one of the fundamental elements introduced by the new Monetary and Banking Law, in light of the tasks assigned to it and the broad powers it has been granted, the Council plays a significant role in overseeing the exercise of digital banking within the banking sector by exercising a range of supervisory powers and responsibilities during the process of establishing digital banks.

Articles 08 and 09 of Decree No. 24-04, which pertains to the specific conditions for licensing, authorizing, and operating digital banks, stipulate that the granting of licenses and approvals for digital banks falls under the supervision and authority of the Monetary and Banking Council, this Council determines the conditions and procedures for admission into the banking profession, similarly to traditional banks, it is responsible for issuing regulations that define the requirements for establishing banks and financial institutions and the conditions that must be met by their founders, subjecting them to specific rules, the Council establishes general

⁶³- Articles 89 to 104 concerning the conditions for the granting of licenses and authorizations, as set out in Law No. 23-09 comprising the Monetary and Banking Law, aforementioned.

and abstract rules regarding the licensing and opening of banks and financial institutions, including the minimum required capital and the methods for its fulfilment.⁶⁴

The Algerian legislator has granted the Monetary and Banking Council the authority to issue individual regulatory decisions, including the licensing decisions for the establishment of national and foreign banks or financial institutions in Algeria, as well as the authorization to open representative offices of foreign banks and financial institutions⁶⁵. In addition to the Council's authority to grant licenses for the establishment of banks and financial institutions, the Council also holds the power to revoke such licenses through an individual decision, the granting of a license to a bank or financial institution is not an irrevocable right; rather, the Monetary and Banking Council, in exercising its supervisory role over the banking sector, may initiate revocation whenever the bank's management breaches the regulations and conditions upon which the license was originally granted.⁶⁶

Accordingly, the Algerian legislator has empowered the Monetary and Banking Council with the authority to regulate competition within the banking sector by setting the conditions for admission to the banking profession and supervising banking practitioners through traditional banks or digital platforms, through this role, the Monetary and Banking Council aims to regulate the banking market and the competition it encompasses among banks in terms of banking products and financial investments, acting as an independent administrative authority overseeing the banking and financial sector.⁶⁷

Section Two: Judicial Supervision of the Legal Existence of the Digital Bank.

As previously noted, banks and financial institutions (whether digital or traditional) are established in the form of joint-stock companies, therefore, compliance with the provisions governing joint-stock companies is mandatory during the establishment, management, and administration of the bank, these provisions constitute legal obligations that the founders and managers of banks must adhere to, the primary rule enshrining the general principles of competition law is the freedom of entry into the banking market through the freedom to establish and found institutions, consequently, any violation of these obligations negatively affects the legal existence of the digital bank within the banking market, Hence, the Algerian legislator has prescribed penalties for those who breach these obligations, considering such violations as criminal offenses under penal law, therefore, safeguarding the legal existence of

⁶⁴-Ahmed Belhadji, " The Role of the Money and Credit Council in Regulating the Banking Market," Journal of Politics and Law Review, Vol. 13, No. 03, June 2021, p. 377.

⁶⁵-Article 64 of the Monetary and Banking Law provides: "... The Council shall take the following individual decisions: _ Licensing the establishment of banks and financial institutions..., Licensing the opening of representative offices for foreign banks...."

⁶⁶ -The Council may also issue an individual decision to revoke the license of banks and financial institutions either at their own request or automatically in accordance with the provisions of Article 104 of the Monetary and Banking Law.

⁶⁷- Ahmed Belhadji, *ibid.*, p. 377.

the digital bank will inevitably lead to the protection and enhancement of competition within the banking market.

First: Crimes Related to the Establishment of the Digital Bank.

Considering that the digital bank is established according to the rules applicable to traditional banks, which are themselves formed as joint-stock companies, it may be subject to various violations bearing different legal characterizations during its establishment, among these violations are those of a criminal nature, the legislator has criminalized a set of acts that undermine the banking system during the digital bank's establishment phase, due to the critical importance of this stage in shaping the future of the entire banking system. The crimes at this stage vary and include offenses affecting shares, which constitute the financial foundation of the bank or financial institution, as well as crimes related to subscriptions during the establishment process.

1/Crimes Affecting Shares: A share is a negotiable instrument issued by the bank as part of its capital⁶⁸, however, the bank cannot issue shares before completing its registration with the National Center of the Commercial Register and obtaining accreditation by a decision from the Governor of the Central Bank, which is necessary to practice banking activities, furthermore, it must comply with the conditions governing such transactions. Violation of this requirement may expose the bank to a fully constituted criminal offense.

The legislator has prescribed a financial penalty for the offense related to the issuance of shares, setting the fine between twenty thousand (20,000) and two hundred thousand (200,000) Algerian dinars⁶⁹, it is noticeable that the legislator was not stringent in punishing this offense relative to the act and its perpetrators, especially considering that this situation poses a risk to customers who may deal with the bank and to the banking sector in general.

As for the penalties related to crimes involving dealings in shares, the legislator has prescribed both custodial and financial sanctions, which may be imposed together or separately, These penalties consist of imprisonment ranging from three (03) months to one year, and a fine ranging from twenty thousand (20,000) to two hundred thousand (200,000) Algerian dinars.⁷⁰

2/ Crimes related to subscriptions and fictitious contributions:

A subscription is the procedure by which a person expresses their desire to become a partner in the company by offering a contribution, represented by a commitment to pay a specified cash amount in exchange for a certain number of shares. If the company or bank resorts to public savings, this constitutes an open subscription⁷¹, No subscription is accepted except after the notary drafts the draft articles of incorporation of the joint-stock company, and

⁶⁸- Ibrahim Sayed Ahmed, Contracts and Commercial Companies: Jurisprudence and Case Law, First Edition, Dar Al-Jame'a Al-Jadida, Alexandria, Egypt, 1999, p. 170.

⁶⁹ -Article 806 of the Algerian Commercial Code.

⁷⁰ -Article 808 of the same Code.

⁷¹ -Ali Al-Baroudi and Mohamed El-Sayed El-Feki, Commercial Law: Commercial Transactions, Merchants, Commercial Funds, Dar Al-Matbou'at Al-Jamia'iya, Egypt, 1999, p. 387.

the founders must publish, under their responsibility, a notice in the Official Journal of Legal Announcements prior to commencing the subscription process.⁷²

Given the importance of the subscription certificate, the legislator has surrounded it with the necessary legal protection. Any false statement in the legal information contained in the subscription certificate such as declaring non-existent data, omitting required information, or falsifying certain details constitutes grounds for the commission of a criminal offense⁷³. Accordingly, the Algerian legislator has granted the judge discretionary power to impose a sentence for this offense based on the gravity of the act, which may consist of imprisonment ranging from one to five years, or a monetary fine between twenty thousand (20,000) and two hundred thousand (200,000) Algerian dinars, or both penalties together.⁷⁴

Second: Crimes Related to Advertising and Creating Confusion.

According to Article 14 of Regulation No. 24-04 concerning the specific conditions for the licensing, accreditation, and operation of digital banks, it is stated that: "It is prohibited for any entity not licensed as a digital bank to use a commercial name, advertisement, or any expression that may lead to the belief that it is accredited as such."

Similarly, Article 88, paragraph 1, of the Monetary and Credit Law provides that: "It is prohibited for any institution, other than banks or financial institutions, to use a name, commercial designation, advertisement, or, more generally, any expression that may lead to the belief that it is accredited as a bank or financial institution."

Through these provisions, the legislator aimed to criminalize any act that could mislead individuals into believing that a given institution is a digital bank, thereby causing confusion and potentially influencing clients to engage with such an institution under a false assumption, the legislator rightfully criminalized such actions, which despite their apparent simplicity pose a significant risk to consumers and to the state, especially in cases involving foreign clients, this could ultimately harm the banking sector in particular and the national economy in general.

The rationale behind criminalization here is to eliminate any ambiguity that could mislead clients, through the use of misleading names or advertising, a customer may be induced to engage with an entity wrongly assumed to be a digital bank.

As for the criminal penalty for this offense, the Monetary and Banking Law does not explicitly define the criminal liability of the perpetrator but merely provides for the possibility of closing down the institution, however, Articles 134 and 135 of the same law refer to the penalties applicable to the crime of fraud as stipulated in the Algerian Penal Code.

In the case of a natural person, the prescribed penalty is a custodial sentence ranging from one to a maximum of five years of imprisonment⁷⁵, A financial fine ranging from 500 to

⁷²-Pursuant to the provisions of Article 595 of the Algerian Commercial Code.

⁷³-Badri Soniya, Criminal Protection of Banking Transactions, Doctoral Dissertation (L.M.D) in Criminal Law, Economic Criminal Law Division, Faculty of Law and Political Science, University of LarbiTebessi, Tebessa, 2019–2020, p. 129.

⁷⁴ -Article 807 of the Algerian Commercial Code.

⁷⁵ -It is observed that the legislator has imposed stricter penalties for this offense, in contrast to the penalties stipulated for offenses related to establishment, as provided under the Commercial Code.

20,000 Algerian dinars may also be imposed. Moreover, the imprisonment penalty may reach up to ten (10) years, and the fine may increase to 200,000 Algerian dinars⁷⁶, the offender may also be subject to supplementary penalties as stipulated under Article 14 of the Algerian Penal Code.

As for the penalties applicable to a legal person, since the law refers to the offense of fraud, the sanctions prescribed for a legal person committing such an offense are applicable, these include a financial fine ranging from one hundred thousand (100,000) to five hundred thousand (500,000) Algerian dinars, in addition to the supplementary penalties applicable to legal entities.

Third: Offenses Affecting Banking Activity.

The exercise of banking activity begins with obtaining proper accreditation, if such accreditation is unlawful, the criminalization applies initially to the unauthorized practice of banking, along with any act resulting from such a violation. However, if the accreditation is lawful, then legal protection extends to the activities carried out thereafter, accordingly, banking activity is protected when the accreditation is valid and lawful; conversely, in cases where accreditation is lacking or invalid, any infringement upon banking activity constitutes a criminal offense, rendering the perpetrator subject to penal sanctions.⁷⁷

1/ Offense of Infringement upon the Banking Monopoly.

Following the Algerian legislator's recognition of the principle of freedom to establish and operate digital banks considered one of the fundamental pillars supporting banking competition the law grants a range of exclusive privileges to digital banks that are not extended to other types of institutions or companies, this includes the exclusive right to engage in digital banking activities, thereby restricting competition to only those banks and financial institutions legally authorized to operate in the banking sector, and shielding them from unfair competition posed by unauthorized entities.

Consequently, any infringement upon the banking monopoly constitutes a direct offense against the activities of banks and financial institutions when committed without the required license or accreditation from the competent authorities, this offense primarily concerns the execution of banking operations that are the exclusive domain of banks and financial institutions by individuals or entities not authorized to do so whether such acts are committed habitually or occasionally, and regardless of whether they are carried out on one's own behalf or on behalf of another party.⁷⁸

⁷⁶- Article 372 of the Algerian Penal Code.

⁷⁷ -Badri Soniya, Op. cit., p. 166.

⁷⁸ -The legislator did not require a specific purpose or intent on the part of the perpetrator when committing this act; rather, the crime is deemed established merely upon the infringement of the banking monopoly.

category of banks or financial institutions commits any of the following three banking operations: Receiving funds from the public, managing means of payment and placing them at the disposal of customers, Granting loans for consideration.⁷⁹

Regarding the criminal penalties prescribed for the offense of infringement on the banking monopoly, it is noted that the Monetary and Credit Law did not explicitly define the criminal liability of the individual committing this offense and limited its measures to the possibility of closing the institution, however, pursuant to Articles 134 and 135 of the same law, reference is made to the provisions applicable to the crime of fraud as stipulated in the Algerian Penal Code.

The penalties prescribed for a natural person include deprivation of liberty, ranging from one (1) year up to a maximum of five (5) years of imprisonment⁸⁰, In addition to imprisonment; the offender may be subject to a fine ranging from 500 DZD to 20,000 DZD. Moreover, the penalty may be increased to imprisonment for up to ten (10) years and a fine of up to 200,000 DZD⁸¹, Additional penalties stipulated in Article 14 of the Algerian Penal Code may also be imposed.

As for the penalties applicable to legal persons, given that the matter is referred to the offense of fraud, the penalties prescribed for a legal person committing the offense of fraud shall apply, these penalties include a financial fine ranging from one hundred thousand (100,000) to five hundred thousand (500,000) Algerian dinars, in addition to the supplementary penalties related to legal persons⁸².

2/Offense of Violating the Principle of Integrity:

Among the fundamental principles governing the general rules related to freedom of competition is the principle of transparency and integrity. Therefore, the Algerian legislator sought to provide the banking system with all necessary forms of protection, it has criminalized the practice of banking activities by individuals previously proven to be involved in cases undermining their transparency and integrity, such individuals are prohibited from being founders of a bank or financial institution, members of its board of directors, directly or indirectly managing or operating the bank or financial institution, representing it, or being authorized to sign on its behalf.⁸³

⁷⁹ -Pursuant to Articles 68 and 79 of Law No. 23-09 concerning the Monetary and Banking Law, previously mentioned.

⁸⁰ -It is noted that the legislator adopted a more stringent approach with respect to the penalty prescribed for this offense, in contrast to the sanctions provided for establishment-related offenses under the Commercial Code.

⁸¹ -Article 372 of the Algerian Penal Code.

⁸² - Badri Soniya, Op. cit., p. 167

⁸³ -See paragraph 1 of Article 87 of Law No. 23-09 concerning the Monetary and Banking Law.

Accordingly, the offense of violating the principle of integrity requires the fulfillment of two elements:

The first element is the issuance of a conviction judgment for one of the crimes specified in Article 87 of the Monetary and Exchange Law, this includes cases where the crime is a felony, or if the individual has been convicted of embezzlement, fraud, deception, theft, issuing a check without sufficient funds, breach of trust, unlawful seizure committed by public trustees, extortion of money or valuables, bankruptcy, violation of exchange laws and regulations, forgery of commercial and banking documents, violation of company laws, concealment of funds received through any of the aforementioned offenses, any violation related to drug trafficking, money laundering, and terrorism. Additionally, if the individual has been convicted by a foreign judicial authority with a judgment that has *res judicata* effect and corresponds under Algerian law to any of the above-mentioned felonies or misdemeanors, it is likewise considered under this provision.⁸⁴

The second element concerns the commission of one of the following acts: establishing a bank or financial institution; becoming a member of the board of directors of a bank or financial institution; or assuming the management of a bank or financial institution either directly or on behalf of another person.

The criminal penalty imposed for this offense corresponds to the same sanctions applicable to the crime of fraud as stipulated in Article 372 of the Algerian Penal Code, pursuant to the provisions of Article 134 of Order No. 03-11 related to currency and credit.

Furthermore, anyone convicted under the provisions of this Article (134) for violating the rules of Article 80 of the same Order is prohibited from engaging in any form of activity within a bank, financial institution, or any branch of banks or financial institutions operating in Algeria.⁸⁵

The criminal judge may also impose supplementary penalties on the perpetrators of the crime of violating the principle of integrity, namely those stipulated in Article 14 of the Algerian Penal Code.⁸⁶

Section Two: The Impact of the Adoption of Digital Banks on Banking Competition.

The enshrinement of the principle of freedom to establish digital banks in Algerian legislation reflects a direct adoption of a policy of free competition in the banking sector, this approach has been concretely manifested through a fundamental restructuring of the banking landscape, with the emergence of a group of digital banking entities with both foreign and domestic investment operating alongside conventional banks, these transformations have yielded numerous positive outcomes at the level of banking competition by enhancing the

⁸⁴ - Article 87 of Law No. 23-09, encompassing the Monetary and Banking Code.

⁸⁵-Pursuant to the provisions of Article 135 of the same law.

⁸⁶- The court, when adjudicating a misdemeanor and under the circumstances specified by law, may prohibit the convicted person from exercising one or more of the national rights listed in Article 9 bis 1, for a period not exceeding five (5) years.

competitive capabilities of banks and expanding competition within the Algerian banking market.

Subsection One: The Role of Digitalization in Enhancing the Competitive Capabilities of Banks.

The importance of adopting digital banks and transitioning towards this type of banking within the sector is evident in its support for a set of fundamental elements that grant banks the ability to compete with others and reinforce their sustainable competitive advantage by offering high-quality financial services. These elements comprise a set of tools and means that support achieving a balance between profit (pursued through methods adhering to ethical standards) and meeting the social needs of clients, therefore, they contribute to building sustainable growth in the business sector, these key competitive components can be summarized as follows:

First: Reducing the Cost of Banking Services.

Cost reduction is considered one of the primary factors supporting competitive advantage, which banking institutions diligently seek to achieve in order to provide their services to financial markets at the lowest possible prices, this enables them to outperform competitors and gain a larger market share, A banking institution capable of lowering its costs thereby acquires a strength that allows it to surpass its competitors operating in the same market, furthermore, human resource development constitutes a crucial pillar in cost reduction and obtaining a competitive edge relative to competitors by attracting and retaining highly skilled and talented personnel. Accordingly, the adoption of digitalization significantly contributes to lowering the cost of banking services while preserving human capital within banking institutions.⁸⁷

From a legal standpoint, the reduction of operational costs constitutes a concrete embodiment of the principle of fair competition, as enshrined in various Algerian legislative texts, such as the Competition Law, the Commercial Practices Law, and the Consumer Protection Law, this legal framework compels traditional banks to revise their pricing policies in order to maintain their competitive position within the banking market.

Second: Improving the Quality of Banking Services.

The adoption of digital banking represents a fundamental lever for enhancing the quality of banking services. It can be asserted that the digital transformation in the field of financial services has been a significant driver behind the growing competition among banking institutions to elevate the standard of their offerings, consequently, traditional banking services have evolved into high quality digital services, the digital environment that characterizes modern banking institutions necessitates the innovation of new banking services and requires the use of electronic payment methods that are compatible with the intangible nature of digital banks.

Moreover, with the widespread expansion of e-commerce, new types of banking operations have emerged operations that can only be effectively executed by electronic banks,

⁸⁷-Walid Kamel Mohamedin Kamel Allam, Previously Cited Reference, p. 195.

due to the high-speed performance they require, which traditional legacy banks are unable to provide.⁸⁸

embodiment of the principle of consumer protection in the banking sector Digital banks are legally obligated to provide their clients with services that are transparent, accessible, and easy to use Furthermore, the competition between traditional and digital banks compels the former to modernize their structures and upgrade their operational tools in line with current advancements in digital technologies.

Third: Enhancing the speed and flexibility of banking service delivery.

Time and speed are among the most significant benefits derived from the adoption of digital banking, as they represent crucial elements in strengthening the competitive edge of banks, financial technology (Fin Tech) plays a pivotal role in intensifying competition among financial institutions. It possesses a genuine capacity to transform the structure of financial services, rendering them faster, more cost-effective, secure, transparent, accessible, and simplified in terms of procedures.

As a result, the collaboration between Fin Tech start ups and banks has become both successful and fruitful, the remarkable advancement of these start ups and their transformative impact on various sectors have led to an increased cooperation with financial and banking institutions across the globe, this cooperation demonstrates the tangible adoption of Fin Tech and the practical ways in which digital trends can be leveraged to support the sustainable growth of the banking sector.⁸⁹

Given the speed that digitization offers to banks in executing operations especially when compared to traditional banks this aspect becomes a critical factor sought by banking clients, accessing a digital bank's platform is significantly easier for a customer than physically visiting a bank branch to request services from a bank employee, in contrast, with digital banks, the process is simplified to the extent that a customer can simply log into their personal account on the bank's website, navigate to the desired section, and initiate the requested banking procedures that are often completed in mere fractions of a minute.⁹⁰

Fourth: Enhancing Customer Communication.

Digital banks have brought about a qualitative shift in the nature of the relationship between financial institutions and their clients, communication is no longer confined to traditional channels such as physical branches or written correspondence; instead, it now occurs through mobile applications, online platforms, and real-time customer support services (such as cardless with drawal features), this development ensures continuous and rapid interaction with clients, enabling them to access information and services at any time, under any

⁸⁸- Hidaya Bouazza, The Liberalization of the Banking Sector and Its Impact on the Emergence of Electronic Banks, Hawliyat Journal, Vol. 34, No. 4, University of Algiers 1, 2020, p. 221.

⁸⁹-Mourad Mahboub & Mubarak Qirqab, Guide to Managing the Quality of Banking Services, 1st Edition, Alfa Publications for Documents, Amman, Jordan, 2021, p. 81.

⁹⁰-Hidaya Bouazza, Op. cit, p. 222.

circumstances, and from any location, as a result, it significantly strengthens customer trust and loyalty towards digital banks.

Fifth: Innovation in Service Delivery.

Innovation is considered one of the key elements in achieving and enhancing competitive advantage, particularly in the delivery of banking services, the level of innovation in service provision largely depends on the efficiency and skill of the human element in developing new methods (leveraging digital tools) that allow services to be tailored to the evolving needs and preferences of customers, which arise from constant technological change and advancement.⁹¹

Section Two: The Role of Digitalization in Expanding Competition Within the Banking Market.

Digitalization has led to a fundamental transformation in the dynamics of the banking market, serving as a vital catalyst for competition and innovation, it contributes to broadening the scope of competition in the banking sector by enabling new and smaller financial institutions to enter the market without traditional constraints, and by offering innovative banking products and services that allow them to reach customers through digital channels. As a result, the forms of competition among banking institutions have diversified significantly compared to the past, these new dynamics can be illustrated as follows.

First: Competition between private and public banks.

Historically, the Algerian banking market has been characterized by the dominance and near-total control of public banks, which granted them an implicit monopolistic position in the sector. However, the explicit declaration by Algerian authorities regarding the necessity of digital transformation in the banking industry will undoubtedly bring about a tangible restructuring of this market, consequently, the initial signs of competition between private and public banks have begun to emerge, this is evident through the permission granted to private banks both domestic and foreign to employ advanced technologies in delivering their services to clients, such openness is expected to reinforce public banks and contribute to the enhancement of banking activity, fostering a form of competition between public and private banks in the development and provision of new and innovative banking products and services.⁹²

Second: Competition Between Banks and Financial Institutions.

Due to the increasing similarity in the financial and banking services provided by both banks and other financial institutions (whether banking or non-banking), especially following the removal of regulations and restrictions that previously prevented such overlap, competition between these entities has intensified, these institutions have gained easier access to clients, offering financial and banking services by relying on digitalization and leveraging the rapid

⁹¹-Walid Kamel Mohamedin Kamel Allam, Previously Cited Reference, p. 197.

⁹²-Zubaida Mohsen, SihamBoughlala, Competition Between Public and Private Banks in Promoting Algerian Banking Activity, Paper presented at the National Symposium on: The Banking System Amid Economic and Legal Transformations, Faculty of Economic Sciences and Management, University Center of Béchar, 24–25 April 2006, p. 58.

technological advancements in telecommunications, information systems, and service delivery methods.

This digital shift has contributed to the expansion of financial information networks, enhanced the efficiency of data processing and decision-making systems, improved the methodologies for calculating and pricing financial and banking services, accelerated the dissemination of relevant information to markets and stakeholders, and significantly reduced the cost of executing cross-border financial transactions.⁹³

Moreover, the liberalization from regulatory constraints, coupled with rapid technological advancement and the integration of artificial intelligence into the banking industry, has led to the emergence of numerous non-traditional banking services most notably electronic money, electronic banks, and the expansion of e-commerce transactions.⁹⁴

Although banks enjoy a competitive advantage over these institutions by offering services that the latter are unable to provide, the level of competitive threat posed by new entrants into the financial services market is increasing significantly due to the growing use of modern technological innovations, this, in turn, creates further challenges and disruptions for traditional banks.⁹⁵

Third: The Competition between Electronic Banks and Traditional Banks.

In response to the growing need for banks to adopt electronic management systems and in alignment with modern societies' aspirations to achieve a higher standard of banking services, information technology has given rise to a new and modern banking model known as electronic banking, this model is characterized by features that enable it to provide advanced banking services and establish a new operational reality one that breaks the isolation previously experienced by traditional banks.⁹⁶

With the widespread emergence of massive technological innovations, the way banking services and business operations are conducted has fundamentally changed, posing a significant challenge and a critical turning point for professionals in the financial and banking services sector, indeed, the **financial technology sector (Fin Tech)** has become one of the most prominent areas receiving substantial support from policymakers across the globe.⁹⁷

⁹³-Commercial banks are increasingly competing with non-banking financial institutions, such as insurance companies, investment funds, savings funds, postal institutions, and others that offer services that rival those of banks in mobilizing individuals' financial surpluses and financing the needs of various economic units — or vice versa, as some licensed banks also compete with financial institutions.

⁹⁴-Abdelkader Berish, Op. cit., p. 31.

⁹⁵- It is observed that in many countries around the world, the entry of insurance companies, securities firms, and other financial intermediaries into the market is leading to substantial structural changes by offering a wide range of services closely related to traditional banking operations.

⁹⁶-Khaled Ben Omar, DjilaliBourzama, "The Reality of Electronic Banking in Algeria," Arab Economic Research Journal, Vol. 25, Issue 80, 2019, p. 96.

⁹⁷-Hidaya Bouazza, Op. cit., p. 221

The advancement in digital technology and the high-speed internet connectivity have driven most banks to capitalize on this technological boom by developing and innovating new, advanced services, the competition between public and private banks has prompted both to enhance their banking services through the integration of digital technologies. Furthermore, the growing volume of electronic commerce necessitates a new type of non-traditional banking that surpasses conventional operational models, untethered from specific locations or fixed operating hours, as a result of the rapid growth in information and communication technologies, electronic banks have emerged, playing an active role in providing diverse services at low cost, saving both time and space, in this context, competition has intensified not only between commercial banks and financial institutions but also between large and small entities. Consequently, customers are now able to compare banking services and choose the ones most suited to their needs.⁹⁸

Conclusion:

The adoption of digital banks in Algeria represents a strategic shift in restructuring the dynamics of the Algerian banking market, digital banking has emerged as a principal tool for modernizing and revitalizing competition, reshaping its foundations based on innovation, quality, and speed, consequently, it has become imperative for the legislator to establish a legal framework that clearly defines the conditions and modalities for practicing digital banking activities, along with the mechanisms for supervision especially at the foundational stage, which remains the most critical phase enabling digital banks to enter the banking market and compete with existing financial institutions.

Accordingly, the Algerian legislator, through this framework, seeks to achieve a delicate balance: enabling digital banks to emerge as a strategic option for the modernization of the banking sector, while ensuring that this transformation occurs within a well-organized legal system that takes into account the specificities of digital banking activities. At the same time, it aims to open avenues for innovation and reinforce fair competition within a unified market, thus, the legislator's role does not stop at merely allowing the establishment of digital banks, but rather extends to transforming them into an effective instrument for modernizing banking competition in accordance with current technological and economic challenges.

In light of the study's findings, the following recommendations may be proposed:

- **Ensuring the availability of skilled and well-trained human resources:** to facilitate the digital transformation within banking institutions, while emphasizing the development of the necessary digital infrastructure to support full digital integration in the banks under study.
- **Formulating clear and well-defined strategies for digital adoption:** within the banking sector, since managing such a fundamental transformation in a sensitive sector like banking cannot be effectively governed by merely issuing a regulatory text comprising fewer than 20 provisions.

⁹⁸-Hidaya Bouazza, op. cit., p. 212.

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- **Providing a conducive environment for investment:** in this new form of banking, particularly through the provision of high-speed, uninterrupted internet access to enable proper and seamless application of digital processes in the banking sector.
- **Offering incentives that encourage banks to adopt digital technologies:** in their service delivery, these incentives could include financial advantages such as tax exemptions, or allowing banks that implement digital systems to deduct transformation-related losses from their taxable base as a way to offset the costs associated with digitalization.