



THE ROLE OF ISLAMIC BANKING IN FINANCE AND INVESTMENT IN IRAQ AND TURKEY

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MASTER THESIS
DEPARTMENT OF FINANCE AND BANKING**

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THESIS APPROVAL PAGE

I certify that in my opinion, the thesis submitted by” Hussein Ibrahim Khaleel AL-KHALAF” titled “THE ROLE OF ISLAMIC BANKING IN FINANCE AND INVESTMENT IN IRAQ AND TURKEY” is fully adequate in scope and quality as a thesis for the degree of, RESEARCH MASTER.

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Director of the Institute of Graduate Programs

DECLARATION

As a result of this, I declare that this thesis results from my work. All information included has been obtained and expounded under the institute's academic rules and ethical policy. Besides, I declare that all the statements, results, materials not original to this thesis have been cited and referenced literally.

Without being bound by a particular time, I accept all moral and legal consequences of any detection contrary to the statement mentioned earlier.



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Signature:

FOREWORD

While we are taking our last steps in university life, I want to thank all our distinguished professors at the College of Administration and Economics and whoever helped me to complete my academic life.

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ABSTRACT

This study, which consists of a descriptive method, is based on the compilation of scientific references on the subject. The study, taking into account the principles and methods of scientific research, evaluate the performance and analyzes the role of finance and investment of Islamic banks in Iraq and Turkey.

An interview was carried out by e-mail with Al Baraka of the Turkish Bank and the National Bank of Iraq. Furthermore, a report on the 2018 fiscal year activities of the Board of Directors, which Al-Barak Turk shared for use in the research, was taken as the basis of the research.

The annual reports of Al Baraka of the Turkish Bank were reviewed and analyzed for 2018. The financial data was obtained from annual reports of Al Baraka Turkish Bank, Iraqi National Bank. Furthermore, Accounting and Auditing Organization for Islamic Financial Institutions standards were compared to the reports. First chapter of the research includes Islamic bank's operations such as speculation, participation, Murabaha, credit, good loans, and Islamic principles.

The second part of the research examines Al Baraka Turk and the Iraqi National Bank. In this framework, evaluations have been made regarding the financial statements, investments and funds of the banks.

Keywords: Finance, Investment, Speculation, Participation, Murabaha, Al Baraka Bank of Turkey, National Bank of Iraq.

ÖZ (ABSTRACT IN TURKISH)

Betimleyici yöntemden oluşan bu çalışma, konuyla ilgili, bilimsel referanslarının derlenmesine dayanmaktadır. Çalışma, bilimsel araştırma ilkelerini ve yöntemini dikkate alarak, Türkiye ve Irak'taki İslami bankaların performansını değerlendirmekte, finansman ve yatırımlardaki rolünü analiz etmektedir.

Araştırma kapsamında, Al Baraka Türk Bankası ve Irak Ulusal Bankası ile e-posta yoluyla bir röportaj gerçekleştirilmiştir. Ayrıca, Al-Barak Türk'ün araştırmada kullanılmak üzere paylaşmış olduğu, yönetim kurulunun 2018 mali yılı faaliyetleri hakkında bir rapor araştırmada temel alınmıştır.

Finansal veriler, Irak Ulusal Bankası ve Al Baraka Türk Bankası'nın yıllık raporlarından elde edilmiştir. Ayrıca, İslami Finansal Kurumlar için Muhasebe ve Denetim Teşkilatı standartları da raporlarla karşılaştırılmıştır. Araştırmanın birinci bölümü, İslami bankanın spekülasyon, katılım, Murabaha, kredi, iyi krediler ve İslami ilkeler gibi işlemlerini içermektedir.

Araştırmanın ikinci bölümü, Al Baraka Türk ve Irak Ulusal Bankasını incelemektedir. Bu çerçevede, Bankaların mali tabloları, yatırımları ve fonlarla ilgili değerlendirmeler yapılmıştır.

Anahtar kelimeler: Finans, Yatırım, Mudarabah, Musharakah, Murabaha, Al Albaraka Türk Bankası katılımı, Irak İslam Ulusal Bankası.

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ARŞİV KAYIT BİLGİLERİ (in Turkish)

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ABBREVIATIONS

ATM	: Automated Teller Machine
ABS	: Asset-Backed Securitization
AAOIFI	: Accounting and Auditing Organization for Islamic Financial Institutions
BCLB	: Basic Concepts in Islamic Banking
BEIBW	: Brief Emergence of Islamic Banks in the World
DIB	: Definitions of Islamic Banks
D	: Deposit
DI	: Direct Investment
EICIB	: Essential Instruments and Components in Islamic Banks
FSFM	: Financial System and Financial Markets
FIB	: Financing in Islamic Banks
FMIB	: Financing Methods in Islamic Banks
F	: Forward
FCMIB	: Fund Collection Methods of Islamic Banks
GL	: Good Loans
IS	: Investment in Securities
IIF	: Islamic Investment Funds
ILGS	: Islamic Law: Goals and Structure
I	: Istisna
M	: Murabaha
P	: Participation
S	: Sales
S	: Speculation
BTIFIB	: The Basic Tools for Investment and Funds in Islamic
CIIB	: The Concept of Investing Islamic Banks

CIF	: The Concept of Islamic Financing
EIBI	: The Emergence of Islamic Banks in Iraq
EIBT	: The Emergence of Islamic Banks in Turkey
HDBBT	: The Historical Development of Al Baraka Bank Turkey
SPN	: Special Purpose Vehicles
DOG	: Deposit OR Guarantee
ETFs,	: Exchange-Traded Funds
CMB	: Capital Markets Board
BRSA	: Banking Regulation and Supervision Agency
TFRS	: Turkey Financial Reporting Standards
POA	: Public Oversight Authority
UPS	: United Parcel Service
ISFR	: International standards for financial reporting
HDNIB	: The Historical Development of the National Islamic Bank
IIBF	: The Importance of Islamic Banking Financing
RIBIT	: The Role of Islamic Banks in Iraq and Turkey (RESEARCH SAMPLE)
UTUI	: The Usury and Types of Usury in Islam
TIBF	: Types of Islamic Banking Finance

SUBJECT OF THE RESEARCH

Islamic banking without interest depends on framework of Islamic principles. Commercial activities with Islamic banking are carried out in Turkey and Iraq as well as interest-based banking.

Islamic banking method that operates under banking services, especially in countries with economic activities based on interests, aims to make an investment in a new financial instrument more attractive. Making it a model of financing participation in trade and product indicates a focus on this area.

The establishment of a banking institution that conducts its business and activities following Islamic law is a useful role in the investment. Furthermore, Islamic banking has a beneficial effect on reducing the economic impacts that lead to weakening the economy with generating income, providing real goods and services and creating job opportunities

The increasing demand for dealing with Islamic banks and the increase in interest in financing and investment tools make a remarkable acceleration in the growth and development of Islamic banking operations.

The role of Islamic banks in economic and social financing and their impact in raising the standard of living of the individual and society to the level of well-being and achieving balance and social integration through adherence to the principles of the Islamic religion make Islamic banking more remarkable. It has focused its principles and its use of multiple methods such as speculation on investment and good loans for productive purposes. Islamic banking has been operating in many areas such as the assignment of housing projects to finance small and urban projects and the agricultural and industrial sectors since the establishment.

Islamic banking is one of the ways to ensure a minimum standard of living for everyone and achieve financial strength and independence for Islamic countries.

It has also appeared that the social and economic dimensions of Islamic banks is one of the most important features because these banks are linked to Islamic law. The

Islamic rules are the adhesive laws that Allah Almighty made by making appropriate laws at every time and place.

In this scope, the main objective of this study is to put forth the role of Islamic banks and their relationship to finance and economic and social investment.

The study focused on evaluating the role of Islamic banks in financing investment by studying the reality. Some Islamic criteria were applied to banks in Iraq and Turkey in particular through international performance indicators and standards. Iraqi Islamic National Bank for 2018 were examined in terms of capital adequacy, liquidity, amount of cash, and mortgage credit.

Al Baraka Turkey Bank was examined in terms of investment and development in addition to assessing the role of some social functions in addition to capital structure in the sector and market shares and distribution of current cash loans. Al Baraka Banking Group was analyzed according to AAOIF Group Financial Position Statement of profit or loss and other comprehensive income for the end of 2018.

PURPOSE AND IMPORTANCE OF THE RESEARCH

The finance and investment policy play an essential role in Islamic banks due to their supervision and responsibility for granting funding, which is considered one of the most critical and dangerous jobs that banks practice. This is a result of most of the given money they give to others is not theirs, but rather the depositors' money.

This thesis's importance is to clarify the suitability of the financing policy and investment in Islamic banks with Sharia and jurisprudential controls and analyze the role that develops financing and investment policy and investment. In contrast, the financing policy represents the use of depositors' funds in banks to guarantee them the best return and the lowest possible risk. The importance of this research also shows that the social and economic characteristics of Islamic banks are among the most important characteristics of these banks.

The debate has arisen over the role of Islamic banks in financing and investing in Islamic countries specially in Iraq and Turkey. In terms of social and economic financing, Turkey requires the need to search for this role's truth.

METHOD OF THE RESEARCH

During this study, the role of Islamic banks in investment and financing in Iraq and Turkey were analyzed by the annual examination of reports of banks based on selected institutions.

The information required to complete the research is in two following ways:

1. Theoretical guidance: books, theses, magazines, articles, papers, and dictionaries related to study and research methods and libraries were used. In this context, it has been attempted to obtain it by using relevant Turkish, Arabic, and foreign books, magazine theses, articles, foreign reports from libraries, the international information network (Internet), and e-books.

2. Practical guidance: The practical part of the research consists of interviews. Interviews were conducted with managers, employees (with administrative and technical staffs), and supervisors of branches and units in Al Baraka Turkey Bank and the National Bank of Iraq. These interviews focused on the banks' actual situation; it supposes to accomplish contribute to the research aims.

HYPOTHESIS OF THE RESEARCH /RESEARCH PROBLEM

The Hypothesis of The Research

The research supposes that Islamic banking has a significant role in attracting investments and financing if the conditions and standards that are convinced by investors are applied and that are consistent with the principles of Islamic law. Research also put forwards the state and the public sector have a fundamental role in supporting this activity, the spatial and temporal framework.

Research problem is that identification of the mechanisms and role of financing and investment in Iraqi and Turkish Islamic banks and assessing the availability of their performance equations in terms of the extent to which they achieve the objectives of the Islamic economy.

Islamic banks have an important role in attracting financing and investments if the conditions and criteria compatible with the investors are applied. And the state and

the public sector are essential to support this activity. However, some laws and conditions reduce the activity of Islamic banks rather than conventional banks.

The purpose of the study is to support an application of the principles of Islamic law in Islamic banks. Moreover, in terms of financing and investment in Iraq and Turkey, the main question in this study is that “what is the role of Islamic banks”.

SCOPE OF LIMITATIONS/ DIFFICULTIES

Within the scope of research, the role of Islamic banks in investment and financing in Iraq and Turkey were analyzed. The theoretical work and fieldwork of the investigation were carried out.

As a result, the limitations of the research have been mentioned,

1- Time limit: The field research period extends from 1/10/2020 to 01/02/2021.

2- The place boundary: Is divided into two parts:

A- Field Research: Field research includes one of the Islamic banks in Iraq and Turkey.

B- The research organization: The comprehensive study has conducted on Islamic banks and examination of reports on banks, completing transactions, providing economic and social services and applying Islamic law.

The field study involves the following Islamic banks in Iraq and Turkey:

1- Al Baraka Bank of Turkey 2- National Bank of Iraq.

CHAPTER ONE

BASIC CONCEPTS IN ISLAMIC BANKING

1.1. Definitions of Islamic Banks

The writers and researchers have a different view on a general definition of the Islamic bank, and no one definition has been agreed upon. Some definitions drawn from some sources will be highlighted in the following:

1. The Islamic Bank is a licensed institution that provides banking services on a non-usurious basis. Engages in opening current accounts and accepting investment deposits for use within the scope of the prevailing liquidity systems in addition to the bank's financial resources in financing commercial projects and by Islamic principles.⁽¹⁾

2. The Islamic Bank is every institution that conducts banking business based on Islamic Sharia and its juristic rules.⁽²⁾

3. Islamic banks are "the institution that conducts banking business with its commitment to avoid dealing with interest, taking and giving as a forbidden transaction in law and by avoiding any action contrary to the provisions of Islamic law."⁽³⁾

It becomes clear that the Islamic bank is every institution that undertakes banking activities based on Islamic Sharia and its jurisprudential rules. To contribute to achieving economic and social development and providing a decent life for individuals.

1. The Islamic Bank is a banking financial institution that conducts banking business.

2. Compliance with the provisions of Islamic Sharia.

3. Not to deal with interest at all.

1. study prepared by the Committee of Islamic Banking Experts entitled "Encouraging, Regulating and Supervising Islamic Banks(Riyadh, 30/31 December, 1980) p. 16

2. Abdullah bin Hamad bin Ahmed Al-Tayyar Islamic Banks between theory and practice(1408 AH Al-Qassim Club) p. 88

3. Abdul Razzaq Rahim Al-Jabri .Islamic Banks between theory and practice(Osama House for Publishing and Distribution Jordan .Amman First Edition. 1998) p. 173

4. This institution aims to achieve social solidarity and social-economic financing to provide a decent life for individuals.

From the foregoing, it becomes clear that the Islamic bank is like any banking financial institution that practices financial business. But it differs from it that it carries out its business with people, whether they are depositors or financiers, investors in a manner committed to the principles of the Islamic law that directs money to serve society first and with this commitment Islamic banks will always achieve success in addition to the noble goals. It seeks to contribute to achieve social development and social solidarity and to contribute effectively to economic and developmental aspects to provide a decent life for society, individuals, or groups.

1.1.1. Brief Emergence of Islamic Banks in the World

That the first bank appeared in Venice in Italy in 1587 AD, then the Amsterdam Dutch Bank 1609 AD; the banks spread rapidly in various countries globally and increased in large numbers. As the one country includes many banks, given the spread of traditional banks globally, parallel tariffs began to emerge from Islamic banks. The agreement establishing the international union of Islamic banks is defined in the first paragraph of article five of Islamic banks as Islamic banks in this system. Those banks or institutions whose establishment law and articles of association expressly provide for commitment to Sharia's principles and not to deal with interest by giving and receiving.

The Islamic Bank is also known as a financial institution with a mission to search for the most beneficial projects to achieve economic and social goals. It does not aim to merely implement an Islamic banking system but rather contribute to building a fully Islamic society based on Islamic teachings' ideological, ethical, and economic principles. So-called as a monetary financial institution that works to attract cash resources from members of the community and make effective use of them to maximize and grow them within the framework of the established rules of Islamic Sharia to serve the nation's peoples and works to develop their economies. Some writers see that the history of Islamic banking work dates back to 1940 when savings funds were established in Malaysia operating without giving interest.

After the revolutions in Islamic countries in the twentieth century and the early sixties, the first Islamic bank was established in Egypt in 1963. It's known as the Bank (MIT Ghamr). The bank started operating by the principles of Islamic Sharia. Also, it achieved success because it was able to meet its clients' savings and credit needs. It was the first bank established according to the rules of Sharia.

The catastrophe of 5 June 1967 and the painful defeat of the Arab armies at the hands of the Zionist entity affect the Arab Islamic character. They have led directly and indirectly to the formation of new Islamic movements, which led to an increase in its strength. Its entry into the arena economic and social responsibility of the Sunna of the Prophet (peace be upon him) and on the social and economic level. It has led to the surplus of current accounts in the Arab Gulf. It states that Islamic financial institutions establish as a natural response to the increase in surplus revenues that coincide with the escalation of religious sentiments and the call for a return to Islamic principles.

Therefore, the establishment of these financial institutions was a manifestation of Islamic identity by financial means, the Islamic Development Bank. Founded in 1974 by the Organization of the Islamic Conference, many Islamic banks have been established in many Islamic countries in the Middle East since the mid-seventies of the last century.

Islamic Development Bank in the Kingdom of Saudi Arabia in 1975, Dubai Islamic Bank in 1976, Faisal Islamic Bank Egypt in 1975, Faisal Islamic Bank of Sudan in 1977, Jordan Islamic Bank in 1978, Jordan Financial Investment Bank in 1978, Islamic Investment Company Limited, UAE in 1978, Kuwait Finance House 1979 were established. A financial association for Islamic banks was established in 1977 to coordinate the legal provisions between the various Islamic banks in Islamic countries, its presidency was in the Kingdom of Saudi Arabia. Islamic banks continued to be form in 1980s, including the first Islamic bank in a non-Muslim country in Britain.

Abu Dhabi Islamic Bank in 1980, Qatar Bank Islamic in 1981 were launched. Many Islamic branches also opened in many countries, including Malaysian Islamic Bank Limited in 1983. Islamic Bank of Mauritania in 1985, Zanzibar Islamic Bank in 1985, Islamic Bank of Turkey 1985. Most of the Islamic oil-producing countries with

huge capitals have begun to entering the Islamic banking industry in the rest of the Islamic countries in the seventies and eighties of the last century in. ⁽⁴⁾

1.1.2. The Factors that Helped Establish Islamic Banks

It has already been pointed out that the idea of establishing Islamic banks and financial institutions is a modern idea since the mid-sixties of the last century and are generated by many factors such as political, social and economic. The most important factors are:

1. The idea of establishing, maturing, and understanding these banks are developed at all levels.

- People with Islamic sensitivity have matured the idea of establishment and Islamic banking because they felt the damages and dangers of usurious institutions. In addition, they find alternatives as they were inviting to the idea, and in all openness, clarity at all levels, and they were able, thanks to Allah, to turn it into a reality.

2. This idea was presented and studied in the religious and political conferences of the Islamic world.

- This idea was brought to the scientific and political conferences of the Islamic world.

- Scientific conferences: including the second annual conference of the Academy of Islamic Research held in Cairo in 1965, where the issue of interest and banking was discussed in this conference, stressing that interest on loans of all kinds is forbidden and there is no interest thereof. From scientific conferences that called for discussion of this idea.

- Political conferences: the first conference of foreign ministers of Islamic countries held in Jeddah in 1971. It was stressed the need for Islamic governments to consult together to promote close cooperation and joint assistance in the economic,

4 . Islamic Banks Between Theory And Practice D. Abdul Razzaq Rahim Al-Jabri /Ibid

social, cultural, and spiritual areas emanating from the teachings of Islam. Later, political conferences of Islamic countries on the idea of establishing Islamic banks were held.

3. Serious attempts were initiated by all researchers to find alternatives to usurious banking institutions.

- Many researchers in the juristic and economic fields made several serious and continuous attempts to find alternatives to interest-based investment formulas and banking tools according to Islamic law.

4. The comprehensive Islamic awakening was witnessed by the Islamic world.

- Islamic awakening and orientation of all Muslims towards adapting everything related to aspects of their lives in line with the principles and teachings of their true and lofty religion started. ⁽⁵⁾

1.1.3. The Usury and Types of Usury in Islam

The general foundation on which Islamic banks lie is the lack of separation of debt and world affairs as Allah demanded. Muslim people must take into account what He has permitted and prohibited in Sharia as the basis for all requests and take it as a reference where Islam is characterized by the comprehensiveness of its method to meet interest in the world and the hereafter. In addition, one of the most important rules for investing money in Islam is the prohibition of usury in all its forms

This large base of transactions formulas, together with other data of other branches of Islamic knowledge have important basis for comprehensive Islamic advancement in various areas of Islamic societies. The Muslim jurists have unanimously agreed that usury is forbidden and that it is a major sign that is prohibited from being forbidden in the Noble Qur'an and the pure Sunna usury in the language is the increase.

- Usury is divided into two types

Usury is dividing into two types; each type can be clarifying as follows:

5. Abdul-Razzaq Rahim Al-Jabri .ibid.

1. General features of usury are derivative, long-term and repetitious. That is until the time the borrower is allowed to return the loan against the agreed addition or premium. Thus, usury interest is applied to the interest of the loan. This meaning was mentioned the Quran in verse 275 of Al-Baqarah (But Allah has permitted trade and forbidden interest). Prophet stubbornly said that it is a prohibition of usury and any unearned accretion on the capital or the principal, whether it is in the form of interest or any benefit.

There is not a fixed or specified return on a percentage of the principal of the loan and there is no lump sum paid in advance or at the end of time, or in the form of a gift or service. It is important to note here that the Sharia does not see the lender waiting for the lender until the loan is recovered, justifying the imposition of a positive return. There is no disagreement among all the jurists of the schools of thought. That the usury delays are prohibited is strict, absolute, and clear.

Messenger prevents even the gift, no matter which size. As well as any service or favoritism set a condition for the loan (Hadiths), however, if the return on capital is likely to be positive or negative, depending on the final result of the work. Which is not known in advance, and then this return is permitted provided that it is divided according to the principles of justice established by the Sharia.

2. The usury surplus is when the afore mentioned increase is devoid of delay, and usury here is not related to a debt or a term rather. It is achieved in any present exchange between two identical funds. If one of the two parties to the exchange has achieved a specific increase in it, this increase is unjust because it is either without compensation at all, there is doubt about what it is equivalent to. Therefore, it will be an explicit statement or an excuse for usury. This becomes evident if he buys a barn of wheat with a sardine of his type as a swap.

In addition, as if he bought a bargain made of gold. Ten grams of gold with a similar amount of twelve grams the usury that was known and common to the Arabs is usury, which is the result of debts when the payment is postponed when it is due, and from the debts that arise from the loans.

Including what arises from the sale when the price of the sale is postponed. Then the debtor is obliged to give an increase to the creditor upon solutions deferred maturity if he is unable to pay and needs another period from the sale for the sake of the worth of time. ⁽⁶⁾

-The Most Important Issues in Usury

There are many reasons why usury is prohibited: preventing the creditor's injustice to the debtor, ending exploitation, and eradicating envy and hatred among members of society, solving the class conflicts among society members, stopping unemployment and laziness, increasing national production. All of them can be included under the rule of prohibiting usury.

1. According to the hadith narrated by Abu Saeed Al-Khudri (whoever increases or will increase may usury) it has been stipulated that this kind of usury is attached to usury, pre-Islamic and that the term usury is comprehensive for both.

2. Forbidden usury is only twice as much and responds to them. That verse 130 of Surah Al-Imran (You who have believed, do not consume usury, doubled and multiplied, but fear Allah that you may be successful). It is a description of a case only. It does not mean that only the forbidden one is double interest. The concept of the violation is only used with conditions including. That it is not a description of a case, it is in this verse a description of the case.

3. Money now has no value changing the purchasing value, and inflation requires the existence of interest to compensate for the shortfall in the purchasing power of money, responds to this saying. It is not permissible to fix the value in future debt in good loans. Because changing the purchasing power of cash is a general injustice that the debtor cannot pay for, this change is involuntary how the debtor cans are held accountable for something that happened without its will, just as the creditor is a reward for his loan with Allah Almighty.

4. Usury is for consumer matters that are prohibited.

6. D. Abdul Hamid Mahmoud Al-Baali, The Basics of Islamic Banking Work (Reality and Prospects the gift of capital. 1990) p. 18

5. In the past, the economically weak people borrowed from the strong ones, but now economically the strong people borrow from the weak ones because the bank borrows from depositors. (so there is no interest because the state in bonds) rewards its children for lending to them, and he responds to these (That he did not stipulate in any text of the texts that the reason for usury is strength and weakness. Moreover, he did not want that the strong did not borrow from the weak, the provisions) legitimacy is based on reason, not wisdom.

6. Usury only on the condition of delay in the payment of the debt (Spent) as for the increase that is taken as a start during the first term of the debt. It does not fall into the meaning of usury he responds to those who say with this the effects arising from the image of usury pre-Islamic are not in fulfillment, but also include the image of the increase in the principal added debt specified for the fulfillment of the interest usurious to Arabs and Jews in the form of delay in fulfillment. But also includes the image of the increase during the original term specified for fulfillment also. The usual usury and the time of the revelation of the verses of revelation did not differentiate between usury in the first term of the debt or the debtor's delay, Allah says. (And if you do not, then be informed of war against you from Allah and his Messenger, However, if you repent, you may have your principal thus you do no wrong, nor are you wronged) Al Baqarah 279.

(7)

1.2. Financing in Islamic Banks

The bank grants financing to meet its financing needs, satisfying the requesting Islamic bank. Either to work in it or to use it in a specific way, and this financing is either by sharing money that you may not have.

They were giving the customer money by speculation in accordance with the concept of Islamic law or interfering with trade by increasing the customer's working capital (Goods) or at least leasing machines. Equipment and other forms of benefit that is financing is the provision of money to be a share of capital. It is a direct establishment, and financing is done after preparing the financing study and formulating guidance in granting funding after conducting controls on the use of funding and sources of payment.

7. Al-Qaradawi, Youssef - The interest of banks is usury and forbidden (Risala Foundation, 1 Beirut 2003) p. 31

As well as the nature of the required guarantees for the bank and the bank's control procedures and protecting them throughout the financing period and customer ownership documents for it. Bank financing contracts from consensual aloud are binding on both sides, and they are from disposal contracts and require no consideration for the disposal process and are based on personal consideration. ⁽⁸⁾

1.2.1. Islamic Financing Concept

Islamic finance is a concept that cannot be considered independently of the values of Islam and is shaped according to the rules of the Islamic religion Islamic economy. On the other hand, it is a broader concept that includes Islamic finance. The Islamic economy is a structured effort to fulfill the economic living conditions of the people in the axis of Islam. In addition, it is a model that determines the policies that can be applied in production, consumption, and distribution activities and the infrastructure of the institutions that will put these.

Policies into action and aims to create the scientific environment necessary for theoretical discipline value maximization are the philosophy of Islamic finance, which is part of the Islamic economy according to this philosophy.

Muslim people must observe Allah orders and prohibitions in their Islamic finance system, which is organized within the framework of Islam, tries to develop in this direction. Although the Islamic financial system is formed by organizing on the axis of Islam, non-Muslim populations can take place in this system as well as Muslims the principle of risk-sharing. One of the basic principles of Islamic finance states that both the financier and the entrepreneur should be partners in the loss as well as the profit and the lending and borrowing rates decrease in the works to be performed because of sharing the risk by both parties. Another principle is that the investments to be expressed with the fact that the investments are suitable for Islam should be on the goods and services that are not prohibited by Islam.

In addition, in this system, contracts should be transparent and financial activities that would disrupt social justice should be avoided, although the areas of

8. Muhammad Mahmoud Al-Mekkawi (Mansour University) The Foundations of Islamic Banking Financing Between Risk And Control. 2009 p.

movement of people in Islamic law are based on freedom. Several prohibitions draw the boundaries of Islamic finance.

1.2.2. Basic Principles of Islamic Finance

In classical finance books, the principles regarding financial instruments are generally explained without any legal system. The reason for this is that these tools are generally designed, taking into account the economic needs regardless of the current legal system. However, tools used in Islamic finance have been designed to take into account the rules of the Islamic religion.

1.2.3. Islamic Law: Goals and Structure

Islam is a heavenly religion that has brought about world regulations and provisions, as well as beliefs. There is a set of rules and institutions for acts and institutions of the world including treats, moral rules and methods, and actions expressed as transactions. The Islamic economy ⁽⁹⁾also expresses some of the rules and institutions that fall into this group of transactions terminologically. Sharia is covered by Islamic law. It is also referred to the intellectual to expand the Sharia with fatwa and comments given by Islamic scholars and to explain the life of Muslims.

Matters expressed as processing are dealt with in Islamic law in Islamic terminology in the dictionary, the term "knowing something, comprehending it understanding it fully" refers to knowing the operational provisions of Islam regarding personal and social life ⁽¹⁰⁾and a branch of science that studies this subject in the Qur'an. The word jurisprudence is used in twenty places in different phrases and used to understand a good and accurate thing, to know the truth of something, and to implement logic in the early ages of Islam all religious information meant by the term of the idea, and since the middle of the second century.

The idea became a branch of science that covers only the operational life. The jurisprudence became the name of the science branch that contains information and provisions related to the operational life. Its scope has expanded, until today, scientific,

9. S. gift of Islamic Economy in Outline/ Istanbul, 1991, p.10

10. /Article/ Author/ Ibrahim Kofi Donmez .Provisions are valid for all or most small matters

legal, and legal methodology, economics, politics, administrative sciences, and institutions related to these sciences. ⁽¹¹⁾

Intellectual history and comparative law have been accepted within the intellectual branch. Jurists' Islamic scholars specialized in the discipline known as Islamic Sharia. These issues in terms of Islamic law systematic are issues. Islamic law can be said to be the basis of Islamic finance.⁽¹²⁾

Issues such as execution, accounting, and pricing are included in the field of finance. Islamic law is one of the most detailed legal systems that regulate the relationship between human and property in this context alongside belief, cleanliness, worship, family life criminal law, war law, food and beverage.

The reported in both the Holy Qur'an and the Sunnah of the Prophet's Sharia rules took an integrative approach and found that the main purpose was to protect the following six elements. ⁽¹³⁾

1. Religion
2. Life
3. Family
4. Goods
5. Intellect
6. Honor

It is stated that every action to be taken to reach the basic purpose of the Sharia mentioned above should be directed towards more clearly defined targets. These goals are listed as follows:

- To ensure justice and equality in society.
- To encourage social aid, mutual aid, and solidarity aid to the poor and needy.

11. The branch of science that deals with differences between jurisprudential schools of thought and the caliphate/ Article/ /Author

/Shukri

13. Muhammad AYUB, Understanding Islamic Finance, London, 2007, p. 23

- To provide peace and security.
- To encourage good and right things; prohibit wrong and evil works.
- To take necessary measures to protect nature and promote universal moral values.

1.2.4. Islamic Law: Principles Regarding Islamic Finance

Economic rules and principles of Islam are not purposeless like other non-Islamic rules. It should be noted that these rules have some lofty goals not found in other economic systems. Islam wants Muslims to not ignore these sublime goals, to know the temporality of world life to know that the assets bestowed on them are a means of testing. That every penny they earn and every work they do have accounts and act accordingly it is possible to evaluate within the scope of raw belief. It is known, the essence of the religion of Islam is tawhid. The belief is to acknowledge that the entire universe was created and controlled by Allah and that man was created by him. That he was tasked to fulfill the task and purpose given to him by following his rules on earth Allah, the Last Prophet Muhammad (Peace be upon him), communicated his orders. ⁽¹⁴⁾

Islamic religion based on these orders is not limited to moral teachings. Certain rituals and prayers contain rules and principles for all areas of life. Every area of economic and social life is covered by these rules and principles; therefore, obeying Allah's Almighty requires not only to worship him. Also, to follow his rules in economic activities, this mindset is the basis and starting point of Islamic finance in this context. It can be thought that the basic principle of Islamic finance is monotheism, of course.

14.Ishak Emin Aktepe, Financing and Banking in the Framework of Islamic Law (Istanbul2010) p. 21.

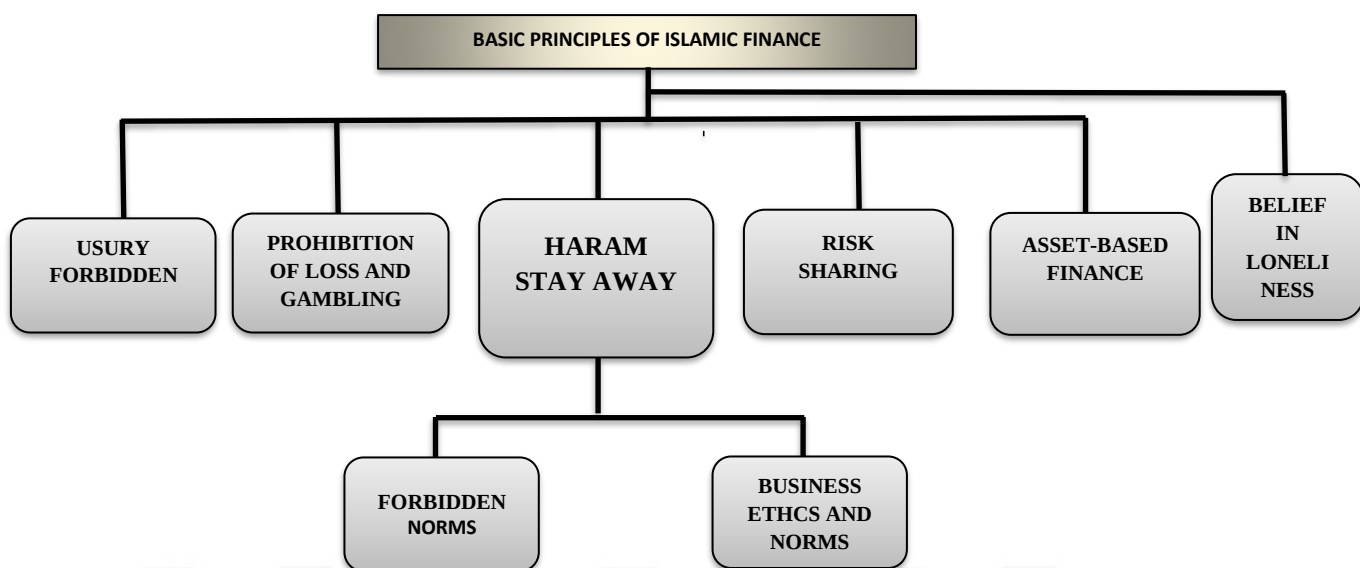


Figure 1. The Basic Principles of Islamic Finance.

It is considered that it is appropriate to use certain methods as a financing method due to the basic prohibitions of Islam regarding economic life accept haram leaving the obligation to stay away from the sectors that are set aside. Islamic finance differs from the three main prohibitions and business procedures and principles of the usury-based finance industry. These three prohibitions, usury, loss, and gambling prohibition in the following subsections.

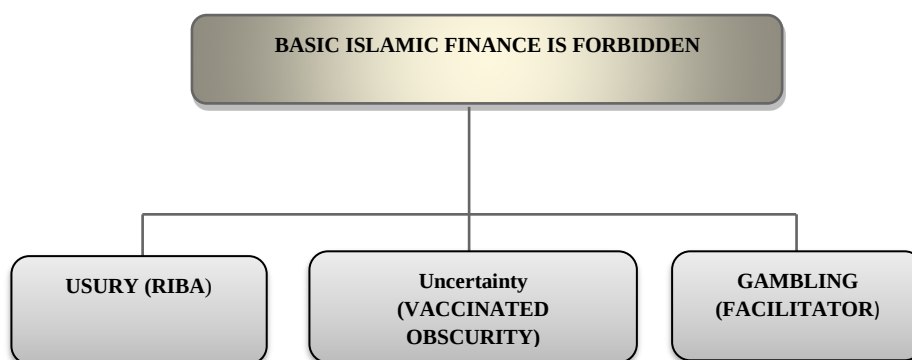


Figure 2. Islamic Finance Basic Forbidden.

1.2.5. The Importance of Islamic Banking Financing

The importance of financing is due to the extent of the need for it, its role in fulfilling the demands of the individual and the group, and achieving its intended purpose.

1. For clients: Financing is a source to fill the financing gaps that they need depending on the type of financing in terms of time.

- Short-term financing is used to fill the financing gaps that customers need for specific periods instead of resorting to increasing their capital introducing new partners with them. In addition, sharing them in the profits achieved such as purchasing raw materials or production requirements, and buying goods.

- Medium-term financing is used to finance semi-fixed assets, such as the purchase of a number of small machines and equipment.

- Long-term financing is used to finance the acquisition of fixed assets from machinery and equipment. It helps the construction of project infrastructure from facilities to the construction of buildings for production.

2. For the bank: Finance is the main source of revenue for the bank through returns received to offset expenses and achieving surpluses to maximize profits that are distributed to depositors and shareholders with the bank's capital.

- This is in addition to the notable importance of the doubt on financing as a tool for financing economic and social projects, as it makes Islamic banks play a major role in financing the infrastructure of Islamic societies.

- The financing is provided by Islamic banks in various fields - which the Islamic group needs if it is well directed and used. It also contributes to individuals and financial institutions by employing them with Islamic controls in their different aspects according to the period that suits each project, whether it is short, medium, or long term.

3. For national economy. Financing contributes to meeting the real needs of various aspects of economic activity, in what works to advance the development and

state policy. It contributes to creating job opportunities to solve the problem of unemployment and increase the rate of growth of national income.

4. The profit of the financier in all Islamic financing methods is related to the property. Entitlement to profits is due to an objective and legal reason. This is the opposite of the usurious financing formulas and methods that are based on exploitation.

5. The correlation of the flow of financing between the parties of the investment workforce with the transfer of properties and the flow of goods. This method reduces methods that transform the economy into a symbolic economy. Thus every transfer of ownership of goods and services requires a transfer and financial and monetary cycles.

(15)

1.2.6. Types of Islamic Banking Finance

- **Commercial Angle.** Commercial financing includes every case in which a commodity or benefit exchange takes place, at a deferred price, and of its types: sale of Murabaha, sale of term, sale in installments, finance leasing, sale of peace, industrialization, and so on commercial financing requires experience in and knowledge of the trade. It includes dealing in goods, the nature of dealing in goods includes ownership possession, preservation and maintenance, and the familiar commercial risks that follow. The most important thing is the possibility of a change in the situation when this commodity is offered or demanded. This leads to a disparity in the profit and loss experienced by merchants in general.

- **Financial financing.** It does not include dealing with the commodity or its services at all. Rather, it is required to provide the current cash for forwarding cash. This is done through methods of speculation and participation, and financial financing. It does not require the same amount of sophistication and knowledge that commercial finance requires.

- It is not subject to the type of commercial risks. There is nothing in the dealings with the commodity to own, hold, preserve, maintain, and change. The state at every bid and request in exchange. Finance requires knowledge of the conditions of

15. Mohammed Mahmoud Al-Mekkawi. / ibid. 2009 p. 75

people, their sincerity, and current and future financial position. It develops the possibilities of non-fulfillment which is the only risk to which the bank is exposed. There is a complete separation between management and finance so that management is left to the people of commercial expertise. ⁽¹⁶⁾

1.2.7. The Terminology Types Financing in Terms are Divided into Three Parts

Funding is dividing into several parts, and the most important sections are as follows:

1. Short-term financing, no longer than a year: It is making for financing the ongoing activity of customers, whether it is commercial, industrial, agricultural, or service.

A. It works to finance the needs of the working capital cycle, whether through financing the purchase of raw materials, financing the storage period, or financing the future sale period.

B. This funding can be paid mainly during a year of grants. It can be extended or increased if it is proven that the project management is efficient.

C. Repayment method is paid from the project's ongoing activity revenue. Revenue generates from sales and collection.

D. Banks usually accept this type of financing because it is related to confronting the payment of short-term obligations or to paying a temporary shortfall in the working capital of the applicant.

E. This funding is also linked to a specific seasonal work with the projects. Many projects use it for its direct influence in a specific situation. Then it achieves the purpose of the financing and guarantees its repayment in the short term.

2. Medium-term financing: its duration is more than one year (It can reach 3 to five years), and this financing is used for purposes other than short-term financing.

16. Muhammad Mahmoud al-Mekkawi. / ibid, 2009\ p.19

A. The purpose of this financing is to finance semi-fixed assets such as buying a small number. Confrontation, capital expenditures are represented in carrying out overhauling of machines.

B. This financing is to be paid from surplus cash flows after paying all the obligations that show the expected cash flow.

3. Long-term financing. This type of financing means the needs of large projects that take a long time to implement compared to short-term financing.

A. Long-term financing is more than five years and is used to finance the acquisition of fixed assets of machinery and equipment, the construction of project infrastructure from facilities, and so forth, or the construction of production wards.

B. This type of financing occupies special importance for what it contributes to vital development processes and plays an essential role in financing the project.

C. It is not finding in the long-term financing a dividing line between the capitals owned by the project and the long-term financing. As the two mix for a long time and it is difficult to draw up lines between them.

D. Medium-term financing is mixed with long-term financing. They are used for each other's purposes to deal flexibly with the project's needs, meaning the use of medium-term financing for long-term purposes and vice versa.

E. Long-term financing is suitable for Islamic banks because this type of financing is directed to productive and investment purposes. This is appropriate for the nature of the Islamic bank.

F. The long-term financing can be based on investing the money provided by the Islamic bank according to the well-known Islamic formula, which is participation or speculation.

G. This financing is to be paid from surplus cash flows after paying all current obligations, according to the study showing the expected cash. ⁽¹⁷⁾

17. Mohammed Mahmoud Al-Mekkawi. /ibid . 2009 p. 74

1.2.8. Financial System and Financial Markets

Human is an entity that produces, replaces what it produces, and replaces them. These production and consumption activities of people are generally called economy. The economy is generally examined in terms of certain geographical regions. This is called the economic system. Labor force capital, natural resources in a region, economic acting in production, trade and consumption of goods and services are based on three important markets:

A. Final Goods and Services Markets: These are the markets where goods and services are purchased and traded to meet any needs of the consumer.

B. Production Factors Markets: These are the markets where natural resources, labor, and capital production factors are provided in the production of final goods and services reaching the consumer.

C. Financial Markets: Willing to trade in the final goods, service markets, and production factors market, but they are the markets where those with insufficient resources (Funds) and those with excess resources meet. ⁽¹⁸⁾

While the markets where the final goods and services are traded and the production factors are called the real sector of the economy, the sector formed by the financial markets is called the financial sector. The three markets described above that seem independent from each other are essentially a nested structure and constitute the economic life itself in most studies. The financial market is redefined as the structure consisting of institutions is regulating the flow between the funders and the Investors and the instruments that provide the flow, and the legal and administrative rules regulating them. It is important to exemplify this point in order to get a clear idea. Let us think of a family man, the main purpose of a father's life is to provide his family with a more prosperous and happy life.

The first of these two objectives require more resources (Money) to be offered to the family. While the second depends on the establishment of justice, peace, respect, and peace in the home. However, research shows that peace, respect, and peace in most

18.B.Shanmuga, Z.R. Zahari, A Primer on Islamic Finance, 2009,p1

families are disrupted by economic difficulties; the primary issue that the head of the family must provide in order to fulfill its objectives.

The main purpose of a state is to offer its citizens a more prosperous and happy life with better schools, better roads, more job opportunities as well as the principles such as justice, equality. Security should be provided by the state in social life. All aspects of life is related to "money" including those that can be directly linked to money such as education, transport, employment, and other factors such as justice, equality. Security, in other words, if there is no money in the economic system, it is not possible to provide any of them completely. The resources needed is obtained through the actions that provide fund input such as working, producing, selling what they produce, and doing business.

However, the funds obtained most of the time cannot be found to invest in order to meet the needs or provide more fund inflows. In this case, this excess is demanded from the units that do not consume all the resources they obtain. The financial market is one of the most important elements of the economy. There are five basic elements in the financial markets.

A. Funded: those who need money (Companies and households).

B. Funded: Those with a lot of money (Companies and households).

C. Financial Intermediaries: those who combine those who need more money and those who need the money and provide other additional financial services (Banks, brokerage houses, mutual funds, insurance companies, rating companies, and clearing companies).

D. Financial vehicles: securities that a used to collect money from those who have a lot of money or to use it for those who need money (Deposit accounts, loans, stocks, bonds, derivative contracts, etc.).

E. Law and administrative order: The laws and principles that the above-mentioned must comply with and the institutions that apply these rules (Trade law, capital market law, banking law BRSA, CMB, etc.).⁽¹⁹⁾

19.A. YANPAR, Growth Oriented Tax Policy in Developing Countries, Ankara University, Department of Public Finance, Thesis, Ankara, 2007, <http://www.spk.gov.tr/displayfile.aspx?action=Ddisplayfile&pageid3727&fn=727.pdf&submenuheader=Dnull>

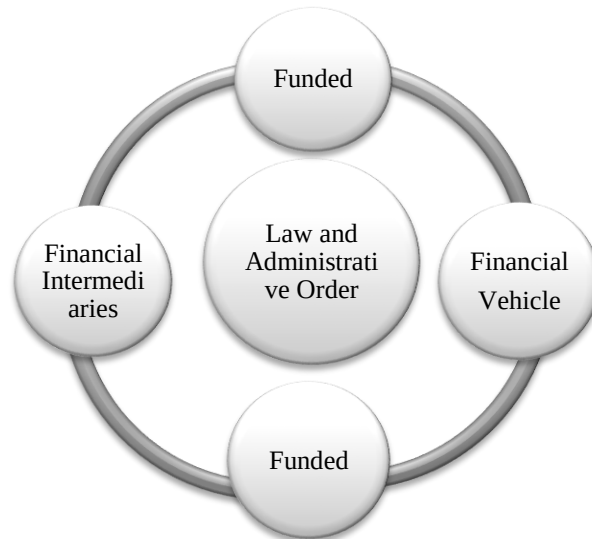


Figure 3. Financing System.

1.2.8.1. Islam and Financial Markets

The modern financial system where usury is of great importance is not available to Islamic people. Islamic religion as explained in the following sections is against usury-based financial system. It does not seem possible due to the beliefs that it requests funds or provides funds to this system.

Therefore, some of those who make up the funding segment within the five basic elements of the financial system want to follow the rules of the Islamic religion. In a sense, it caused the birth of the Islamic financial system in the face of similar requests of those who demand funds, the necessity of structuring financial instruments and financial intermediaries, among other elements that make up the financial system has.

All this structural change was made possible by the introduction of Islamic law rules into the legal and administrative rules which are the main elements of the financial system. In summary, some of the excess money can be used within the framework of the rules stipulated by Islam. This demand requires that the interest usury, not of the usury financial system, be completely removed from the system all vehicle's intermediaries and rules have changed completely. In the new structure called the Islamic financial system, there is difference between Islamic finance and usury-based finance in terms of the elements, functions, and purposes of the Islamic finance system.

The main difference is the change in the rules to be followed although Islamic finance has a practical point of departure. Muslims need to evaluate their funds. But Islamic finance also has a political background in the world where relatively closed economies were dominant. Except for the last few centuries, Muslims had provided a higher standard of living than the western world; although the fact that western civilization has outperformed the Muslim world in the last three centuries.

Highlighted how capital and accumulation could be provided for development financing and how finance can be financed within the framework of the current economic system inflation, paper money, money, stocks exchanges, complex derivatives, swaps have. Huge giant highways, bridges, tunnels are built, steel, nickel, chrome, silver, and copper prices are determined in financial markets all over the world. The necessity of establishing an economic system in accordance with the beliefs of the Islamic world has become one of the important issues discussed among Islamic thinkers for the past fifty years because of these discussions, a discipline known as the Islamic economy. It is possible to state that they have a consensus on the need for economic development and accumulation. ⁽²⁰⁾

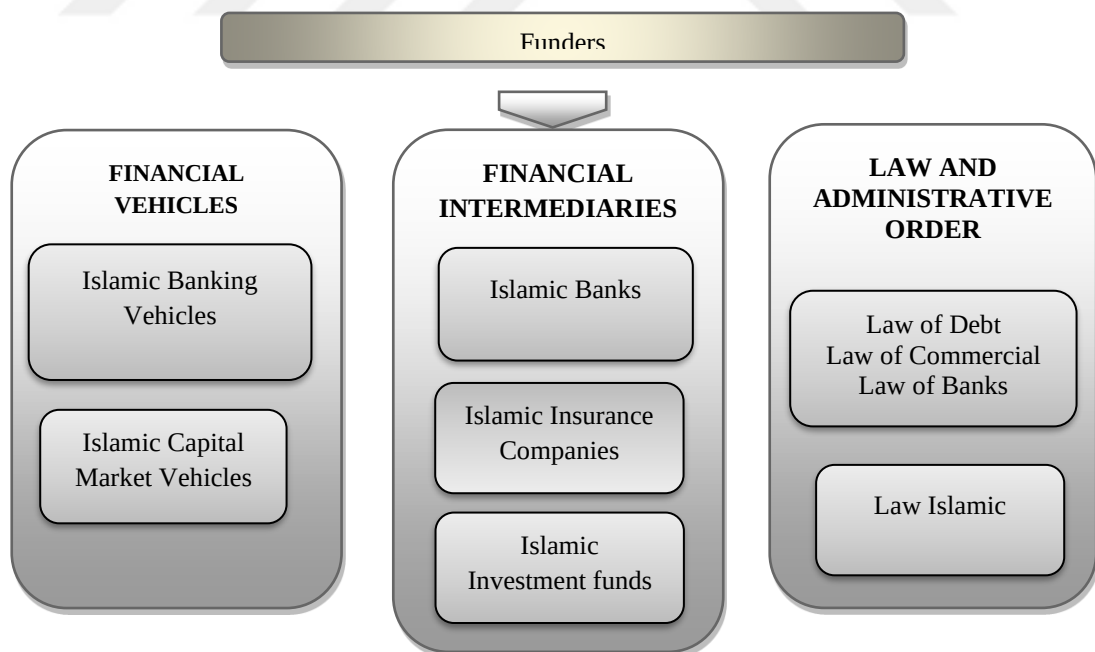


Figure 4. Islamic Financial System.

20./ Article/ Author/ Halit Jalish/ Jurist Perspective Finance and Gold Transactions Controversial Scientific/ Meeting Opening Speech. jurist Perspective Finance and Gold Transactions/ Istanbul / 2012 Legal and Administrative Order

1.3. Essential Instruments and Components In Islamic Banks

1.3.1. Speculation

1.3.1.1. The Concept of Speculation as Legitimate Guide

Speculation in the ⁽²¹⁾ dictionary is a name derived from hitting on the ground (meaning way in it), and in speculation, the language of the people of Iraq the surrounding dictionary, a thumper for him, that is, trade in his money, which is loans as for Al- lending. The language of the people of Hejaz, which are two names for one name the people of Al-Hejaz call this contract the name of a loan because the owner of the money has taken a piece of his money (A Lending from his money) and is safe for the other to work in it.

The people of Iraq, they call this contract the name of speculation because each of the owners of the money and who works in it hit in the profit with a share (His Share of profit).

As for speculation in the terminology, the jurists have defined it in different ways. Ibn Rushd said:⁽²²⁾ It is that a man gives the man money to trade in a part known by taking the money from the profit of any part of what was agreed upon by a third, a quarter or a half. Ibn Qudamah⁽²³⁾ said it^{is} for a man to pay his money to another who will be trafficked to him, according to what happened from the profit between them, according to what they stipulate.

Dr. Wahba Al-Zuhaili⁽²⁴⁾ defines speculation as a contract to participate in trafficking between the owner of the capital and a worker who invests with his experience and distributes the profit between them at the end of each deal according to the agreed rates as for the loss. If it occurred, it would be borne by the money owner alone, and the speculator will lose his effort or work that is the capital from one side, and management and disposal of it from another party.

21. Fayrouz Abbadi: The surrounding dictionary, Part 1, Dar Al Jalil (Beirut) 2009

22.Ibn Rushd: The Beginning of the Mujtahid and the End of the Muqtasid Part 2, Al-Istikama Press(Cairo)1995

23.Ibn Qudamah: The Singer, Arab Book House, Beirut 1972, p. 154

24. Al-Zuhaili, Wahba: Contemporary Financial Transactions, 1st Floor, Dar Al-Fikr(Damascus)2006, p. 90

Through the sayings of jurists in speculation (Lending), we can define speculation as: a contract between two parties in which one of them provides money to the other party to work with it for the purpose of profit. Provided that this profit is distributed between them in agreed rates initially as for the loss, it shall be borne by the owner of the money alone, provided that the other party does not default or exceed it. The owner of the money is called the owner of the money and the other party is called the worker or speculator.

Speculation legitimate guide if the Arabs in the pre-Islamic deal with this contract, as is the case for many contracts. This is an important observation Islam did not bring new contracts in transactions but set rules and controls that regulate the work of these contracts, regulate interactions between people. Also, Islam ensures that transactions achieve human interest in this world and the hereafter and maintain friendliness, compassion, harmony union of members of the Muslim community.

Prophet Muhammad went out to work for the Khadija's work (later, she will be wife of the Prophet) before his mission. May Allah be pleased with her, speculation to the Levant and executed with her a slave called soft, and this contract was continued after the mission of the Prophet and in the era of the companion's rowan. Upon them, it was narrated from Suhaib, may Allah be pleased with him, according to the words of the Prophet, there are three things in which there is abundance: sales with a certain maturity, mutual, interest-free loan, mixing wheat with barley for home not for sell. Therefore, our scholars, may Allah have mercy on them, agreed that it is permissible in general, but they sometimes differed in terms of this contract. ⁽²⁵⁾

1.3.1.2. Definition of Speculation

Speculation in terminology means that the money owner pays the speculator what he does not trade-in. In addition, the profit is shared between them according to the agreement, if the loss is on the capital only, unless it is proven that the aggressor or default by the speculator in Islamic banks.

Speculation means entering the bank in a specific deal with one or more dealers so that the bank provides the necessary money for the deal. The customer provides his

25.Sirah Ibn Hisham, Dar Al Jalil edition (Beirut). The author: Abdul Malik bin Hisham

effort, and the two parties become partners in yields. Bank is the partner with the capital, and the customer is the speculative part of the profit achieved, profit is distributed according to the agreed proportions. If there is a loss, the bank will bear a loss in its capital, and the customer will bear a loss in his work only. He will not have any debt because of the loss, and he will not have to bear a portion of the loss unless it is proven that there is an infringement or default on his part. ⁽²⁶⁾

1.3.1.3. Sharia Provisions and Conditions Related to Speculation

The Sharia terms and conditions related to Speculation are dividing as follows:

1. Special conditions of capital:

- The capital is from the minted money, like dinars as for money than other offers or tangible assets, there is a difference between the jurists.
- The capital is known to both the owner of the money and the speculator.
- The capital is not a debt of the speculator.

2. Special conditions of Business:

The speculative capital is delivered to the speculator and give his hand in it, provided that the receipt of the money by the speculator is not a guarantee unless the speculator encroaches on this money or fails to dispose of it. It is seen that the right to dispose of money and manage. In this contract it is a right for speculators, and it is not permissible for the money owner to interfere in managing this money for the following reasons.

- The speculator bears the results of misappropriating this money; therefore, to hold him responsible, he must be given the authority to dispose of the money.
- The speculator deserved profit in speculation by work.
- The owner of the money do not enter into the contract to obtain the experience of the speculator and his capabilities in managing money because he lacks this experience. If he had the ability to invest this money, he would invest it himself. It should be given the right to the money owner to follow the decisions of the speculator regarding money. It should be taken the

26. Harbi Muhammad Erekat. Islamic Banking. Department (modern entrance). Wael Publishing House. First Edition. 2010 \ p 156

measures that he is entitled to do in case he is not satisfied with the speculator's method of managing speculative money.

The work is a legitimate one in which it is permissible to speculate and according to the terms of the contract of speculation, for example. It is permissible for the speculator to work in trade and what results from it, such as mortgaging, renting and leasing. Delaying the price until a known period unless the contract stipulates, no one of the previous works is required as if the owner of the money requires the speculator not to delaying the price for a known period. The speculator may not lend the money of speculation or the gift of speculative money.

3. Special conditions for profit

- It should be determined the share of the owner of the money and speculators in the profit when contracting.
- Each party shares a common percentage of the profit, not a specified amount.
- Al-Shafi stipulated that the profit be shared between the two parties. It is not permissible for one contractor to exclude for profit, not the other.
- It is not correct for a contractor to require a specified amount of profit for itself.

- Sharia provisions related to it: Sharia provisions for speculation:

1. It is permissible to multiply the speculators and the owner of the money or one of them. In addition, the profit is distributed among the owners of the funds in proportion to the contribution of each party to the capital and the speculators according to the agreement between them.

2. There is no objection to restrict the speculator with some limit. The intended purpose of speculation and collecting profit as if the money is required for the speculator to work in a particular country and not to go with money to a politically unstable country.

3. The speculator's seizure of money, the receipt of trust, not a guarantee is meaning that the speculator does not guarantee what is destroyed or lost money unless it transgresses. The speculator is a trustee of the money. For an agent of the owner of the

money, it is permissible for speculators to sell, mortgage, deposit, and lease in a manner that does not contradict the terms of the speculation contract.

- The speculator does not deserve a profit until after the speculative money is converted into money and after the safety of the speculative capital. So the speculator has no profit until the owner of the capital meets his capital because of the profit is capital protection.
- It is not permissible for the speculator to pay the speculative money to another speculator, except with the permission of the employer.
- It does not spend it on the speculator from the speculative money except with the permission of the lord of the money at the Shafi 'he has the expense to travel to the public, and he has alimony in the event of residency from speculative money according to custom without extravagance. Expenditure is calculated from profit before distribution. ⁽²⁷⁾

1.3.1.4. Speculation Contracts

Speculation has two sides: capitalist (Money) and the entrepreneur (Speculation). Labor is defined as a business model in which it demonstrates its knowledge and experience all costs of the project (work) to be carried out with Speculation and the entrepreneur / Speculation who provides the labor carry out the management in this project. It is based on a partnership entirely based on trust. The project is based on a predetermined rate of profit if it is shared between the parties and the project results in a loss. It is essential that the loss be fully covered by the owner of the capital. A reporter contract has five key features:

1. One of the parties provides all capital.
2. The party providing the capital has no right to interfere with the management of the business.
3. In the event of a loss, the party providing the entire capital assumes.
4. The responsibility of the party who put the capital is limited by the capital it imposes.

27.Publications report /of the International Islamic Bank for Investment and Development - Center for Islamic Economics - Research Department

5. The sole owner of the partnership is the capital. The party providing the labor has no right over the assets in the partnership. Except for asking for the share of the resulting profit, one of the main issues in the Speculation contract is the sharing of profit.

There is no restrictive provision in dividend in terms of profit-sharing in Speculation contracts. The parties can freely agree on sharing the profit also in practice in the event that the contract for the contractor includes different lines of business or commercial transactions, different rates of profit distribution can be envisaged. For example, in the partnership of a Speculation established for the purchase and sale of cereals, the parties earn 50% - 50% of the profit from the sale of wheat. They can agree on sharing the profit from barley sales as 70% -30% another. An important issue in Speculation transactions is the limitation of the work or project. Speculation contracts can be on two principles.

In the first, Speculation has the freedom to invest as desired. It would be appropriate to name this type of intervention as free speculation. The second type is Speculation contracts, whose investment area is limited in such contracts. The capitalist limits the investment in certain areas such as the Speculation retail sector and the construction sector. This type of Speculation would be called limited Speculation. One of the most important points regarding the management of the speculation is that the capital owner does not have the right to interfere with the management.

For example, Speculation is expected to follow commercial practices that have become common practice for those doing the same job. It should be stated that it is not possible for Islamic law to earn a salary or wage-like income due to the work of the partnership for their works. Therefore, any of the partner companies cannot charge Speculation, and only if profit is obtained, Speculation take its share from a profit. It relates to the termination of the settlement in principle, whenever the parties wish.

It has the right to terminate the partnership of the Speculation if all of the assets belonging to the Speculation partnership are in cash form, the capital put by the capital owner is given back. If there is an increased value, the profit is shared between the parties according to the rate previously agreed. If there is another important issue in Speculation-type financing within the Speculation partnership, there are non-verbal assets to the Speculation. And the party that puts capital cannot confiscate these assets

with the claim that they belong to them; however, the Speculation must be given the right to turn these assets into cash by selling them, and if a profit occurs afterward, to take their share of this profit.

On the other hand, there is no consensus among the Islamic lawyers regarding the duration of the Speculation contracts Hanafi and Hanbali School of speculation contracts for a certain period (Six months, one year, etc.).

The Shafi and Maliki School think that they cannot be limited. The main problem with Speculation contracts is whether the parties can be restricted from the termination of the Speculation contract for a certain period because. When one of the parties terminates the Speculation contract when it is requested, it imposes great limitations on the financial use of this contract. However, there is no clear answer in the Islamic law books on this subject. It can be stated that Islamic lawyers regard the issue moderately.

(28)

1.3.1.5. Checks Speculation

As the name suggests, a speculation check is a type of check based on a speculation contract. The recipient is defined as a business model in which one side presents capital, and the other side shows his labor, knowledge, and experience.

Speculation that provides the labor carries out management the profit of the project (Business), which was carried out in a fully trust-based partnership model if it is shared at a determined and agreed rate between the parties. If the project results in a loss, it is essential that the loss be fully covered by the owner of the capital. These principles are also used in a speculation check structure that explains this structure in general.

28. M. T. Osman, An Introduction to Islamic Finance, Dordrecht, 2002..p 111

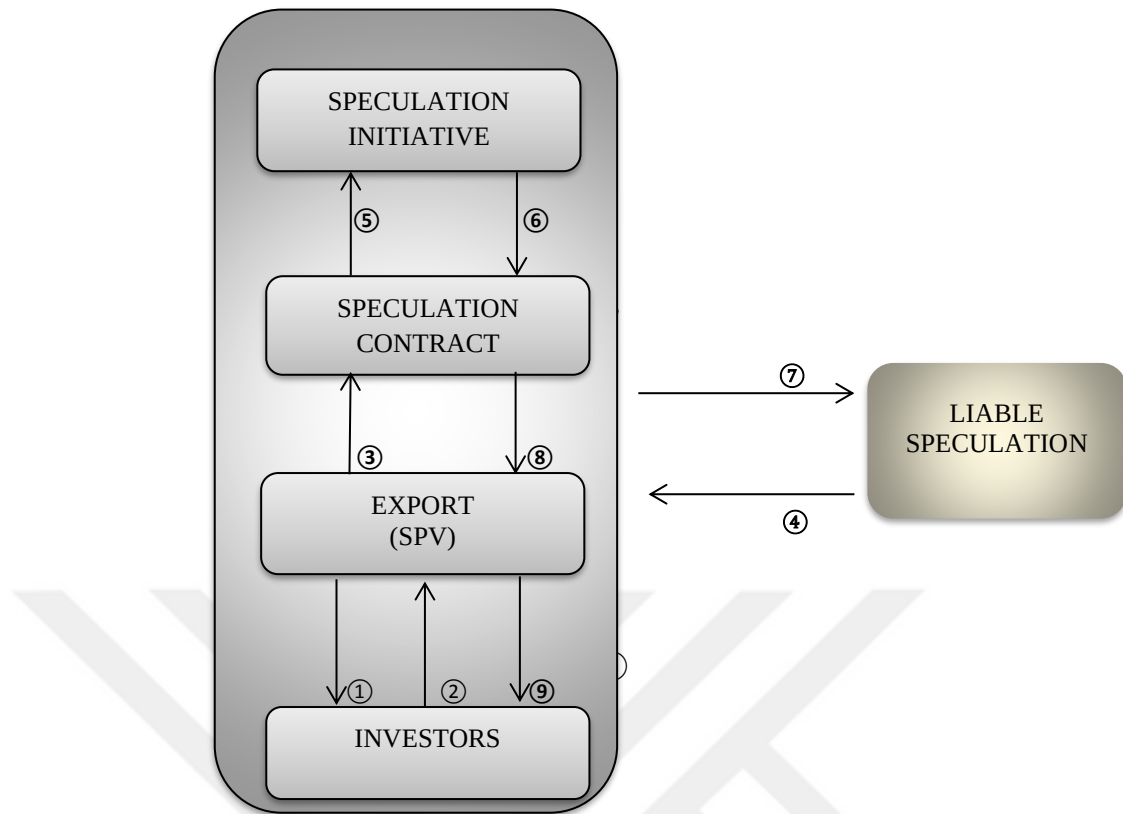


Figure 5. Speculation Check.

The basic logic of speculation check is based on the principle that the liable company creates a project and finds capital in this project through a check, as can be seen. The company is obliged to acquire an advocate employing a contract or agreement, in other words, the issuer (SPV). The special-purpose institution/company provides funding to the enterprise as a capitalist SPV. On the other hand, it provides the fund from investors with the issuance of the check. ⁽²⁹⁾

1. SPV checks exports.
2. Investors buy check SPV or they pay cash.
3. SPV becomes a party to the speculation contract.
4. The liable party becomes a party to the contract with the speculation adjective.
5. Speculation initiative is financed and operated by funds from check issuance.
6. Profits from speculation initiatives are calculated.
7. It takes a share from the profit determined in the scope of the speculation contract.

29.O. I. BACHE, January 2013, Istanbul, A Passage From The Presentation of the Capital Market Licensing Registry and Education Institution
Islamic Finance Education

8. The remainder of the profit is transferred to SPV.
9. Profit is distributed to the check holders in predetermined periods.

Speculation check, like all other check types, can be sold/transferred to secondary markets. Also, it is clear that there is no guarantee of dividends in accordance with the basic principles of Islamic finance.

This structure was used in 2007 by a Dubai-based port operating company named DP world for the issuance of one and a half-billion dollars to check while DP company was the liable company. In the established structure, SPV was established by DP world. DP World became a company with the title the subject of check issuance (Interference to the speculation). This was the operation of the container loading and unloading terminal of Jebel Ali Port in Dubai. The speculation initiative enabled the development of this terminal. One-third of the checks issued⁽³⁰⁾ were purchased by the USA and one-fourth by European investors.

1.3.1.6. Types of Speculations

A contract between the one who owns the money and the one who does not have it to work for an Islamic mission that plays the role of the speculator or the role of the money owner or the two roles there are several types of speculation, including.

1. Individual speculation. It is the speculation in which the relationship is bilateral between one speculator providing work, effort, and management and one owner providing money.

2. Collective (Partnership) speculation. It is the speculation in which the parties involved in speculation multiply between capital owners, employers, and experience. The most important forms of these speculations practiced by Islamic banks are the following.

- The owners of capital are numerous and the speculators are unique in that in the event that the Islamic bank invests the investment accounts (Deposits) by itself without the help of other speculators.

30. F. Jamal Al-Din(Islamic Finance for Dolls Paperback) August 2012,p119

- The speculators are numerous and the owner of the money is unique in the light of the Islamic bank investing in investment occasions in a friendlier way.
- The speculative parties multiply, the owners of the liquefied and the Islamic bank and speculators, and is represented by the Islamic bank giving money speculation to others. That is the relationship between the owners of the money, owners of investment accounts and the Islamic bank as a mediator the speculators who take the money from the investment bank.

3. Absolute speculation: the head of the money and the owners of investment accounts pay the money to the Islamic bank to invest it without restricting the time or place of the speculator. The speculator is authorized to work according to what he deems as an interest of the interest.

4. Restrict Speculation: the owner of the money (The owners of investment accounts) pays the money to the speculator, the Islamic bank. In addition, it is bound by a time, place, or type of a certain good by selling or buying. The speculator adheres to a specific behaviour agreed upon the contract, and represents it in the contemporary⁽³¹⁾ banking app restricted investment accounts.

1.3.1.7. Advantages of Speculations

The most important advantages of speculation are the following:

1. Addressing economic actors from stagnation, inflation, and poor distribution of wealth because of the establishment of new projects.
2. Achieving integration between the production elements.
3. Social advantages such as higher job opportunities, more property owners.

1.3.1.8. Distribution of Speculation

The distribution shall be according to a contract in which both parties met, and it is as follows:

31.Samhan Hussein (Islamic Banking Operations) Concept and Accounting .Al Shams Printing Press, Amman 2000 P,8

1. The bank recovers its capital, the value of the financing, without any increase or decrease, if it is safe.
2. The profit distributes the ratios agreed between the speculator and the owner of the money.
3. The loss will be on the party with the capital (The speculative party loses its effort only. Except in the event that he proves the infringement and default halls). If the speculative contract is corrupted, the speculator will have a reward similar to that.

Speculative expenses. The speculation expenses are charged according to their nature. The speculator bears the business expenses that would be done. Thus, he takes a share of the profit for, and the speculative pool bears the speculative expenses such as accounting, auditing, and money-keeping expenses, merchandising expenses from profits before distribution.

1.3.1.9. Evaluating the Use of the Speculation System in Islamic Banks

The speculation system is to be the main method adopted by financial institutions and Islamic banks in terms of formulating their relationship with their clients who provide funds to these institutions and investment banks in case of the bank is speculative, and investors are employers. When the bank is the head of the money, speculators are the ones dealing with it.

The use of speculation with Islamic banks is low due to difficulties and problems in practical application. In addition to the risks associated with financing through speculation, these risks made banks a lot hesitant to use speculation. The proportion of financing through speculation is equivalent to 1% - 2% of all financing methods in Islamic banks.

1.3.1.10. Practical Steps to Implement Speculation

Financing is often through speculation with Islamic banks by offering cash in whole or in part to finance a specific process in which another person is working based on sharing profit between the bank and the speculator. Trust and efficiency in relation to the customer and according to the following steps.

1. The request: The client who requests speculation submits to the bank a study of the economic feasibility of the deal or the legislator, who wishes to finance it through the Islamic bank, explaining.

- Full description and analysis of the nature of the transaction.
- Partial and total expected costs based on rationale.
- The expected partial and total returns are based on rationale.

2. Credit studies: The application is studied by the branch of the bank in question.

- Market studies on the deal to ensure its conformity with the reality of the market.
- Ensuring the profitability of the operation and the possibility of recovering the financing provided by the bank within the specified period.
- Ensure ring the customer's experience, efficiency, and knowledge of the expected market for this transaction.
- Ensuring that the customer's resume is ethical and honest through the bank's experience with him and the extent of his commitment to pay his previous obligations.

3. Approval of the financing supervisor: In light of the report submitted by the branch to the finance officials, approval of the financing, its terms and amount, and the percentage of profits will be issued and whether the financing requires the provision of an in-kind guarantee or personal guarantee from the client requesting speculation. In the event of a loss resulting from the infringement or default or the violation and a speculative contract is signed between the bank and the customer to document the process according to legal and Sharia principles.

4. Executing the strike operation: Opening a special account for the process (Speculation \ in the name of the customer) so that it can be spent on the deal, deposit imports in it, and liquidate the process through it.

5. Follow-up of the speculative client: The speculation is followed up during the speculation period by the employees of the finance and investment department at the

relevant branch during the main buying and selling process. In addition, to following it within appropriate periods, to ensure the progress of the speculation process according to the agreed plan.

6. Final liquidation: The client submits his accounts to the bank, including the amount of money withdrawn from the account to finance the process in its various stages and the money returned to the speculative account attached to the necessary documents the final. Liquidation may be preceded by initial liquidation operations and at intervals during the speculation period and according to their nature, and after auditing these accounts, to verify their authenticity, the liquidation of the process⁽³²⁾ is approved so that the Islamic bank recovers its paid-up capital without increase or decrease.

1.3.2. Participation

1.3.2.1. The Concept of Participation and Sharia Guide

The concept of participation is one of the important areas of investment in Islamic banks. It is also often seen as a successful alternative to the controversial Murabaha financing in the language. The word participation, is related to the word company or mixing, or mixing with the two partners⁽³³⁾as for the terminology, it is the stability of property of something that has a financial value between two owners and more, for each one to dispose of the owner's behavior ⁽³⁴⁾others define it as a contract between two or more people to work to earn money with money, business or prestige Sheep to be fined among them according to the agreement alternatively. It is a contract between the participants in the capital and profit.

The legitimacy of Participation: Participation is legitimate in the ⁽³⁵⁾ Qur'an, Sunna, and consensus as for the book, the Almighty says, Al Nisa12 (They shall equally share the third,) Al Sad 24 (Many intermixes wrong one another; except those who believe, and do good works, and they are few indeed).

32. Harbi Muhammad Erekat / ibid . p. 159-161

33.Ibn Manzur, Lisan Al-Arab, Dar Sader, Printing and Publishing, Beirut - 1956 A.H. 10 p. 448)

34.Al-Jaziri, Abd al-Rahman: The Jurisprudence of Transactions. C 3 p83.

35.The Quran(Al Nisa12).(Al Sad 24)

Speculation legitimate guide:

The Sunna of the prophets, the purified prophet, indicated many Hadiths⁽³⁶⁾ on the permissibility of the company. Bukhari and Ahmad included that on the authority of Abi Al-Manhal who said: my partner and I bought something to hand in hand and a forget. ⁽³⁷⁾ So, Al-Bara' ibn 'Azib came to us, so we asked him, and he said: My partner Zayd ibn Arqam and I did and asked me about that, and he said (He said, take what was from hand to hand and leave what was on credit) and he's saying, in the hadith Qudsi that he narrates from his Lord Almighty (I am the third of the two partners unless one of them betrays its owner if he betrayed him came out from between them). It was dispatch, and people dealt with the company and approved them.

1.3.2.2. Definition of Participation

Definition, legal rooting, first: definition change in participation in the language mixing (mixing money with each other, so it is difficult to distinguish one from the other).

Definition in the shared terminology: It means that two - or more - share a certain share in the capital of both of whom they trade, and the profit is distributed according to their funds or at a percentage agreed upon at the contract.

Rooting of sharia: They are partners in the third, not Hadith Sharif. I am the third of the two partners unless one of them is its owner. If he betrayed him, got out of them.

1.3.2.3. General Conditions for Participation

Among the most important characteristics of the general conditions for participation are as follows:

1. The capital must be monetary, and the ownership and Hanbali jurists authorized it to be one of the offers if it is evaluated with money at the time of participation, and this is the opinion of many contemporary jurists.
2. That the capital is known and available in the agreement.

36. Aboul Fotouh, Ahmed: Transactions in Islam, Eng. Q, C 2, p. 466.

37. Al-Rehaili, Wahba: Contemporary Financial Transactions, Eng. Q p 100. – 193

3. Those profits are distributed at the agreed rates (This is the opinion of Al-Shafi, Hanbali, and many contemporary jurists).
4. Distributing the losses in proportion to the contribution of each party to the capital and is not permissible to agree on otherwise.
5. That the profit is distributed among the participants with a common share of it in the sentence, not a lump sum.
6. That one of the partners does not guarantee the money of the company or the share of the partner or other partners in the capital, so the partner does not guarantee the money unless it transgresses or falls short.
7. The partner is not allowed to donate the beauty of the company, lending, gift, or loan.
8. The partner may waste money to give it to another person to sell it or buy it with it to return the price and profit without consideration. It is permissible to speculate with it and to do it with the custom made between the merchants and in a way that does not violate the Sharia. ⁽³⁸⁾

1.3.2.4. Participation Contracts

The Participate contract is essentially a type of ordinary partnership established by two or more people to trade and share the profit to be obtained therein. Participate, the parties can only produce labor together with capital or capital, as can be seen. Different from the Speculation where one side put labor on one side and capital on the other side, both parties can present both labor and capital in the brand contract for the Participate. Contract to be a valid contract in terms of Islamic law. It should include all the elements sought in a contract in terms of Islam (Avoiding forbidden, and haram, etc.). It is possible to list the important conditions related to the Participate contract as follows:

- The distribution rate of profit between the parties must be determined in the contract if a clear rate has not been determined. This contract is void in terms of legal rules.

³⁸ report \Formulas for investment and operation of funds in Islamic thought \ Islamic Economics Centre, International Islamic Bank for Investment and Development

- Regardless of the outcome of the investment, no arrangement can be made on a payment or profit distribution to a party.

There are different opinions among the legal schools regarding the profit distribution rate in Participate, contracts while Maliki and Shafi law schools have an opinion that the rate of profit distribution should be determined proportionally between the parties according to their capital has an opinion that the law school of Hanbali, is determined according to the free will of the parties on the other hand. Hanafi law school can be determined freely under normal conditions by determining a position in the middle of these two different views.

However, one of the parties only invested in capital and in no way demonstrated its efforts for partnership Speculation states that the share that this partner will receive from profit cannot exceed the share ratio in the capital despite the existence of these different views on profit distribution, there is consensus in the schools of law on the distribution of loss Islamic lawyers the share of the loss in the capital. If it occurs in the process of negotiations, agrees that it will be distributed to the parties according to the ratio. Another important factor in-Participate type financing is the capital. ⁽³⁹⁾

It is known, there are two types of capital: cash capital and capital in kind. The vast majority of Islamic lawyers are of the opinion that basic capital should be cash in Participate, type financing they only accept the acceptance of real capital (Securities or real estate assets and goods) under certain conditions. However, it cannot be said that all law faculties agree on this issue.

For example, some of the lawyers of the Maliki school and the lawyers of the Hanbali school do not consider it necessary for the health of the contract to be cash to be put in the contract. Both schools are of the opinion that the ratio that the securities or real estate assets will represent in the capital can be made as capital. Provided that the asset is valued at the market price, lawyers who are affiliated with Hanafi School do not in principle accept that in a contract based on a Participate, goods and similar assets are a type of capital. That the parties can use the lawyers of Shafi School have taken an

39.M.T. Osmani/ ibid,

intermediate approach to the two different views above Shafi Lawyers, have adopted a different approach to the two different viewpoints above.

Shafi School issues the number of qualified assets that can be accepted as capital in a Participate contract non-existent ones think that they cannot be accepted. It is important to note that the Hanafi school also accepted that at this point, the pledged goods could be included as capital in the Patrice pat contract but in this respect. It is looking for a condition to put capital from the same amount on both sides. On the other hand, participation is an important issue in investment management in type financing in principle. All parties have the right to take part in the management⁽⁴⁰⁾ of the Participate, investment, as well as working for Participate, investment.

1.3.2.5. Checks Participation

It is known, the participating contract is essentially two or more people is a type of ordinary partnership established to trade and share the profit to be obtained there. In participation, the parties can only produce labor together with capital, as can be seen. Unlike the speculation that one party provides labor and the other party provides capital, both parties can present both labor and capital in the participation contract. Suck in the participation in various sources venture partnership check (Joint venture check) it can be seen that it is called.

Participation check is valid for a certain period between SPV and convicts. The participation contract is signed, and the responsibilities of the parties, their contribution to the initiative, and the rate of profit-sharing are determined in this contract in the participation check structure. The liable company usually shows its knowledge and labor together with a land-like asset the most important element of participation check is that the liable company purchases its shares in the participation enterprise until the end of the participation contract. This structure can be made in a widespread manner in the form of decreasing participation. It can be made with a single purchase at the end of the term.

40.M. I. B. M. SHARIFF, Understanding the Principles and Approaches & Legal Documentation for Sukuk Issuance(Malaysia) 2013.

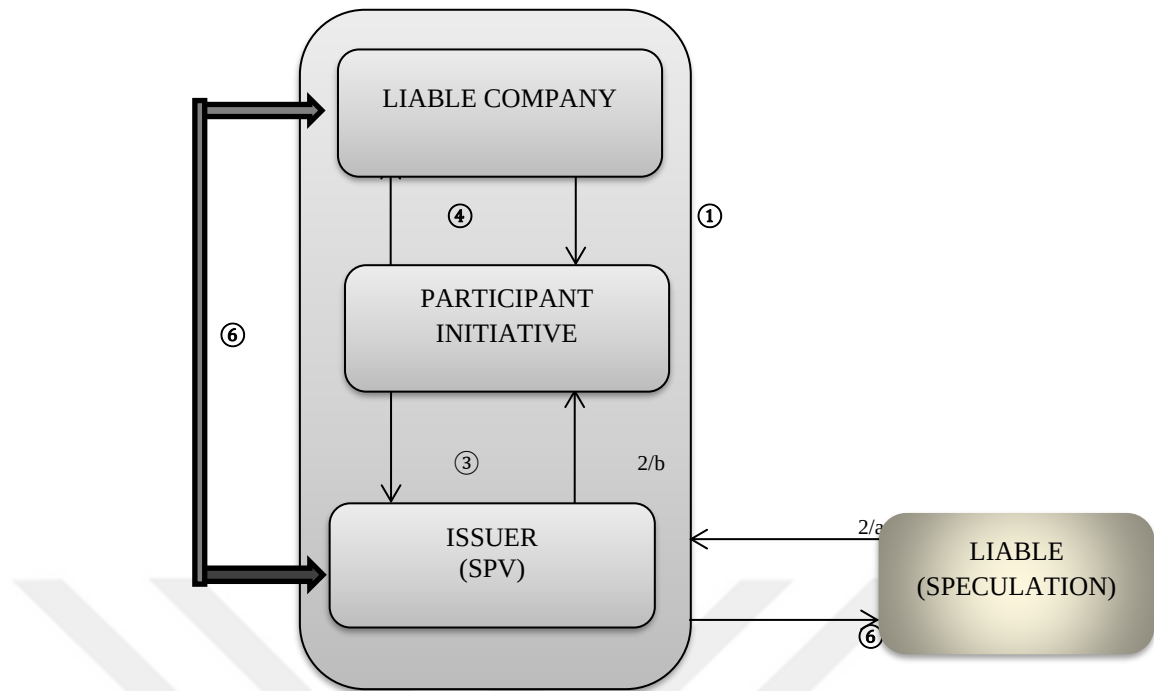


Figure 6. Participating Checks.

There is a general structure in the Participation check. It is possible to explain this process systematically by following the numbers in the figure.

1. The liable puts land or similar physical assets as capital for the participation initiative.
2. Investors provide cash capital to SPV by purchasing checks.
3. SPV puts capital in the Participation initiative in cash.
4. The obligatory conduct of the Participation initiative transfers the profit obtained to the SPV at a predetermined rate.
5. The liable party takes its share from the profit obtained.
6. SPV distributes the profit it receives to the check holders. ⁽⁴¹⁾
7. Obligated to obtain the share of SPV on the knuckle from the sale beforehand.

41.M. I. B. M. Sharif/ibid

1.3.2.6. Types of Participation in Islamic Banks

Participation is divided into several types as carried out by Islamic banks according to the perspective behind each department and the objectives required according to the banking work:

1. The properties company: That is, two or more people own something or an item with a monetary value (Straightened money) without a contract as an inheritance or gift. They are of two types.

A. Compulsory Property Company: It is two or more subscriptions to owning an eye. Something that has a financial value without having the best in this property, like an inheritance.

B. Optional Property Company: It is two or more subscriptions to the king by choosing them, such as buying a plot of land and registering it in their names in the land and real estate department.

2. Company Contracts: the contract between two and more to participate in money and its profit, and this contract require the permission of all or some of them to act for everyone. They are types

A. The Money Company, which is two or more contributions to investing an amount of money to work in it for the purpose of profit, whereby the profit is distributed among them at agreed rates, which are of two types.

B. The Negotiation Company: is the company in which each partner authorizes the company to his partners. All the partners in this company are equal in everything, whether in the capital, disposition. The share of profit and debt, so each of them is a guarantor and an agent of the other equally between them. This company is permissible with Imam Ownership and Hanifa, although they differed in some of its terms. ⁽⁴²⁾

C. Unleashing Company: It is the company in which one of the partners does not act except with the permission of the rest of the partners, and each of the partners is an agent of his owner to dispose of the money that they subscribed to it does not require equality in money, profit, or work.

42. Al-Imam Al-Shafi' - H 3 p. 231.

3. This company is best suited for Islamic banking and is more popular or common among people than its predecessor.

A. That the capital is present, not debt, so that it can be disposed of the two partners' share in the capital is not equal.

B. The profit is distributed among the partners as per the-agreement as for the loss. It is a distribution in proportion to the contribution of each party to the capital.

C. That each of the partners authorizes his owners to act, and neither of them may be prevented from working.

4. Al-Wajwh Company: The front for the company: it is the participation of two or more, all of them or some of them have merit with the people. Without having money, so they buy goods at a deferred price and sell them the profit is distributed among the partners according to the agreement, and the loss is distributed according to the guarantee of each of the partners the capital of this company and the worthiness of the partners to which the debt relates. It is the base on a personal consideration where confidence in its parties plays the main role in it, which distinguishes it from other forms of other companies.

5. Business Company: It is the agreement of two or more manufacturers to accept a business and participate in its performance together whether the workmanship is uniform as tailors. It is different as sewing and dyeing and profits are distributed between them in agreed proportions the Haifa's called it an acceptance company, and the industrial company, ownership, described it as a commercial company. In addition, Al-Hanbali called it "Abadan Company," and it is now common in auto repair, trade, and other workshops.

6. The Expiration of the Company: The Company's contract is an unnecessary permissible contract, which means that each partner has the right to cancel the contract without harming the other partner as the company ends with the death or madness of one of the partners. The end of the specified period of the company after it is liquidated with temporary participation.

1.3.2.7. Advantages of Participation

A formula that is not controversial from the legal aspects, as is the case with Participation. Because it is free from defects in Sharia and interest exploiting the excess

liquidity usually in Islamic banks with high returns distributing risks among the owners of capital and saving efforts due to the distribution of responsibilities among partners

1. Its formula is not controversial from the legal aspects as it is the case of Murabaha, and it is free from legal defects and usury.
2. Achieving rewarding economic and social returns works to tackle economic diseases by increasing national product and income, reducing unemployment, and reducing the negative effects of inflation.
3. Exploiting excess liquidity in Islamic Banks, usually with high returns.
4. Distributing risk among capital owners and saving efforts due to the allocation of responsibilities between partners. ⁽⁴³⁾

1.3.2.8. Steps to Work with Diminishing Participation

The business owner based on these steps with the decreasing Participation that is among the following steps:

1. A customer who wishes to participate with the Islamic bank in a specific project submits a written request stating the following
 - The project he wishes to establish
 - An economic feasibility study for the project.
2. The project is studied by the Finance and investment department of the Islamic Bank in light of the criteria for financing and investment that we have previously described in another topic.
3. The placement is made by the finance and investment committee in the branch, with or without approval or modification of the conditions for granting the financing requested by the customer as a percentage distribution of profits, for example, in light of the criteria set by the bank's management to enter the participations such as the recovery period and the expected profit rate.

43. According to Bakr Al-Rayhan\ Article\ Speculative Financing In Islamic Banks, Unpublished Papers, May 2002

4. Issuing a decision to approve or not the customer's request, or to approve, with certain modifications.

5. Inform the customer in writing of the approval details if he agrees to the conditions, the finance and investment department of the Islamic Bank prepares the participation contracts.

6. Signing contracts from the representatives of the bank and the customer in preparation for starting implementation also notify other departments related to the implementation of the contract, such as the bills of exchange, the deposits section, and the documentary credits section.

7. Following up the implementation of the contract with the customer according to the company's activity and delegating the powers of management and financial matters between the Islamic Bank and the partner ensures participation in the best possible way to achieve the desired goal.

8. After finishing the participation, the finance and investment department usually prepares reports showing the participation period and the percentage of profits achieved therein. Compared to feasibility studies and similar market return rates to evaluate the process and plan for the future. ⁽⁴⁴⁾

1.3.2.9. Evaluation of the Use of Participation in Islamic Banks

The system of participation, in addition to the system of selling for the profit margin of selling the Murabaha to purchase order, are the two main models of Islamic finance. Most theoretical research conducted by Islamic Economists indicated the weighting of participation over the profit margin. This is why Islamic banks used the participatory financing system as a basic basis for the new bank financing they called for. They came to devote it in reality Soon found that they were unable to use it effectively for the following reasons.

1. The participatory financing system is unable to meet all the needs and requirements of economic life.

44. According to Bakr Al-Rayhan, /ibid

2. The participation system does not achieve the expected profits.

3. Management Problems: It revolves around the difficulties that banks face in supervising the projects that they finance with participation and following up their implementation, especially when the project location is far from the bank's location.

4. The problems of the participants: It is often the most dangerous because of the lack of professional competence imposed on them, and their dependence on banks, in terms of their refusal to announce the conditions of the projects. To announce them incorrectly or declare fake losses, with the aim of maintaining the highest possible percentage of profits from on the one hand, and charging the tariff structures that show his share of the capital on the other hand. The most important fraudulent tools used by a party in not keeping accounts at all or keep them in an uncontrolled manner, as well as fraud in everything that assumes its nature such as merchandise and assets, and paying high salaries to officials and this last tool is intended for them to evade the performance of taxes on profits.

5. Unsuccessful owners of successful projects are unwilling to engage in partnerships with, given the success of their projects and their reluctance to enter others with them. Here the Islamic name banks can deal with them other than the system of participation; they are direct to the traditional banks that raise their relations with creditors and debtors.

6. High Operating and Management Costs: Especially if the project implementation requires a high degree of technical expertise or scientific qualifications, especially in projects of a special nature whose work is based on a variety of specializations. In addition, the monitoring process for the conduct of its work and the control of its expenses and revenues need continuous monitoring from specialized agencies.

7. Difficulty to monetize financing in participation processes: Since participation contracts are often permanent contracts, therefore, once contracts are completed, it becomes difficult to terminate them before the associated projects are complete, even if the initial results indicate that the project did not succeed.

8. The inconsistency between the values of the contracting parties may cause problems when implementing projects and following them up; thus, when providing financing for their clients, banks will have to take into account these factors. In addition to the feasibility of the projects under discussion, in other words, a party may present a good project technically, but there may be a conflict between the cultural and behavioral values between the two parties and in such cases. It is better not to consider the project suitable for financing in a participatory manner despite its feasibility.

9. The desire for privacy, just as the desire for privacy, is a recognized natural phenomenon, and privacy may be needed to keep the actual operations confidential for the project, to protect the rules for comparative advantages of the project, or to avoid certain governmental rules. Unless the contracting parties are willing to participate in his privacy, it will be difficult to apply participation.

10. Running the institutional work of the project: and for this reason, unless there is an identical behavioral relationship, participation contracts will become a source of dissatisfaction with the financiers and financing users due to the presence of institutional factors. Such as the completion of legal or accounting formalities in the day-to-day operations of the project and others, which necessitate taking a full opinion and signature parties involved in the daily operations of the project.

The reality of the state of the volume⁽⁴⁵⁾ of dealing with Islamic banks in the systems of speculation and participation does not encourage much optimism in this regard Islamic Banks, like other financial institutions, aim. In addition to providing social and economic safety for the Islamic community, to achieve the profit that investors seek in these banks in addition to what the banks themselves are seeking, as the measure of its success cannot be estimated in the world of reality, money, and business. It has the investors who deal with it except by achieving a profit, and that this profit is at the same time the level of profits achieved by financial institutions that deal with interest or close to it with the highest minimum rating.

Whereas Islamic banks found practical risks and difficulties in applying the financing system with participation In addition to the lack of financial returns resulting

45. Mahmoud Mohamed Tohamy. Guide to Islamic Finance Formulas. International Investment Centre(Cairo) 1991

from projects funded for multiple reasons, such as increasing the cost or dishonesty of the participants, and other reasons that have been previously mentioning, they have refrained from repeating their experiences in this field, and even reducing of them.

As was shown by the numbers of their dealings in this financing method, and unless this system has undergone actual changes, the volume of dealing with it in recent decades will give a clear indication of its future course. It is appropriate to point out here that the new system called diminishing participation has received more acceptance than permanent participation for ease of application the limited period of participation since the beginning of the project. In addition, by gradually reducing the bank's participation rate by selling the bank's share in the project in successive installments.

1.3.2.10. The Difference Between Participation and Speculation

It is necessary to clarify the fundamental difference between participation and speculation in the following:

In participation, the partners' capital is mixed with each other either in speculation. So, there is no imbalance in the money with each other because there is only one capital in it that is matched by effort, and the speculator works.

1. If it ignites a loss in participation, it will be according to the share of each in the capital while in speculation. The owner of the money will bear the loss alone in exchange for losing the effort and work of the speculator.

2. Working in participation is the right of every partner, working in it or not working, and if the work does not happen except with the approval of the other partner. But in speculation, work in it is a right of the speculator only, and there is no right for the lord of money in it.

3. The lord of the money has no right to interfere in the affairs of the speculator in speculation. At the same time, the partner who is a shareholder of part of the capital has the right to interfere in the affairs of the other partner.

4. The disposal of the company is complete for every partner, on his behalf, and behalf of others as for Speculation. The total recognition is in it for the speculative worker only. ⁽⁴⁶⁾

1.3.3. Deposit

1.3.3.1. Deposit Concept

The term of deposit is defined by some as (What is left to the security) and others defined⁽⁴⁷⁾ it as a power of attorney to keep the money we see by defining the depositary jurists as. Money paid to whoever keeps it for or without (without compensation) noting that the money here does not mean the money only sums of money delivered by a person by any means of payment to another person who is obligated to return it to the student or according to for the conditions agreed upon, the depositor has a cash deposit and has the right to dispose of it, with an obligation to return the same to the depositor. This legal concept of a bank deposit makes a friendly loan. ⁽⁴⁸⁾

The Concept of Deposits in Islamic Banks: After studying deposits, their types and conditions in Islamic banks in this chapter, we will find, Allah willing, that any of the concepts that we mentioned for the deposit will not apply to all types of deposits the accounts in Islamic banks deposits in their linguistic or idiomatic sense do not apply to accounts in Islamic banks. Except for the legal concept that applies to part of these deposits, which are credit deposits, as we will show therefore, it is necessary to discuss the concept of the word contract to turn the strike and the contract to reach an accurate concept of Islamic bank deposits between speculation.

1.3.3.2. Types of Deposits in Islamic Banks

There is no doubt that every bank needs financial resources to finance it, as the bank's capital is considered a percentage. It is insignificant in relation to the total funds that it uses, so bank deposits are considered one of the most important sources of funds in banks in general:

46. Mohammed Mahmoud Al-Mekkawi.. /ibid . 2009 p. 173

47. Al-Zayla'i,(Presentation of the facts from treasure the minutes) Al-Amiri Press (Cairo) - Volume 5, p.93

48. Shams al-Din Abu Abdullah Muhammad .The Woodcutter, talents of Galilee - 5,250 - Al Saada Press - 1 - Cairo 1355 A.H

1. Accounts (Deposits) Credit: Islamic banks accept funds from depositors in this type of account as a loan. The funds are accepted as loans that you commit to repay without any increase or decrease. But Islamic banks here obtain authorization from the owner of the money (the depositor) that enables them to dispose of the money deposited on the guarantee of the Islamic bank. Thus, the depositor does not have any right to the results of investing this money, nor does he bear any responsibility (Loss) resulting from the investment. The returns on this investment will be exclusively for the Islamic bank, in accordance with the rule of sheep, in terms of fines and abscesses, by guarantee.

- The most important conditions related to investment accounts.
- Conditions relating to the amounts that may be withdrawn and how they are to be treated in terms of profit sharing.
- Conditions related to authorizing the bank to operate in speculative funds this kind of condition must be clear and written and be understood by the customer who wishes to open the account the moment he signs the account. Opening contract negligence on the part of Islamic banks is very unacceptable because it destroys the basis of permissibility. The depositor in investment accounts obtains a portion of the investment earnings from the investment account funds.
- Conditions related to the percentage of the share participating in the investment.
- Conditions related to the minimum and the maximum allowed entry to participate in the investment.

2. Investment accounts: The Islamic Bank opens these accounts deposits to its clients as speculation, where the owners of these accounts aim to invest their money. They sign a contract with the bank (account opening model) that they authorize the Islamic Bank to operate with their funds within the legal conditions. Provided that the profits of investing this money are distributed between them and the Islamic Bank at agreed rates initially as for the loss, the owners bear the money owners or the owners of investment accounts unless the bank falls short or treats money this is required by the contract of speculation. Islamic banks mix the money of all the depositors in these accounts together as they mix it with their own money, therefore. These accounts are

calling joint investment accounts. The Islamic Bank is here the worker in speculation or speculator while the owners of funds are the depositors.

- Owners of investment deposits continue to own the money deposited in the Islamic bank. But here, they authorize him to dispose of these funds and invest them according to the agreement.

- Depositors bear the risk of investing their money. ⁽⁴⁹⁾

1.3.3.3. The Fundamental Differences Between Deposits in Conventional and Islamic Banks

The general types of deposits in Islamic banks are not different from them in conventional banks (usurious) in general. They are either credit deposits on current and demand accounts or investment accounts such as savings accounts or under notice or term. This raises a question when dealing with banks, whether Islamic or conventional, regarding the fundamental differences between these accounts so. The reason of permission for the owners of the investment account in the Islamic bank to obtain profits while taking any increase in the account's origin in traditional banks is considered a religious prohibition and a form of usury.

1. As for credit accounts, they are usually similar between conventional banks and usurious banks. Islamic banks do not give the current account holder or demand any returns or profits, even if these returns are the result.

- The result of investing his money because the owner of this type of account does not participate in the investment and does not bear its risks. The Islamic bank is a guarantor of money, and it belongs to Allah because the account holder gave him the money and authorized him to use it on his guarantee. Provided that this money is withdrawn from his account or part of it whenever he wants and as long as the Islamic bank will bear the risk of investing money (The fine), it may account for the profit of investing this money (Profit) and in return the statement of account of such depositors in the Islamic bank - if it happens - is done free of charge as for traditional banks. They also open these (Credit) accounts its customers

49.Awad, Ali Jamal Al-Din, (Bank Operations Legally) Dar Al-Nahda - Cairo 1969. P. 17

- However, they use this money to lend to their customers with a fixed interest rate (Usury); consequently, depositing in these banks is considered as a collaboration against sin; even though the account holder may not receive any interest.

2. The owner of the investment account in the Islamic bank signs a speculative contract with the Islamic bank. As we have indicated, it is agreed that the Islamic bank will invest the funds deposited in such an account in exchange for a common share of the profit.⁽⁵⁰⁾

Table 1. The Following Table Summarizes the Main Differences Between Deposits in Conventional Banks and Islamic Banks.

The difference	Investment deposits In Islamic banks	Investment deposits in usurious banks
Deposit ownership	The depositor's ownership of his funds continues. Which carries risks Its investment and makes it entitled to participate in the profits	The ownership of the money is transferred from the bank depositor. Thus money becomes a debt in the bank, which haram the payment of any increase to the depositor
Profits or losses	The depositor shall bear the losses at a rate in proportion to his contribution to the speculative capital in the event of losses and taking his agreed share of the profits in case of making profits	The depositor does not bear any losses if they occur. It has nothing to do with the profits of investing his money. Rather, it has a predetermined return regardless of the investment results
Type of contract	speculation contract is permissible Sharia	Tenancy contract for cash is not sharia permissible (Usurious contract)
Yield of guarantee	The return is not guaranteed for the depositor and is not specified. He has only a common share of the profit made or Bear. The loss if it occurs	The return is guaranteed relative to the depositor Advance regardless of the results of the usurious bank

Source .Samhain, Hussein: Islamic Banking Operations

50.Samhan, Hussein: Islamic Banking Operations p. 16 \ ibid

1.3.4. The Sales

1.3.4.1. The Concept of a Sales Contract

The concept of a contract of sale is a language that is the extension of the hand with money, and it is a swap of money for money. But he called the contract metaphorically because it caused ownership, and the term sale of opposites is called something and against it like Shari in the sense of sold and meaning bought each of the contractors is said to be a seller, and they are said to be obedient. But what comes to mind when mentioning the seller's word is the one who owns the good. ⁽⁵¹⁾

As for the term jurists, it has several definitions, including (Swap money based on properties and ownership) ⁽⁵²⁾ or it is a swap of money for money particular or is swapping something desirable, for example, satisfaction. ⁽⁵³⁾ It is at Shari (Interview money with money properties and ownership and when the Maliki⁽⁵⁴⁾ is a contract compensating a non-profit, not a pleasure) Legitimacy of the sale, the sale is legitimate in the book, and consensus and reasonable.

In the Holy Quran, there were many verses indicating the legitimacy of the sale the almighty said in Surah Al-Baqarah 275 (Selling is like usury Allah has permitted trading and forbidden usury to whomsoever an exhortation comes from his Lord then he desists, he shall have his past gains) An-Nisà 29 (Believers, do not consume your wealth among yourselves in falsehood) except there. ⁽⁵⁵⁾

1.3.4.2. Conditions of a Sales Contract

The conditions that must be met at a price do not differ from those conditions that must be sold. Some even consider the subject of the contract price and sale together.

1. To be value money.
2. That he be aware of negligent information.
3. The price in terms of timing is divided into:

51. See Language Dictionaries Such As The Dictionary Of Turquoise Abdi And Books Of Jurisprudence (Bab al-Bayu ')

52. Ibn Qudamah - Al-Mughni, Previous Reference Jem

53. Al-Kasani, vol. 5, p. 133

54. El-Sherbiny, the Singer in need - Part 2, p. 3

55. The Holy Quran(Al-Baqarah 275)(An-Nisà 29)

- Current price: The so-called cash price, which is the price that must be paid upon completion of the contract of sale.
- The Equitable price: The price is paid on parts that may be equal or unequal and at different and specific times in the future according to the agreement of the seller and the buyer at the conclusion of the contract.
- Deferred price: this price will be paid to the seller in one payment at a specified time in the future.

1.3.4.3. Elements of Contract, Sale

The majority of jurists agreed that the pillars of the sales contract are the formula and the place of the contract and the two contracts. There are conditions that must be met in every corner that we briefly re-mention it to make it easier to link⁽⁵⁶⁾ it to the sales contract as for the formula. Which is affirmative and acceptance, it must indicate consent, whether, by word, reference, writing, or action, and the affirmative and acceptance is issued in the contract council as for the location of the contract. It must be present at the contract, with the ability to deliver, knowing that it is ignorant of ignorance and that it must be money (Halal) and owned by the seller.

1.3.4.4. Types of Sales

The Jurisprudence department of the sale has several divisions in terms of health, depletion, and necessity, and the description of the sale. We will discuss these sections briefly.

1. Sales in terms of validity.

A. Proper Sale: The sale meets all the legal conditions that must be met in the contract. It has already been explained in detail.

B. Sale of Falsehood: It is a sale that is held in violation of the Sharia conditions in a way that cannot be corrected, such as selling alcohol.

Corrupt Islamic: It is the sale that spoils for any reason, but it can be corrected by removing the causes of its corruption. It is the sale whose corners are available with a violation of one of its conditions or a description of. It as if a person sells another car at a deferred price without specifying the time of payment in cases where selling

56. Wahbah Al-Zuhaili, Fundamentals of Islamic Jurisprudence, and its Evidence - Part 4 (Damascus) p. 346

involves ignorance leading to conflict, such as selling the car without specifying the time to pay, the corruption theory invented by the Hanifa is applied.

Dr. Abdel-Khayyat says: This is with the Haifa's, they invented the theory of corruption, and it is a mediator between health and invalidity, as the contract is valid in its corners, there was no imbalance in it that invalidates it. But there was an imbalance in the branches, so they do not say that the contract is null as long as it is correct and in it, imbalance of its branches can be corrected, unlike the majority of jurists who considered that the forbidding requirement is null and void.

They ruled the nullity of the contract associated with a condition or description prohibited in the event that⁽⁵⁷⁾ the sales contract is corrupted. It can be canceled by the seller, buyer or judge, provided that the condition of the sale has not changed significantly after the execution of the contract. It also stipulates that the rights of others that were acquired in the sale, such as renting a property purchased to those around him, should not be affected by a hotel or restaurant. The causes of corruption must be removed in all cases until the contract is approved.

2. Sale in terms of penetrating and necessary.

A. Sale Window a necessary: It is a sale that one of the two parties may not annul without the consent of the other party. Which is any valid sale that fulfills all the terms and conditions, and the contract of sale is close before any of the followers refuses to sell it.

B. Sale an unnecessary window: The sale is permissible for the buyer or the seller. One of them is permissible, such as buying a car and stipulating the option for either the seller or the buyer or one of them to withdraw from the sale (Cancel the sale contract) within three days in this case. A sale contract is an unnecessary contract in force during the three-day option period after this period. It becomes a necessary and effective contract.

C. Sale Foundation (Not Penetrating) is the sale that depends on the leave of a person or other non-subscribers, such as the sale of a nosy (Who has no right to sell)

57. Ahmed bin Fateh bin Abdullah (The Book of Transactions) Part 2, p. 363

whose enforcement of the sale depends on the consent of the owner of the good alternatively. Such as selling a privileged boy whose enforcement will be suspended his purchase upon the approval of his guardian.

3. Sales in terms of the nature of the sale (In terms of the nature of the two alternatives)

A. Sale of Barter: It is the sale of a commodity by a commodity, or it is an exchange of money for money other than the price. It is by selling the goods together like selling a kilo of wheat with five salts or selling a car at home.

B. Sale the exchange: It is the sale of cash-by-case of a non-sex kind, such as selling the dinar for two dollars, if delivery is making in the contract council.

C. Sale Forward: It is the sale of debt by eye, such as selling a ton of wheat and receiving its price immediately while delaying delivery to a specified time in the future.

D. Sale Absolute: It is selling the eye for cash. Alternatively, he is selling the commodity with urgent or future cash. It is divided into the Sale of bargaining it is the sale of a commodity at a certain price that the seller and the buyer agree upon after bargaining negotiations. Without looking at the first price (The cost of the commodity on the seller), this sale is desirable by jurists because it does not depend on the seller's trustworthiness to mention the cost of the commodity. Therefore, it is better for a person because there is no misfortune to the seller in it, as is the case for selling the trust.

E. Sale of Secretariats: It is the sale in which the capital of the commodity (The Cost of the commodity) is mentioned to the seller thus. The buyer and seller fully know the value of the profit made by the owner of the good (The Seller).

4. The sale of liability: The sale that is made without a profit or loss to the seller. That is, the sale is at the same price as the first.

A. Sale at a Loss: It's the sale in which the seller loses, and the good is sold for less than its first price.

B. Sale of Murabaha: This is the sale at the price of the first price with an increase. The basic principle in selling is to be profitable. As it is impossible for a man to put his money in a business with the aim of losing Murabaha sale is divided into:

C. Murabaha simply means selling the owner a commodity that he already owns for as much as the first price and an increase. Like the sales usually made by all merchants, they buy goods and put them with them until someone who wants to buy the commodity comes and they sell it to them. Usually, with a profit, the sale may be a bargaining chip or a trust. The price may be immediate, deferred, or simplified.

D. A compound audit (Murabaha, Cost Plus Sale) is a trust sale, where a person asks another person to buy a specific good and promises to buy it from him with a certain wind. This sale is made by Islamic banks and constitutes a large percentage of its total investments, which exceeds 90% of the total financing granted in Islamic banks. ⁽⁵⁸⁾

1.4. Murabaha

1.4.1. The Importance of Murabaha

It is worth noting that Murabaha is one of the most common financing methods among Islamic banks. An estimate is through Murabaha Islamic banks through Murabaha have been able to compete with lending operations with conventional banks for the following reasons:

1. The ease of applying the Murabaha operations to the order of the purchase unlike other types of Islamic financing such as participation and speculation where you need more sophisticated and clear operations.
2. Ease of monitoring the implementation of the process by the bank's bodies in terms of internal Sharia or control.
3. The ability to determine the level and amount of financing returns since the start of the Murabaha studies.
4. The applications of Murabaha sale for the ordering of the purchase include a wide range that covers most of the durable or non-durable goods or consumables.

58. Abdul Aziz Al-Khayyat (Theory Of Contract And Options In Islamic Jurisprudence) Publication: Jeddah (Saudi Arabia)1994 Arab Institute For Banking And Financial Studies

A. In Scope of per capita consumption: is financing through the various consumer goods available in the market: cars, furniture, electrical appliances, etc.

B. In the field of trade: Merchants finance all their needs of textiles, building materials, and foodstuffs.

C. In the field of the industry: industrialists are funded with the raw materials equipment or factories they need.⁽⁵⁹⁾

D. In the field of contracting: contractors and contractors are funded with the mechanisms, equipment, and materials used in construction buildings, roads, factories, and others. In the field of modern technology, finance includes the scope of computers.

E. In the field of agriculture: The financing includes meeting the needs of farmers for fertilizer, seeds, agricultural tractors, greenhouses, and packaging and packing equipment in the field of education universities and institutes are funded with the buildings, equipment, halls, and so on that they need.

F. In the field of health and hospitals: financing hospitals with the necessary medical equipment and financing pharmaceutical factories with equipment, supplies, and raw materials for the drug production process. As a result, the financing includes every commodity that does not violate Sharia or law, whether the purchase is from the local market or imported from abroad.

5. The Bank Managed: Before providing funding, Murabaha, Cost Plus Sale from studies the client's situation, financial capabilities, activity, position in the market, his literature, and his ability to fulfill his obligations in the event of granting the necessary financing. This leads to the bank's request to obtain personal or in-kind guarantees or deposits to preserve the right of the bank if the customer fails to fulfill his obligations towards the bank in maturity, the commodity subject to the necessary supply, maybe mortgage.

6. The bank can confirm the customer's seriousness in this type of financing by saying that the payment is a down payment that represents a certain percentage of the value of the commodity, and this is used by requiring payment down payment it represents a certain percentage of the commodity value and uses this down payment (Maybe called insurance) to repayable the damages and expenses that may be incurred by the bank when purchasing the commodity the customer's reluctance to buy it according to the data provided by him.

59. Harbi Muhammad Erekat/ ibid

7. The bank can confirm the customer's seriousness in this type of financing by providing partial financing for the process. And by requiring that the customer contribute a portion of the value of the commodity (Third or quarter) and finance the rest of the bank.

This partial financing is used when the value of the good is large compared to the capabilities of the customer. Such as asking for financing to buy a car for individuals or when housing units are requested where long-term financing and the sums are large. It is imperative to ascertain the seriousness of the applicant through his contribution to a portion of the value of the required financing, such as a quarter or a third or a higher percentage from the beginning and before approving his request.

From the point of view of an Islamic bank client, dealing in the method of Murabaha, where is the purchase, provides the following:

1. Knowing how much negativity is the charge on it since its purchase; where the value of one-quarter of its value is, calculate from the beginning of the process, finally, by the tax termination of a system of corruption with traditional banks where interest continues to be calculating on full payment.

2. Determine the payment installments in line with the customer's cash flow.

3. The client knows from the start that he will not pay additional new amounts other than what was agreed upon. In case he is late on payment for reasonable reasons, this is what encourages many clients of Islamic banks to accept a method those who are few of them are delaying the payment in maturity or stalling in the payment this advantage is appreciated. If it is in the interest of the customer, it may turn in the event of stalling to a problem with the Islamic bank.

4. In the case of selling Murabaha through documentary credits. The bank is responsible for any damage or defect in the goods or commodity until it is sold and delivered to work.

5. All of the above-mentioned factors of making Murabaha financing the most suitable financing tools for Islamic banks in their operations and helped them compete with traditional banks in the ideal financing fields and all segments of society. He also

encouraged many customers to go to which is Islamic. To take advantage of this method of financing, with it for the advantages it provides to them that may not be available when dealing with traditional banks. ⁽⁶⁰⁾

1.4.2. Murabaha, Cost Plus Sale

The concept of Murabaha: Murabaha in the language is a profit-reactive increase in addition profit is trade growth.

1.4.3. The Types of Murabaha

Islamic Murabaha, if the seller owns the sold goods, then it is simple Murabaha, and if it is not available to him, but he will buy it from the market with his knowledge and then add what they have agreed upon, so it is a Murabaha for the one who is buying it.

1. Compound audit (Murabaha, Cost Plus Sale) is for someone who wants to buy a particular commodity to demand from another party (The Islamic bank, for example) to buy a specific commodity and promise to buy it from him with a certain. Profit may be the order of the buyer to pay the price to the bank immediately or installment or postponed, and usually, the price is paid in accordance with equal monthly or annual installments or one payment after a specified time thus. The sale of the Murabaha to the one who ordered to buy (The Murabaha complex) takes place in phases.

2. The first stage: He promised to order the sheriff to buy from him the commodity he ordered to purchase after he owned it.

3. The second stage: the conclusion of the first sale contract between the order and the first seller.

4. The third stage: the conclusion of the second sale contract between the order to buy and the ordered to buy Islamic banks. Sell Murabaha by ordering the buying order because of the obligation to pay for both the ordered to buy and⁽⁶¹⁾ the Islamic bank (The

60. Harbi Muhammad Erekat/ ibid

61. Narrated by Ahmad, al-Hakim and al-Tabarani (Collector of hadiths)

person who buys is obliged to purchase the commodity if the Islamic bank purchases it and the bank is obligated to sell this commodity if he buys it).

1.4.4. Contracts Murabaha

Murabaha is one of the most widely used contracts in Islamic finance. Murabaha is a term of Islamic law that is used to describe a special type of sale and is essentially unrelated to finance Murabaha. It is a term used to mean that a seller sells a certain product to a buyer with a certain rate of profit. The main separation point is that the seller explains to the buyer the rate or amount of profit within the sale price, therefore. Even though in many publications in the field of Islamic finance and banking, Murabaha is dealt with margin sales, installment, and payment in installments. The distinguishing point of Murabaha in terms of Islamic law is the point where the buyer has information about the profit made by the seller from the sale transaction. ⁽⁶²⁾

In this context, Islamic banks, which are quite simple transactions, provide loans in usury-based banking by Islamic banks with the intensive use of its activities as an alternative financing activity. This method has gone beyond the above definition and represents a different structure.

Islamic lawyers paid attention to this distinction in their publications and defined the Murabaha, which refers to a sale, as classic Murabaha. The Murabaha transaction structure used in Islamic banking as modern Murabaha rising as an alternative method to using usury rate credit, Murabaha is ultimately a sales transaction before giving detailed information about Murabaha. It is necessary to examine the basic principles of sharia regarding general sales transactions in terms of sharia rules; any sales transaction is valid to be successful.

It is thought that ten basic rules should be followed, in fact. There are many sales-related resources in terms of Islamic law. If these sources are examined, it will be seen that there are different rules that must be followed in terms of Islamic law. The most basic rules regarding the Murabaha contract used in Islamic finance will be tried

62. Islamic Law Uses Different Terms For Different Sales Methods/ the sales done by the seller without explaining what the profit is, /the classical sausage / the sale of the cost explained and the cost, the sale of the expense and the loss, is called video

to be transferred in this context. The ten rules sought in sales in terms of Islamic law can be list as follows:

1. The asset subject to the sale must exist at the time of sale.
2. At the time of the sale, the seller must be the owner of the asset subject to the sale.
3. At the time of the sale, the seller must have physical or legal control of the asset subject to the sale.
4. The sale must be precise now.
5. The asset subject to the sale must have a value.
6. For purposes that are forbidden for the asset subject to sale, \ should not be related to assets.
7. The buyer must know the properties of the asset subject to sale.
8. The delivery of the asset subject to the sale must be exact, regardless of chance or chance.
9. The price of the sale must be determined precisely.
10. Sales must not be conditional.

In this context, the Murabaha transaction, which is a sales transaction in terms of Islamic law, must comply with the above conditions as stated in the sale of Murabaha. The main factor is to know the cost and profit of the seller by the buyer. In addition, in ⁽⁶³⁾Murabaha sales, payment can be made in cash or on a term basis; therefore, it is not correct to say “Murabaha” to every term sale.

In the event that the payment related to the sale of Murabaha is decided to be made on a term basis. In Islamic law (Deferred sale), it must also comply with the validity conditions regarding the forward sale. This is express as these conditions can be lists as follows. ⁽⁶⁴⁾

1. In the term sale, the date of the payment must be determined.
2. The payment date can be linked to a specific day or period (3 months, 6 months, etc.), but the loss or the occurrence of a particular event can be regarded as gambling.

63. I.E Aktepe (Finance, and Banking under Islamic Law) Istanbul,2010

64.M.T. Osman, /ibid,

3. Suppose the payment is planned to be made in a certain term. The term related to the term starts with the delivery of the goods unless the parties cannot mind.
4. The term price may be more than the cash price but this price. Must be fixed and determined at the time of sale.
5. After the price is fixed once, this cannot be reduced or increased in case of default by early payment.
6. Suppose the payment is made in installments if one of the installments fails. The condition that all future installment payments will be paid immediately can be put into the contract.
7. The seller can request a mortgage and similar collaterals to guarantee the payment.
8. The buyer can sign the promissory note or policy to guarantee the payment, however. The seller cannot sell this note or policy to third parties with a lower than nominal/nominal value.

In addition to the above rules, one of the most important regulatory areas of Islamic law regarding term sales is its default status. It is clear that the seller cannot charge usury from the buyer in case of default of the buyer according to Islamic law, in other words, in relation to a cash debt arising from sales or another reason. It is not permissible for Islamic law to increase the debt proportionally if the debtor fails to make it in due time at this point. The reader should not conclude that Islamic law provides no sanction for the debtor to pay Islamic law has imposed various sanctions and payment incentive mechanisms in different dates and geographies. ⁽⁶⁵⁾

1.4.5. Checks Murabaha

As you may remember, Murabaha can be defined as the sales transaction made by adding some profit on the purchase price or cost. The buyer can make the payment as a spot or also in installments on a term basis, although Murabaha check is used in Islamic finance. It still has a controversial structure the check SPV based on the Murabaha contract, purchases a commodity with funds obtained through the issuance of the check, and sells the commodity to the obliged company. The obliged party makes

65 . Mohammed AYUB(Understanding Islamic Finance) London, 2007

the payments related to the sale in installments on certain terms. This structure constitutes a fixed income check.

However, Murabaha check most investors looking for full compliance with the sharia is not considered suitable for the reason for this is that the payments resulting from the sale of Murabaha⁽⁶⁶⁾ represent debt, and the debts cannot be subject to shopping in terms of Islamic law (In Certain legal schools).

However, in order to overcome this problem, receivables based on Murabaha contracts are generally collected in the same pools as assets based on other contracts and are used for such checks. Some Islamic lawyers have more than 50% of such mixed contracts from contracts based on tangible assets, such as enforcement states that other contracts can also be used in check without problems. However, it is not possible to state that this view is generally accepted. The structure of the Murabaha check is shown in the shape graph. The structures described in the figure show a partially simplified Murabaha check structure. In Murabaha check structures, several-stage⁽⁶⁷⁾ transactions and structures involving many more parties can be used.

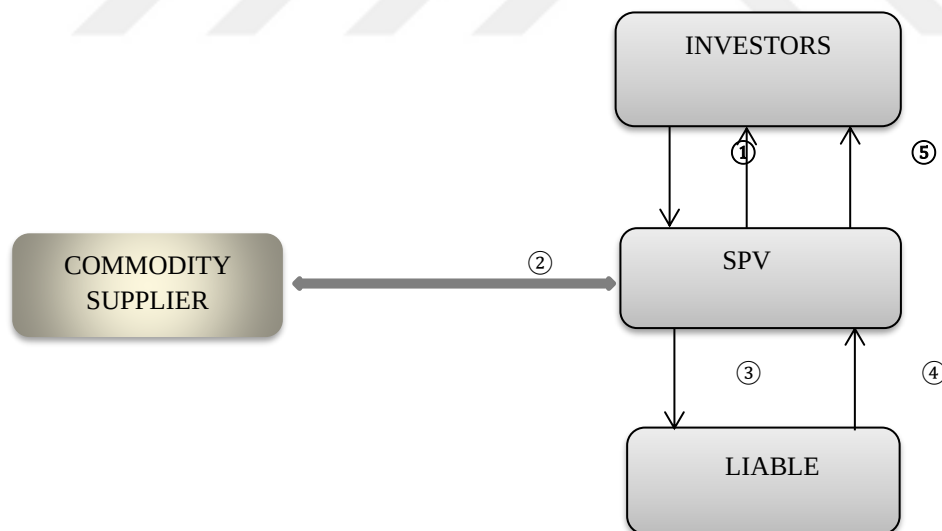


Figure 7. Murabaha Check.

66.F. Jamal Al-Din / ibid, P. 220.

67.O. I. Bacha /ibid, p. 41

The explanations regarding the process steps are as follows.

1. SPV issues check and sell them to investors. Funds from investments are delivering to SPV.
2. SPV buys the commodity from the supplier.
3. SPV sells the commodity to the contractor within the framework of the Murabaha contract.
4. The liable company pays the commodity payments (cost \ profit) to SPV in installments over a specified term.
5. SPV distributes the installments to check holders as they collect.

1.4.6. The Sharia Murabaha

This transaction is adapted as a complex process of a promise to buy and a promise to sell and sell toxic. As Islamic banks do not implement this sale only after they own the commodity, the profit you get is the result of owning and disposing of the commodity-based on the complex Murabaha conducted by Islamic banks was quoted as follows. All generous verses and honorable hadiths are indicating the permissibility of all types of sales except for sales that are forbidden by a legal text, such as selling Gender and selling nonsense, among this evidence. Almighty said (Surat Al- Baqarah275) (Allah has permitted trading and forbidden usury)

In his answer to the best gain, every sale is justified, and the man works in his hand,” which we mentioned from the opinions of the imams. The jurisprudence that the basis for permissible transactions unless there is a text in the Holy Qur’an or the Sunna of the Prophet is purified by prohibition. Imam Al-Shafi says: (The whole sales break is allowed if it is a donor's satisfaction)

1.4.7. Suspicion Aroused About the Murabaha Complex

Several have raised doubts about the Murabaha complex as follows:

1. The Second Suspicion: The Murabaha of the ordering buyer included two sales of his sale:

- This is because the agreement between the Islamic bank and the order-to-buy is a contract of sale even without a contract for the Murabaha sale, and the obligation to order to buy converts the promise into a contract. Thus, the bank sells what it does not own or does not have the Messenger prohibited the sale of what the person does not possess or what he does not have on the authority of.

- Hakeem Bin Hizam, may Allah be pleased with him; he said the Messenger of Allah said. The man comes to me, and he wants me to sell, but I do not have. I bought it for him, and the Messenger of Allah said (Do not sell what you do not have) in response to this suspicion by the following the Islamic banks do not sell or sign the Murabaha sale contract with the ordering of the purchase unless they purchase the required goods and own them and bear their risks also. The prohibition on selling a person what he does not have is not the subject of an agreement between the jurists, and there is a dispute. Some of them said in the meaning of selling what he does not possess. That is, selling what is not in possession of man and his ability, and some of them said that this prohibition of hatred is not forbidden. ⁽⁶⁸⁾

2. The second suspicion: The Murabaha of the ordering buyer included two sales of his sale:

- Dating between the Islamic bank and the one who orders to buy if it is not binding on the two parties. There are no sales in the sale, but the introduction of the obligation to make the contract made it became two sales in the sale. This is clear that what is meant by lending is interest. This method is only a kind of fraud. This does not happen in the Murabaha sale of the buying order used by the Islamic banks. As the Islamic bank buys a real commodity that it owns, and then the order of the buyer buys according to the promise made between the two parties. ⁽⁶⁹⁾

3. The third suspicion: Failure to keep the promise.

68. Sunan Abu Dawood - Leasing Book - Volume 3 p. 303

69. Rafiq Al-Masry (Murabaha Sale to Murabaha Buyers as an Experience in Islamic Banking) Majallat Al-Ummah, Issue 61, p.26

- The majority of Scientists are of the view that it is not permissible to compel any party to this contract, especially Imam Al-Shafiq, whose opinion was relied upon to authorize this sale, however. This sale was authorized with a commitment to the principle of fabrication and the division of jurisprudence texts they authorized the Murabaha of the one who ordered to buy based on the opinion of Imam Al-Shafi, who stipulated the option and not be obligated, while they took the obligation to promise according to the opinion of the Maliki who did not permit this sale. He responded to this suspicion that the idea of compulsion is based on the virtue of fulfilling the promise.

- Some jurists see compulsion of the promise in donations and charity. It is a matter of the first to be this obligation in the contracts of compensation if the internet sat requires that. It is the most memorized dealer weapons transaction stability. Thus, the interest of the economy in general, which makes the introduction of the obligation to promise is legally acceptable to all.

- Islamic bank has the choice to take what it sees in the issue of compulsion according. To what the Sharia Supervisory Board sees in the bank (According to the Islamic Banking Conference held in Dubai in 1979 and Kuwait 1983), we believe that the introduction of the obligatory promise of what the opinion of this scholar has shown achieves. The stability of the transactions that we consider one of the most important foundations of the person's role in the role of substitution, and Allah knows best.

- Nevertheless, we see that Islamic banks can carry out the Murabaha sale of the order to buy at the same level of risk if they are taken by not obligating the promise through the following: The use of the right of option in the first purchase contract so that the Islamic bank leaves itself the option to sign. Cancel the sale during a specific period, for example, three days or a week if the purchase order is committed to his promise, the first contract is signed, and the sale order is completed if it does not comply. The purchase will be withdrawn by the bank during the option period through practical experience. We see that this procedure can be easily implemented because of the confidence of merchants in Islamic banks and their desire to increase their sales.

- To establish good relations with Islamic banks for the interests they achieve with them, in the case of the Murabaha credits (External Murabaha), a non-compliance

with the promise may also be taken.⁽⁷⁰⁾ However, the ordering officer may purchase documents that obligate him to bear all the damages that the Islamic Bank may incur as a result of the ordering party not to fulfill his promise. According to the hadith of the Messenger of Allah: (No harm, no foul).

1.4.8. Conditions of Sale Murabaha, Cost Plus Sale

its conditions are the conditions of the sale, in that the thing sold is permissible, pure, beneficial to it, is owned by its owner. And can deliver it to the buyer. A Murabaha sale is a trust sale in which the original price and capital must be mentioned. Also, among the conditions of Murabaha, as follows

1. That the first price of the commodity be known to the order of purchase, including the expenses considered (Expenses that the jurists consider from the cost of the commodity to the seller).
2. That both parties know the profit because it is part of the price.
3. That the first contract is valid, that the bank's purchase of the commodity from its first owner is a valid contract, which is not legal.

That the price in the first decade is not equivalent to his gender from usury money, the Islamic bank (The first buyer) was buying the goods with their gender (Wheat for Wheat or salt for salt or gold for gold) in this case. It is not permissible to sell it in a kind Murabaha because the increase, in this case, is usury without a doubt.

1.4.9. Practical Procedures for Sale Murabaha, Cost Plus Sale

There are several procedures for a Murabaha contract because it is an undertaking from the one who ordered the purchase (The Bank's Customer), including:

1. Submitting a Murabaha, Cost, plus Sale to the Islamic bank by the customer specifies the commodity that he wishes to buy in terms of type, quality, and quantity, usually. The demand for other information such as the cash price of the goods in the market, the name of the person who orders to buy, his profession, the manner in which

70. The Divine Conquest of the Imam of Imam Ahmad ibn Hanbal, Volume.. 5, p. 17 (quoted by Dr. Abdul Razzaq Ani - Islamic Banking between theory and practice 529)

he will pay the price, and the percentage of profit that the purchase order will pay to the bank.

2. The Islamic bank studies this request and inquiries about the customer (His reputation, experience, financial position). The study of the request varies from one customer to another according to the size of the financing. Its importance and the nature of the commodity.

3. In the event that the Islamic bank approves the request, the customer will be informed of the approval details if he agrees. A promise will be made between the two parties that the Islamic bank buys the required item and sells it to the order to purchase on agreed terms.

4. The Islamic bank begins the procedures for purchasing the goods. The ordering person may sometimes direct the bank to purchase from a specific merchant by bringing an offer invoice from the merchant. By facilitating the connection of the bank and the merchant to each other at this stage, the bank must complete the sale contract with the merchant so that the ownership of the commodity is transferred from the seller to the bank.

5. The Islamic bank informs its ordering customer that the goods are ready for delivery. A contract of sale is signed between the bank (The Owner of the commodity) and the ordered to purchase, in addition to signing any other tools to prove the rights of the two parties. Such as signing bills and bank statements or facilitating the communication of a specific merchant by way, and the commander may do the necessary.

6. The banks deliver the order to purchase the commodity according to the specifications agreed upon in the event that it violates the specifications the bank bears full responsibility even if the promise is complying with.

1.5. Forward

1.5.1. Definition of forwarding

A reminder of the payment of capital and presentation (Advance) deferred sale, that is, a sale in which delivery has deferred the sale and expedite delivery price. It is the sale of something described in liability in Sharia. The book is mentioned in the Noble Quran (Believers, when you contract a debt for a fixed period, put it in writing) Al-Baqarah-282.

1.5.2. The wisdom of the Sharia of forwarding

Islamic Sharia is based on fulfilling the interests of the slaves and relieving them of embarrassment. This is what appears in the Forward legislation that came to achieve interest, a need is filled for both parties a human being has money at once, but he needs the good sooner. Another who needs the money at once and can deliver that commodity at the deferred time indirectly benefits the community. This is what is learned from the sayings of the jurists, as the singer's owner says and because people need it because the heads of the planting and fruits and businesses need to support themselves, and it has to be completed, and they may lack the alimony. It is permissible for them to be Forward so that they can rise and rise to the Muslims with special measures.

Others think of obtaining the commodity at a cheaper cost. The owner of the capital needs to buy the fruit, and the owner of dates needs to pay for them before he comes to spend on them. Therefore, it appeared that peace is one of the most important benefits, and the jurists called it the sale of pilgrims.⁽⁷¹⁾

1.5.3. Conditions of forwarding

Because this image is only valid in Shari's if it is a sale of forwarding, but this sale - the sale of forwarding - has special conditions that must be combined in the contract for it to be a valid sale Conditions as follows:

1. The commodity is one of the funds that can be designated by a description such as wheat or dates.
2. The commodity is of the type that is normally present at the time specified for delivery.
3. That the sale is accurately described in the contract in terms of type, quality amount, time, and place of delivery.
4. Pay the price on the contract board.
5. That the sale and the price do not share a usurious reason, do not accept Islam barley to barley, for example, the contract.

71.Mahmoud Hussein Al-Wadi. (Theoretical Foundations and Practical Applications)Our Library »Money and Economics Books
2012.p 246

1.5.4. Contracts Forward

It is a sales-type *Īstisna* from the main rules of sharia regarding sales in the world like *Īstisna Forward* a transaction where payment is made in cash at the time of the contract. But the delivery of the purchased asset is postponed until the predetermined date essentially this method, which was applied before the Prophet's Migration, is approved by the Prophet of Allah in some records according to a vision, the Prophet of Allah said (Whoever makes a contract in something; to a certain extent, to a certain scale and to a certain time).⁽⁷²⁾

1. The buyer should pay for the product in advance at the time of sale; otherwise, the sale/closing of debt against debt will arise since the main idea of the Forward contract is to meet the needs of the seller. The fact that the payment is not making in cash makes the sale no longer a Forward contract.

2. A forward contract can be made only for assets whose quality and quantity can be determined specifically.

3. A forward contract cannot be made on a specific product or a particular land, for example. The orange of a particular garden with the seller Forward contract this contract is invalid if it falls under the obligation to deliver its trees. Because such a contract involves excessive harm, the garden in question may be destroyed or may not produce crops; therefore, the contract can only be made on a certain orange fruit.

4. In the Forward contract, everything about the characteristics and quality of the main product needs to be determined similarly. The quantity and dimensions of the product should be determined. Contracts with uncertainties that will cause disputes between the parties in these matters are invalid in terms of Islamic law. The day and place of delivery must be determined.⁽⁷³⁾

72.BHARI sahh , II.781

73.M. T. Osman / ibid,

1.5.5. Forward Check

As stated earlier in the research, a Forward contract is an exceptional type of contract in which payment is made by the buyer now the contract is concluded. But the asset subject to sale is delivered to the buyer at certain maturity date.

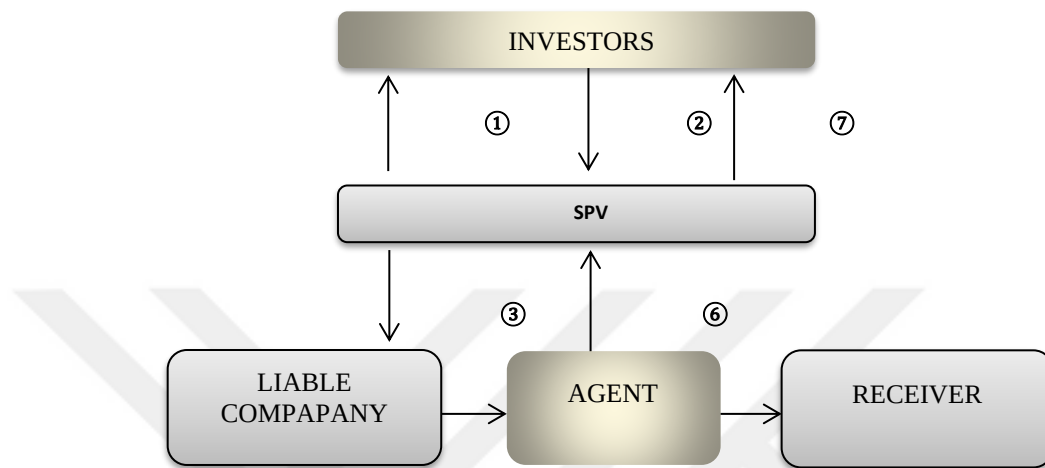


Figure 8. Forward Check.

Forward check structure Forward contract in this structure, the funds provided by investors by purchasing check are used to purchase the assets that the liabe compapany will deliver in the future at forwarding check, a proxy guarantor. It is also included in the structure the said proxy or guarantor sells the assets to be delivered by the liabe compapany later to third parties because investors who buy forward check. Demand their principal, not the assets that the liabe compapany delivers income from this sale, is distributed to instrument holders.

It can be seen that a separate proxy has not been declared in various issues in the Forward check structure. That the liabe compapany pays this money by selling the goods to be delivered directly as a proxy Forward check is generally used for the short-term liquidity requirements of businesses forward check structure is shown.

1. SPV issues check to investors.
2. Investors pay SPV for the check.
3. SPV is a cash contract that is obtained from the sales of the instrument, Passes to the liabe compapany according to the Forward Contract.

4. At the end of the term of the Forward Contract, the liable company delivers the assets to which it is obliged to deliver.

5. The attorney sells these assets with a certain profit margin.

6. Cash from the sale of assets is delivering to SPV.

7. SPV distributes cash to the check investors. The Forward check structure can be compared to bonds without coupons since investors receive any payment during the maturity. Their capitals at the end of the maturity the most common example of Forwarding check is the check issued by, Bahrain Central Bank, on aluminum with quarterly terms the central Bank of Bahrain, uses this tool to make short-term investments for banks with excess funds.⁽⁷⁴⁾

1.5.6. Advantages of forwarding

The seller is reassured that the commodity is guaranteed to be sold as a result of the commitment of the second party to purchase it. The producer gets working capital financing without the need for borrowing. It is possible to find financial instruments based on the method of selling forward, some of which are short-term, some of which are long-term to be offered for circulation in the financial markets, and some of them are peace bonds.

1. Advantages of Sharia:

- Free from Sharia defects of usury, treachery, and acquiescence.
- Excluding the treatment of the ladder from the base of selling what one does not have to sell the non-existent, fulfilling people's urgent needs.

2. Economic advantages:

- Provision of liquidity in advance to farmers, artisans, and traders, enabling them to produce.
- Solving the state's problem due to the failure of the agricultural sector's debts.

⁷⁴F. Jamal Al-Din, ibid, p 221

- Profitability is high on the one hand and guaranteed to some extent on the other.

3. Political advantages:

- Achieve food security Liberating the political and economic decision of the state, and realize the great economic principle "We eat what we are seeding and wear what we manufacture a conference was approved Islamic bank in Dubai in 1979 this type it is a sale if the bank adheres to the conditions mentioned by jurists and that this is observed in contracts forward all. The goods purchased are not required to be produced by the seller. As is the case in Islamic banks, they import goods from countries others do not produce. Then the difference between commodities and the sale of Murabaha is that the sale of peace is carried out at a price in both cases. The buyer is from the primary source, the Islamic bank, not the customer.

1.5.7. The Application of Selling Forward in Islamic Banks

A ladder contract can be a financing path that eliminates the interest loan. Whoever has a legitimate commodity Produce it, he can sell a quantity of it, deliver it in the future, and get its price immediately. Therefore, the Peace Contract is one of the means used by an Islamic is used to obtain goods that are the subject of his trade, and he uses it to sell what his companies and institutions produce in practice.

It has been found that many Islamic banks are using this formula to finance many industrial companies. The sale of the Forward can be used in real estate constructions by selling the units before their establishment and delivering them after their completion in this way. The Islamic bank granted commercial credit to the seller of the commodity in forward exceeding the value delivered to the first seller Profit is achieving for the Islamic bank in the forward contract from the process of reselling the commodity at a value that exceeds the value delivered to the first seller.

1.5.8. Parallel Forward

Some jurists suggested that the bank resell early with another Forward. After signing the first contract, the bank sells the goods that are subject to long-term delivery to a third party at a price that exceeds the purchase price in advance from the first seller

pledging to deliver them on a certain date also to be determined after the date of the first contract. This is called a contract Parallel Forward. This process is known as hedging, accordingly.

Parallel forward can be defined Parallel is that it sold the bank to the third-party merchandise of the same gender and specifications and not the commodity recognized in it from the second party. Postponing and handing the price in advance, in a manner forward the role of the bank here will be the role of the recipient of the bank receives the goods.

It will deliver them to the third party at the agreed time for the performance of those in liability if he did not receive it from the second party and provided it to the second party from the market. For the third party, a study by one of the researchers showed a lack of applications for selling forward with most Islamic banks as it appeared from the budgets of this knowledge. ⁽⁷⁵⁾

1.5.9. Practical Steps for Selling the Forward

There are several steps in the Forward sale process, and the most important of these steps are as follows:

1. Forward sale contract:

- The bank pays the price in the contract board for the benefit of the seller and covers his various financial needs.

- Seller: is committed to fulfilling the commodity within the specified term.

2. Delivery and delivery of the commodity within the specified time: The bankers there are multiple situations in front of the bank, one of which can be chosen.

- The bank receives the commodity within the specified period and undertakes it with knowledge of the sale of a case or a deferred one.

75.M.M Al-Mekkawi. Islamic Banks (Starch - Finance - Development) First Edition /ibid. 2009, p. 99

- The bank authorizes the seller to sell the commodity on his behalf for an agreed or unpaid fee.

- Direct the seller to deliver the commodity to a third party (The Buyer) pursuant to a prior promise from him to purchase it when there is a confirmed purchase order.

3. The sales contract:

- The banker: He agrees to sell the commodity eventually at a price higher than the price of being bought peacefully.

- Buyer: accepts the purchase and pays the price according to the agreement.

1.6. Istisna

1.6.1. Concept of Istisna

Istisna language is a request for workmanship and deduces the thing order of make as for⁽⁷⁶⁾ reforms they have been called upon. With many definitions of it (The Contract of sale at the responsibility and the condition of his work on the manufacturer)⁽⁷⁷⁾or (Requesting someone from another Making something is not his Provided that the materials are from the manufacturer, for a certain price).

It is a contract between two parties, one of which, according to this contract, makes something specific for gender and attributes (In a manner that prevents any ignorance that is conducive to conflict) to the party the other (The manufacturer, on the basis of the materials needed to manufacture) raw materials from the manufacturer. This either is in exchange for a certain price that the manufacturer pays to the manufacturer, immediately, installments, or delayed.

Sharia: A contract on non-existent a contract on a commodity other than a contract that was not approved in the year, contrary to the measurement through the concept of Istisna we mentioned was a contract for selling in liability dividend, that is. It is a commodity that does not exist at the time of the contract. Therefore, jurists say

76.Ibn Manzur, Lisan Al-Arab, , .part 2.p981

77.Masterpiece of the jurists of Samarkandy, part 2, p6

that Istisna is lawful in the Sunna. The Messenger of Allah used a conclusion and a pulpit, and the people agreed on Istisna from the time of the prophecy to the present day. The Hanafi approved it as desirable. While the jurists of the other schools of thought added it to the forward and the Maliki sometimes considered it as a form of sale.

1.6.2. The Economic Importance of Istisna

The economic importance of Istisna economists does not differ in the importance of different industries in the economy. Many of the products used in people's lives are not obtain without the presence of these industries, and industrial products can be obtained by offering them on the market through agreements between manufacturers.

Manufacturers, Istisna agreements are usually between large corporations and require massive financing, and the Istisna formula can contribute to enabling different parties to achieve their goals in terms of operating the existing funds existing. Obtain the necessary financing and effective market insurance for manufacturers. The manufacturer in the Istisna contract guarantees the marketing of what he manufactures also. The manufacturer guarantees the presence of the products he needs according to his desire and in the parallel Istisna. We find the contribution of this contract to strengthening the ties between the production units. This formula works to create multiple economic relations between its parties.

1.6.3. Conditions of Istisna

One of the most important Conditions of Istisna is as follows

1. Being must maintain uniformity physically.
2. The seller must own the asset.
3. The seller must have control of the asset.

Compliance with the rules should show the sales made within the scope of the Istisna and Forward contract are exceptional transactions brought by Sharia. The Istisna is a contract for the production it refers to ordering a manufacturer to produce a particular product the Istisna is currently used in large-volume projects such as construction, shipbuilding there are some features of the economy these:

- A. The buyer is not obligated to make any advance payment after production is complete. You can pay a lump sum or pay in installments before production is complete.
- B. Price and product features must be clearly established (Avoidance of haram).
- C. Before the production starts, both parties can terminate the contract unilaterally. If they inform, it is not possible to terminate the contract unilaterally after production begins.

1.6.4. Istisna of Check

In the contract of Istisna, are contracts concluded between a buyer and a producer in this contract structure. The manufacturer undertakes to produce the product requested by the buyer and deliver it in a future term. In order for the contract to be accepted as authentic, the price must be fixed, and the product-related features must be clearly defined as agreed by both parties.

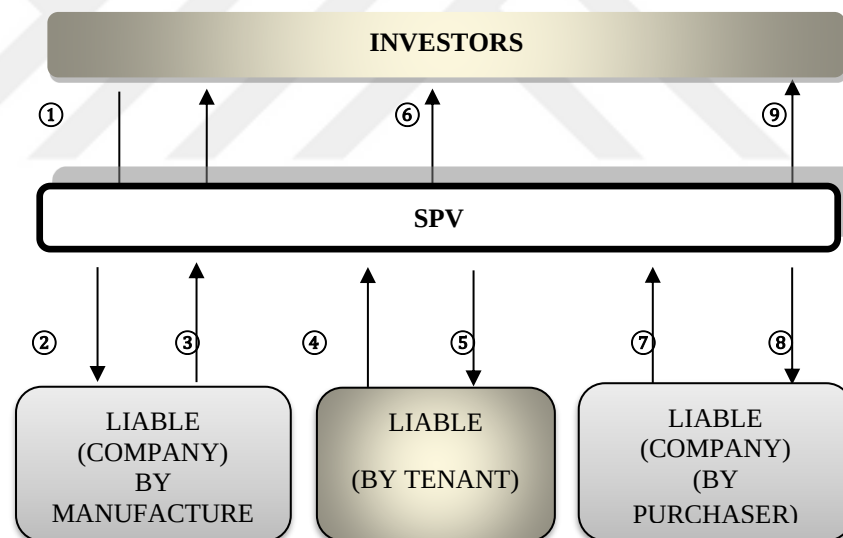


Figure 9. Istisna of Check.

The Istisna check, as the name suggests, is a type of check based on the contract of Istisna. In this structure, investors with check owners are buyers. The liable company is the manufacturer. Istisna check is usually used for large construction projects, so after the construction is finished apart from selling the built asset, it is also possible to rent it.

Istisna check in practice it is possible to see that the leasing contract is placed in it the lease contract used is usually the lease type of contracts as will be remembered, in

this transaction, the ownership of the leased asset passes to the lessor at the end of the lease period in exchange for a certain amount of payment as the name implies, this type of contract is a combination of the lease (Lease) and sales (Sale) transactions. However, if these contracts are used, the promises of the parties to buy or sell to each other cannot be made, and Istisna check structure is explained with the lease contract. The order of transactions is as follows:

1. It issues SPV checks and sells them to investors.
2. The SPV signs an Istisna contract with the obliged party and orders the asset to be produced. It pays in cash with the funds it provides from investors at this stage. He acts as the tenant in this contract between the SPV and the obliged party. An extra lease contract is signed with the obliged party along with the production / Construction of the asset ordered by the obliged main contract. The ownership of the asset is transferee to SPV in accordance with the Istisna contract. An agreement regarding the lease of the asset is singe between the SP and the obliged tenant.
3. Following the completion of the project, the underlying asset is transferee to PSV.
4. SPV rents the asset to the liable party in accordance with the previously signed lease contract.
5. The liable person makes the rent payments to PSV.
6. SPV distributes its rental income to check owners.
7. At the end of the maturity of the sausage, SPV sells the asset to the liable party.
8. The obliged party distributes the purchase price to SPV as a spot.
9. SPV distributes this sales revenue to check holders.

Istisna check cannot be traded in secondary markets due to its complex structure connecting the parties. It is also worth remembering that some Islamic lawyers are against the binding lease contracts that are often seen in Istisna check treaties. ⁽⁷⁸⁾

78.F. Jamal al-Din /ibid, p. 226

1.6.5. Procedures Financing Operations Istisna in Islamic Banks

One of the most important procedures for financing Istisna operations in Islamic banks is as follows:

1. The customer submits an application to the Islamic bank according to which he specifies a specific commodity according to his need.
2. The finance and investment department (Banking Facilities Department or Information Department) studies the application according to the criteria of financing and investment in general according to the bank's financing policy and recommends the customer's request for approval or rejection.
3. Usually, the Istisna contract requires the use of certain skills (Artisans) and sometimes more than one skill at the same time. This increases employment rates and reduces unemployment among large segments of society.
4. Istisna operations drive the economy because they involve real projects that boost incomes and increase effective demand.
5. Istisna serves the interests of the manufacturer. Who often lacks sufficient experience in avoiding much of the work or time needed to follow up, or the money present to finance?
6. The development of the Istisna contract and its absorption by the Islamic bank employees and the accused alike helps a lot in operating the huge liquidity that is usually available in the Islamic.

1.6.6. Practical Steps to Implement the Istisna Contract and Parallel Istisna

Steps to implement Istisna and parallel Istisna with Islamic financial institutions and the risks surrounding them. Complete implementing Istisna and parallel Istisna in Islamic financial institutions according to a series of stages that differ in detail. In general, from one bank to another and these stages involve a group of risks, which can be summarizing as follows:

1. Receiving the request from the factory (The Client), including the type and specifications of the manufacturer (The Commodity) and the necessary documents. For it Such as engineering drawings and drawings (For Example).

2. Economic feasibility study of the project in addition to financial studies estimation of expenses and revenues.

3. If the bank approves the financing, it will be collected from the manufacturer down payment Adequate guarantees, bills of exchange, and insurance policy. Then the contract is singe between the two parties, and the bank is obligated to manufacture and deliver the specific commodity within a specified deadline agreed upon.

4. The bank enters a parallel Istisna contract with one of the contract manufacturers to manufacture the commodity that is committed to in the first Istisna contract.

5. Collect from the factory (Contractor) a well-executed bank guarantee letter.

6. The bank reserves a certain percentage of the payments to the manufacturer (The Contractor) to ensure proper implementation and another percentage of maintenance for a specified period.

7. Delivery and receipt of the Commodity: The manufacturer shall deliver the factory to the bank directly or to any person or entity in any place specified in the contract, then the bank delivers the factory to the customer directly or through any authority that authorizes it to deliver. ⁽⁷⁹⁾

1.6.7. The Difference between Forward and Istisna

One of the most important characteristics of the difference between the Forward and Istisna is as follows:

1. The forward is included in all commodities that can accommodate their recommendations Istisna, especially for materials that need to be manufacture are not use in agricultural production.

79. Al-Zuhaili, Wahba /ibid. P. 307

2. There is no disagreement among scholars about the existence of an expedited price in the forward, other than Istisna.

3. There is no disagreement among scholars regarding the necessity of holding the forward contract as necessary, unlike Istisna.

4. The Istisna contract is attached to the eye and work and unlike the forward contract. It is possible it is contained in the eye described in liability, therefore. Jurists require that this commodity is in the market so that if the seller is unable to provide the commodity himself, he will buy it from others and provide it to the buyer.

5. The forward contract stipulates that the Muslim must be present from the time of the contract until the non-delivery. The meaning of his non-interruption means that he is present in the market. ⁽⁸⁰⁾

1.7. Good Loans

Good Loans Introduction: A good loan is one of the Islamic financing tools through which it is implemented Islamic Social Bank letter and good loans derive their name from the words of Allah Almighty (Who will lend a generous loan to Allah, He will multiply it for him and he shall receive a generous wage) (Al- Hadid .11)⁽⁸¹⁾

1.7.1. The Concept of a Good Loan

The good loan is based on the availability of the Islamic banker, the amount of money per capita of individuals, or for one of his clients. Where he guarantees repayment of the good loan, without incurring any burdens or clients for this individual or the customer or his demand for the benefits and return on investment of this series is his demand for any increase of any type rather. It is sufficient for the banker only to recover the people of the village, that is, the money that he lent to this customer or to this individual once a good loan is usually in the narrowest range.

As it is available for the Islamic bank to expand, Islamic banks usually form a specific import duty whose amount is allocated as a separate fund to finance the granting

80. Al-Rayhan, Bakr / ibid . May 2002.

81. The Holy Quran (Surah Al-Hadid. 11)

of good loans. In addition, within the limits that do not harm the interests of the bank or the interests of its depositor.

1.7.2. The Pillars of the Good Loan

The pillars of a good loan are dividing into two parts, as follows:

1. The catharsis of Muslims in Their Anguish: That is, facing the crises that Muslims may be exposed to. Whether they are economic crises alternatively, of a social nature with economic dimensions and the best example of these crises is to seek marriage, Education, deaths, and other crises that may occur to individuals.

2. Facilitation on Insolvency: It is one of the most important hubs of good loans, if not the most important of them at all. It is worth noting that the main banks are either facing during an activity with cases of insolvency of clients. Then they may see some of the clients' activities being funded by good loans to remove them from their obstacle. To facilitate and reduce their hardship and promote their economic activity so that they can practice this activity. Restore their ability to pay their obligations. ⁽⁸²⁾

1.7.3. The Importance of the Loan Good

Loans are one of the most important sources of material profits for commercial banks. At the same time, it is one of the services provided to customers. It is a service that includes providing individuals and institutions with the necessary funds, provided that sufficient pledges and guarantees are provided to pay these funds, in addition to the interest due on them. Payment is made in one payment or in separate payments. It is noteworthy that the guarantees provided by the customer to the bank are not considered nothing more than measures that preserve the bank's right and protect it from risks and losses.

1. A good loan is, in fact, a socio-economic and humanitarian mission at the same time Islamic banks is auditing them. It is unique in providing this service for its other than traditional usurious banks. This service is provided to natural or legal individuals such as companies and social societies to help them provide their services. To face an urgent difficulty and overcome funding constraints that stumble from their

82. Harbi Muhammad Erekat /ibid,2010. p. 218

activity and conditions of activity do not enable them to generate a surplus sufficient to pay off their obligations towards some of their dealers. In addition, they do not have the liquidity to enable them to purchase their production requirements and restore their activity again, and thus the community retains its energy. Productivity quantities of the commodities and services that are consumed and need by individuals.

2. A good loan is a humanitarian task that Islamic banks undertake to achieve and uphold the values of social solidarity among members of society. In addition, in a way that deepens the meaning and content of positive cooperation and active participation between these individuals.

3. A good loan will serve the cause of the continuity of Islamic banks in supporting their people and expanding and continuing this activity, where it can by the reserves, provisions, and funds of the old loan funds that it has being able to keep existing customers and attract new ones to a family the bank as it is difficult for any customer to transfer his activity from the bank that fulfilled his side during his failure or insolvency. But the client clings to this bank, and it encourages customers to deal with it indeed. This in itself will be a motivation for others to seize dealing with the Islamic bank as the partner that he is responsible for in prosperity and adversity. ⁽⁸³⁾

1.8. Fund Collection Methods of Islamic Banks

Islamic banks, in a similar manner to their counterparts in the usury-based system, realize the collections of individuals, firms, and institutions to collect savings as it is known. There are three main reasons why people deposit someone in the bank:

- Security: Against the risk of accumulation.
- Earnings: To earn income from savings.
- Payment: To facilitate business transactions.

In banking, three different types of bank accounts are used for the above three different purposes. The first one is accounts known as demand or current accounts. The second is savings accounts classified under various names. The third one is essentially very different from demand accounts. This type of account is called a commercial

83. Harbi Muhammad Erekat\ Ibid, 2010. p. 219

account because it is not own, but account holders are businesses, and traders' Islamic banks also use various account styles for the same purposes. The only difference between these accounts is that their operating principles are in line with the law. The following subsections describe the basic types of retail banking accounts accepted in international Islamic banking. It should not be overlooked by the reader that the operating principles of the accounts in this section are based on the basic Islamic law conventions.

1.8.1. Current Accounts

Current accounts (current Islamic accounts) are accounts that can be opened in Islamic banks, with a partial or complete withdrawal option. No return (And No Obligation to Pay) to the account holder.

Current accounts, 5411 Banking Law No. Of these accounts may be partially or completely defines as accounts created by funds that have the ability to withdraw at any time and in return are not paid any return to the account holder. Approximately 20% of the funds collected by participation banks consist of funds collected. In this way, these demand deposit accounts differ from country to country and even from bank to bank within the same country. Although they operate on the same principles, these accounts are handled in two basic approaches in Islamic finance:

- Deposit approach.
- The good loan approaches.

1.8.2. Deposit Contract Accounts

The first of current accounts, deposit contract (Deposit savings accounts) these accounts are for storage purposes as will be remembered. The Deposit contract is a custody contract that shows the status of the person who is given the item for protection or storage. The accounts within the framework of the deposit contract are demand accounts that can be withdrawn in whole or in part at any time by their owners and are not paid any return to the owner in accordance with the deposit agreement. Banks can use the money given to them as they wish at their own risk. Therefore, within the scope

of the deposit contract, the money is a deposit to the bank only for keeping it to the banks and can be withdrawn exactly if desired in the application of the account type.

It was explained by some Jurisprudence that a gift-type grant could be made in order to encourage keeping the money in the bank, however, in terms of Islamic law. Banks cannot announce to investors that they will make a grant in advance otherwise. This explanation would mean a guarantee of earnings. In this case, the relevant accounts would be covered by usury. The writing of the aforementioned grant is at the discretion of the bank and is not obligatory grant implementation is rarely encountered. Accounts based on deposit contracts are used extensively, especially in Malaysia. There are two basic types of accounts based on deposit contract protected and unprotected.

Protected deposit accounts (Deposit OR Guarantee, DOG) in this account type all the money deposited in the bank is guaranteed the bank has the right to use the money even if it loses all the money it uses. It has to pay the money deposited to the account holder make a payment to the account holder. If the bank earns from the investments made with the money invested in it (Pay share) doesn't have to the bank may charge a fee for custody of these funds.

1.8.3. Good loan Accounts

Good loan accounts are the only cash lending process that Islamic rules allow Islamic lawyers to assume that a Good loan has been allowed to meet the basic needs of ⁽⁸⁴⁾ the poor. However, in Islamic banking, Good loan accounts are one of the contracts based on the operation principle of current accounts in the Good loan accounts relationship. There is no interest in favor of the lender. ⁽⁸⁵⁾

Because it is accepted that debts demanding interest contain usury in this context Good loan accounts is a loan given without demanding anything in return the person who borrowed in the form of Good loan accounts pays the debt exactly taxpayer. It evaluates stalk-type coins within the Good loan accounts approach (Good Loan Deposits) therefore;, the bank borrows money from the owner of the savings free of charge in the Good loan accounts approach.

84 Ishak Aktepe(Financing and Banking in the Framework of Islamic Law)Istanbul, 2010,p.55

85. F. Jamal al-Din / ibid, 2012,p 135

As in the deposit contract, banks can grant account holders if they make it. However, it is not possible for banks to explain in advance that they will make a grant to investors in terms of Islamic law. Otherwise, this disclosure will mean a guarantee of earnings, and some Islamic banks will be covered by usury in the current account deposited by the at the discretion of the bank and are not mandatory in the accounts operated under Good loan accounts. The grant application is in the accounts covered by the deposit contract. It is rarely encountered the operation of accounts in the form of a Good loan account is especially common in Iran. It is also seen in countries such as Brunei, Qatar, and Islamic banks established in Europe. ⁽⁸⁶⁾

1.8.4. General Operation of Current Accounts

Regardless of the approach taken as a basis in the acceptance of the current account, the basic principles of the current accounts are the same. The saving Islamic bank opens a current account due to the services provided to customers who open a current account (ATM, debit card, storage, etc.). Similar operating fees may be charged for account management fees, which are frequently applied by Islamic banks in classical banks. Current bank balances opened by Islamic banks customers can also make various investments. There is no provision in Islamic law regarding the distribution of profits obtained by using these accounts to account holders. However, the bank may distribute a grant of its own amount to the account holders if he wishes.

It is a serious problem to evaluate the money held in current accounts in Islamic banking practice such cash standing in classical banks can be evaluated as overnight with the repo. Other transactions in interbank markets. At the same time, Islamic banks do not have such an opportunity for this reason. It can often be seen that the evaluation of such superstitious cash is kept within the bank.

1.8.5. Savings Accounts / Participation Accounts

Savings accounts are the accounts that the owners expect to generate income after a certain period of time. These accounts are called participation accounts, the Banking Law no. Evaluates the participation accounts as the accounts created by the funds that result in the participation of profit or loss arising from the use of funds

86. Ishak Aktepe / ibid

deposited in participation banks by those institutions. Whose return is not paid to the account holder in advance, and the principal is not guaranteed to be reimbursed.

In the international Islamic banking practice, these accounts are accounts run on the basis of Muraraba and Participation contracts. In theory, raise funds according to the agreement of Islamic banks is possible. There are few examples of this in international practice in Islamic banking practice abroad. It is seen that funds are generally collected within the scope of the Speculation agreement for this reason. This section is based on the Speculation contract, and the explanation regarding these accounts is made on the mentioned contract type as explained in the previous sections.

Speculation is defined as a model in which one side presents capital (Money), and the other side displays its labor, knowledge, and experience. All expenses of the project to be carried out with the Speculation are undertaken by the capital providing party. The management is carried out by the entrepreneur / Speculation, who contributes to the labor sharing the profit between the parties at a predetermined and agreed rate in the Speculation. Which is a completely trust-based partnership model, and the loss is to be coverer entirely by the owner of the capital.

In case of depositing money to an Islamic bank under the Speculation contract. The person who deposited the money (Savings owner) is the investor, and the bank becomes an entrepreneur therefore, those who deposit

Money as a savings bank or participation account to an Islamic bank will is the partner providing capital for ventures/investments. While the bank is the fund manager who finds and manages ventures, the Bank is free to use the funds entrusted to it within the scope of Islamic law's determination regarding the Speculation, as long as it wishes to provide that it obeys the Sharia rules.

Although these accounts are commonly defined as (Profit and loss share), this statement is misleading, as will be remembered, while the profit obtained from the investment made within the scope of Speculation contracts is shared. The loss belongs only to the investor, therefore, in the case of the sufferer who manages the investment. It is not possible to endure a financial/monetary burden operated with a Speculation contract in Islamic banking application in case of profit from the operation of the

accounts. The bank and the owner share the profit in case of loss; the entire loss belongs to the savings grant.

The only exception to this is when the damage occurred due to his own fault, such as the defender's (The Bank's) vacancy as can be seen, the profit and loss partnership used in general in order for the statement to be correct. The fund collection method that Islamic banks should use should be based on the Participate method because, in this method, the partners undertake the loss according to their capital ratios, however.

In practice, banks do not adopt this method in the event of a loss. The loss is fully reflected in the saving owners in Islamic banking practice. There are not always investments that make a profit naturally. However, a deduction similar to a management fee or account management fee in accordance with the provisions of Islamic law regarding the contract of Speculation of Islamic banks the only source of income they can earn from their savings accounts is the dividend they will receive from these investments for this reason. Islamic banks work with greater attention in their investments compared to classical banks. For this reason, Islamic banks work with greater attention in their investments compared to classical banks. ⁽⁸⁷⁾

87.H. TUNC (Participation Bankin). istanbul.2010.

CHAPTER TWO

THE BASIC TOOLS FOR INVESTMENT AND FUNDS IN ISLAMIC BANKS

2.1. The Concept of Investment in Islamic Banks

The concept of investment in general from an economic point of view is the addition to the production capacity or the addition to the capital. From the side of Islamic banks, the investment means expansion in addition to the production capacity and to the capital according to the formulas and methods of investment. Including speculation, participation, industrialization, and direct investment in Islamic and non-investment checks directly in Islamic investment funds. The study of investment needs to define the concepts that are used in building the Islamic economic model in the financial field, and it is not possible to depend on and adopt the concepts of investment methods applied in the positive economy.

The Islamic bank can be defined it is an investment project to seek profit besides its social responsibility. Also, a distinction must be made between investment tools such as speculation and in terms of the type of investment according to the geographical scope of the market, and the investment may be local or external or according to the nature of the investment may be a real or financial real investment is a productive investment. While financial investment is an investment in securities such as stocks and bonds, the investment may be short-term and maybe long-term. It is necessary to distinguish between investment and commercial speculation in the general sense.

As speculation focuses on temporary capital gains, and the returns achieved are often large because of emergency conditions, although speculation may provide cash for the economy. However, the risk lies in the event that the whole market becomes a speculative market, real investment becomes the exception. Thus, inflationary pressures emerge because of the excess liquidity generated by the speculation. ⁽⁸⁸⁾

88.Kadawi, Talal Mahmoud (Evaluation of Investment Decisions) Higher Education And Scientific Research, University of Mosul, 2009, p. 12

2.1.1. As for the Basic Rules upon Which Islamic Sharia Banks Depend, According

Islamic banks provide a wide range of banking services to contribute. In facilitating the transactions of individuals who deal with it and achieving rates of return for its shareholders. In addition to the basic rules that this represents in terms of the development of financial and economic transactions:

1. The principle of dual ownership between the public and private sectors.
2. The principle of restricting economic freedom (To a limited extent).
3. The principle of social justice and the wealth distribution system that guarantees justice in this distribution. ⁽⁸⁹⁾

2.1.2. Direct Investment

Direct investment Islamic banks undertake direct investment, and it is intended that the Islamic bank establish investment projects, whether agricultural, industrial, or real estate, and they are fully responsible for them in terms of studying, Financing, establishing and managing them based on their technical financial and economic capabilities and experiences Islamic banks contribute to the capitals of companies and various projects Islamic banks contribute to the capital of companies and various projects.

This is done through these banks by purchasing all or part of the capital shares of companies or projects that are required to be subscribed by shareholders, whether they are banks or individuals. This is where Islamic banks undertake this investment work if it is clear to them from the economic and financial studies that precede entry into this field the possibility of success of these projects.

In addition to the fact that these projects must be within the economic and social development plans of the state, this is aimed at contributing to the development process. As it is one of the most important foundations for Islamic banks. Because you are the Islamic owner of the project for a long time or put the project for public subscription

89.Muhammad Baqir Al-Sadr (Book for Our Economics) Beirut, 1981, p295

directly, or wait for the project to succeed, and the project can be made a subsidiary of the bank without an independent legal entity, and the project can be made an independent legal entity.⁽⁹⁰⁾

2.1.2.1. The Factors that Drive Islamic Banks to Make Direct Investment

By direct investment, it means that the Islamic bank directly operates its money. In industrial, commercial, agricultural, service, or other projects

This is in order to achieve profits for its shareholders and bear the risks associated with that. The bank's activity as a speculator by itself is limited in special cases to alleviate the burden on him and to enable him to carry out his various functions on a large scale and efficiently. In addition, one of the most important factors that push banks to direct investment is the following:

1. The distinctive nature of the Islamic bank as an investment institution and not just a financial intermediary requires it to directly address the investment issue by searching for and studying investment opportunities and working to establish and establish projects directly. It is not enough to wait for the customers to do this task, then their participation will progress.
2. The other investment methods of the Islamic Bank highlight its own investment nature, especially participation and speculation. Face many obstacles. This leads to a weak current demand for these methods, which forces the Islamic bank to make a direct investment, as the tool available under its control to show its investment character on the one hand, and to employ its resources and not leave them idle the other hand.
3. There may be some necessary or beneficial projects for the bank in general or for its investment activity in particular. Either to support other projects of the bank, specific activities goals that are of interest to the bank alternatively. He desires to develop investment aspects, introduce investment patterns or achieve practical benefit and gain experience in a field, he does not find

90. Abdel Hamid Abdel Fattah El Maghraby, Mansoura University College of Business (Scientific and Practical Encyclopedias of Islamic Banks) Part 6.p. 282

someone to implement the project or projects that achieve this, and he will establish it directly.

4. In addition to the above, there is an auxiliary factor that can support the desire of Islamic banks to undertake direct investment and establish projects. This is to support the stock market by establishing projects and putting them up for a public subscription to increase the share of Islamic financial stocks in a way that contributes to revitalizing the Islamic stock market. ⁽⁹¹⁾

The direct investment of the Islamic bank is not a hope or an option, but rather an asset its responsibility:

That there are those who object to the Islamic Bank is direct investment and establishment of companies on the pretext that this is a departure from the basic function of banking and is represents in what it considers - in financial intermediation, this does between savers and investors.

The primary function that a bank should target-that is, a bank it is financial intermediation, even if the mediation function is done in the Islamic bank through the agency framework. However, there are those who see that the traditional banking custom that limits the function of banks in financial intermediation, according to which it is forbidden for Islamic banks to invest directly. This custom is not from formulas; hence, they are in their current forms. If they serve these environments, they are not necessarily suitable to serve Islamic societies and achieve their goals in light of their philosophy and beliefs. ⁽⁹²⁾

Object to the Islamic Bank's direct investment and participation aimed at blocking the outlets of life in front of it and diverting its path to a path other than the Islamic path under the pretext of banking custom, the researcher believes that Islamic banks must establish projects because they require technical. Legal and administrative efforts that may not be available to regulators. Especially in developing countries

91. Nadia Mohamed Abdel-Aal /Methods of Finance and Investment in Banks/Master of Research/ Cairo University, 1988

92. Jamal Al -Din Atiyah (Islamic Banks between Freedom and Regulation) University Foundation for Studies, Publishing and Distribution 1993 p.

because they are not sufficiently experienced, and their capabilities are limited to prepare the project in a manner that allows the necessary funding to be obtained from the market.

To fulfill the necessary procedures to obtain the approval of the bodies concerned in the state on his residency, then his removal in the appropriate legal framework also the bank's process of promoting and establishing the project. Whereby this creates an atmosphere and good confidence in the integrity of its economies and the availability of its potential for success, taking into account that the bank's assumption of this role does not come until after the project has taken its right from extensive studies that have resulted in its validity. This reassures investors and motivates them to participate in its capital based on confidence in the evaluation of the bank that he is promoting on the other hand.

The establishment of projects by Islamic banks helps implement many investment ideas and opportunities that are likely to falter and not come into being unless they have the support and support of financial bodies. Especially in developing countries that lack the element of regulation in such cases, the role of Islamic banks is necessary to bridge this gap. The bank, through its participation in the establishment process, gives a big push towards establishing legitimate finance and overcoming the obstacles that it may face at the beginning of its life. The presence of Islamic banks in the ownership and management of the project is in order to bring out the Islamic a new investment and to create chances of success for it as that goal has been achieved. Banks can waive this contribution in the pursuit of the following:⁽⁹³⁾

- A. The dinar is capital gains from the sale of its contribution to ensure additional resources that can be direct to new investments.
- B. Expanding the category of beneficiaries of Islamic banking services in the areas of investment by directing their efforts to establish other projects and contribute to their management and support.
- C. Participate in developing the capital market in the country.

93. Scientific and Practical Encyclopedia of Islamic Banks, Part Six / ibid. P.282

2.1.3. Investment in Securities

Islamic banks cannot invest in all known securities due to their inconsistency with the provisions of Islamic sharia. It is known that traditional banks exploit most of their excess liquidity or funds from short-term sources by investing in various securities. Because of the advantages achieved by investing in these securities, especially the ease of converting them into liquidity when needed due to the presence of secondary financial markets in which these securities are traded, here is a brief explanation of the most important securities traded in the financial markets:

1. Debentures and investment certificates: They are bonds that are usually issued by governments or large joint-stock companies and sold to the public through financial markets and financial intermediaries in order to obtain the funds necessary to carry out the planned business the public purchases these bonds or investment certificates to invest the funds and obtain a fixed return during the period of holding the bond or the investment certificate which is the period that the bond holds. To obtain a specific amount and a known amount in excess of the value of the bond that he paid when paying the value of the bond in this type of securities. The holders of bonds or certificates have no relationship with the results of investing the funds. Rather, the issuing party undertakes to return the amount on a difficult date, and it pledges to pay interest on the dates specified for the holders of this bond.
 - The ownership of the funds is a transferee from the holders of the debentures and investment certificates to the issuer of the debentures or investment certificates.
 - The bondholder's relationship with his money shall be severed. The issuing party shall have a debt owed to pay it at a specified time, regardless of the results of the work with the money.
 - The holder of the instrument receives a reward, which is the benefit that he will obtain without assuming the risk of investing his money. The bonds represent a debt on the issuers towards the bond's holders committed to returning it at the time of maturity in addition to the interest.

This means that all the returns that the holders of bonds or certificates of investment in usury will receive contemporary nation scholars have unanimously agreed that this type of investment is prohibited for the reasons we have mentioned, therefore. Islamic banks cannot invest their money in debentures, treasury bills, or investment certificates because they are interest-bearing loans at the end. ⁽⁹⁴⁾

2. Certificates of deposit: These are bonds issued by traditional banks according to which the owner of the certificate is obligated to pay the nominal value of the certificate on the due date. In addition to predetermined benefits to be paid on the due date or at periodic times during the retention period of the certificate, sometimes, the bank may announce prizes for holders of these certificates. Its commitment to pay the nominal value of the certificate on the due date, or upon request to holders of certificates in all cases, these certificates do not differ from investment accounts in usurious banks traditional. But rather, they are investment accounts in these banks. Therefore all that is paid in excess of the amount paid by the certificate holder is from the haram usury. This was explained in detail when talking about deposits in Islamic banks and usurious banks in this case as well. Islamic banks are not permuting to invest in this type of certificate, and the Islamic alternative to these bonds and certificates is the opposing bond. ⁽⁹⁵⁾
3. Preference shares: It is a bond that represents a share of the company's capital, combines the attributes of the debentures and the attributes of the stock in terms of its right to obtain returns from the company, and these shareholders are the priority when liquidating the total ordinary shares. However, they get their share of liquidation after debentures, and creditors Islamic banks may not invest in this type of stock for the same reasons that we have shown these shares carry interest and usurer as is the case with bonds and investment certificates, regardless of their other characteristics.

94. Mahmoud Hussein Al-Wadi (Theoretical foundations and scientific applications) Publishing and Printing Oman 2007, p. 277

95. Mostafa Kamal El-Sayed Tayel, (The Investment Decision in Islamic Banks, Edition) First, Ghobashi Shades, Tanta, Egypt 1999

4. Common shares: These are bonds that represent a share in the company of its holder. Whereby the shareholder shares the profits achieved by the company or its losses according to his contribution to the capital, this means that the shareholder's ownership continues to the money that he invested, and he also bears the risk of investing this money. Therefore, the shareholder is a partner in the joint-stock company, and the provisions of companies in Islamic jurisprudence apply to him, therefore. Islamic banks may invest in ordinary shares, provided that these shares represent shares in the capital of companies operating in fields that do not conflict with the provisions of Islamic Sharia. Then these shares must represent a share in the capital of companies whose inputs, outputs, and instruments are used therein. If something of the haram mixed in its revenues, it must be excluded when obtaining the share dividend and distribute it in the charitable aspects. For example, a company can deal with the paper with a usurious bank. Which may lead to a usurious interest within the profits that the company has. In this case, this portion of the income should be excluded and distributed in the best interests,
5. Debentures of Borrower: These are documents or bonds issued by Islamic banks. It states that the issuing bank will collect the funds derived from them and invest them legally by guaranteeing their owners against sharing the profits derived from investing these funds with their owners in certain proportions from earnings (Common share of earnings) specified in the prospectus for this debenture. The bank does not guarantee the return of these funds to its owners unless it is proven that it failed to dispose of these funds or infringes them. These debentures of the borrower are a speculative contract between bondholders (Money owners) and between the Islamic Bank (Speculative). Therefore, it does not differ from investment accounts in Islamic banks. Therefore, it is entitled to hold them Profits, if realized. ⁽⁹⁶⁾

2.1.4. Individual Investment Problems in the Islamic Stock Market

Indices published regarding Islamic stock markets are investors; they are an irreplaceable source of information terms, however, as stated above, there is no index

96.Samhan. Hussein Islamic banking operations \ibid

that publishes purely Islamic businesses that generate revenue in accordance with Islamic rules the reason is that there is no data about a company that makes all its profits in accordance with the rules of Islam and that this company is bought and sold in the stock market. Even the biggest companies' sudden cash needs can stop. For this reason, most businesses have overdraft accounts in the usury-based banking system overdraft account. A banking product designed for urgent cash needs, sufficient balance defined in the demand deposit account within a limitation, and in the bank, the account is a loan product that allows you to withdraw money from the account or to make payments. ⁽⁹⁷⁾

Such accounts have become indispensable in trade due to the maturity differences between receivables and debts. Commercial enterprises cannot survive in commercial life without such accounts; most businesses continue to use these accounts because there is still no generally accepted solution for their needs, therefore. No matter how long businesses want to comply with the rulers, the rulership to survive commercially may have to infect items such as usury rate transactions that it does not find appropriate. ⁽⁹⁸⁾

2.2. Types of Investment funds in Islamic Banks

2.2.1. Islamic Investment Funds

Savers can evaluate their savings by buying stocks and bonds from companies, brokers. Stock exchanges, however, investing in securities is a matter of knowledge and expertise. In addition, when individual savings generally do not reach a sufficient size, portfolios created with them are likely to be unable to realize the necessary risk distribution. This risk can be important in terms of principal or return on the portfolio. Therefore, Mutual funds called collective investment institutions had been created in the capital market. Mutual funds manage portfolios consisting of capital market instruments such as stocks, securities/bonds, sector borrowing instruments, reverse repo. Gold and other precious metals such as money collected from the public each investor joins the fund by purchasing the share that represents part of the fund's portfolio. Islamic mutual funds have the same functions as classical mutual funds, however.

97. A. YANPAR/ Evaluation of the Use of Overdraft Deposits in Capital Market Transactions with Credit / Capital Markets Journal, 2010, p. 97

98.M. A. Elgari (Islamic Equity Investment) London, 2002, p. 77-80

There are two important points that distinguish Islamic investment funds from classical investment funds. The first is that the management and law structures of Islamic investment funds are in line with sharia. The second is that the Islamic investment funds must comply with the Sharia provisions of the areas. Invest there are about 750 investment funds established in different countries in the Islamic financial industry on a country basis. It is seen that excess Islamic funds are in Malaysia, and regionally, the funds are concentrated in the Middle East when we look at the distribution of Islamic investment funds by investment areas.

It is seen that more than half of them focus on stock investments and a large portion of the rest on venture capital / private equity or real estate fund sizes range from 20 to 100 million dollars on average fund sizes it varies greatly between countries in proportion to the national income of countries. While the average fund size is \$170 million in Saudi Arabia, this number drops to \$ 44 million in Malaysia. ⁽⁹⁹⁾

2.2.2. Islamic Investment Funds: Sharia Compliance

All Islamic financial institutions are expected to have a sharia advisory committee. It is normal that this structure is also present in Islamic investment funds, however. In practice, there is no sharia board operating exclusively in all Islamic investment funds.

On the other hand, it is a common occurrence to employ a sharia counselor instead of a judicial board in some of the Islamic investment funds. It is known that some investment funds do not have a sharia committee, nor is there any consultant. Such investment funds are generally funds that follow a stock-based investment policy. Since they invest in Islamic stock indices, they do not need counseling if there is an advisory board in an investment fund. The most important task of this board is to approve investment areas and carry out purification processes as a natural result of this process. It should be stated that Islamic mutual fund managers have to follow a more limited investment strategy compared to classical mutual fund managers.

99.D. V. Abdullah, k. Chee(Islamic Finance Why It Makes Sense) Singapore, 2010.p242

2.2.3. Islamic Investment Funds: Investment Fields

From a theoretical perspective, the investment fields of an Islamic investment fund are limited to areas deemed appropriate by sharia. Therefore, it should be expected that an investment fund to invest in stock markets would only purchase the shares of a company acting in accordance with sharia rules. However, the existence of companies operating in full compliance with the sharia rules is questionable in the face of the disadvantages of individual investors in these matters. Islamic investment funds are based on mechanisms that provide assurance for compliance with the sharia, such as purification and religious surveillance.

Due to their structure, they have a much wider range of investment areas than individual investors do. There are four basic Islamic investment funds in terms of investment fields. It is possible to define them as follows briefly:

1. **Stock Funds:** Listed in the Islamic stock indexes and this type of fund making investment is still the highest in Islamic investment funds.
2. **Commodity Funds:** Islamic commodity funds international and national commodity funds, these funds trade commodities from their markets they can trade based on Speculation as well as spot markets, unlike classical usury-based finance commodity funds. Islamic commodity mutual funds are included in commodity markets through physical trading, not derivative instruments. Forward transactions are not permitted by Sharia committees except for forwarding and Istisna. It should also be noted that within the Islamic finance principles. It is not allowed to buy or sell commodities that do not comply with Sharia.
3. **Leasing funds:** leasing funds, purchase of assets that can be rented with money collected in the fund pool (Construction equipment, ship, etc.), and funds that operate based on leasing these assets the point to be considered. Here is that if the leasing funds operate within the framework of the business model of buying and renting real estate, some funds it is called as Islamic real estate investment fund and partnership detailed explanations about these funds are made in the following section.

4. Murabaha Funds: In Murabaha funds, with the money collected in the fund pool, financing is provided to the people who need it, and the profit from these sales is fund profit. ⁽¹⁰⁰⁾

2.2.4. Islamic Stock Exchange Investment Funds

Exchange-traded funds, based on an index, the performance of the index on which these mutual funds are based and which aims to reflect the investors whose shares are traded on the exchanges. Shares in the fund are created by copying the index content onto one on a single basis. Exchange-traded funds combine high liquidity in stocks, the ability to buy and sell easily, and risk-sharing mutual funds for distribution, and investors benefit from investment market returns more easily than any investment fund. Knowing that they are bought and sold on the stock exchange during the daily ETFs, which can be converted into cash, they provide investors with the opportunity to examine the daily portfolio distribution transparently.

In addition, perform the transactions required to invest in all of the stocks in the index at once structural differences of Islamic stock exchange funds are not fundamentally different from classical stock exchange funds. They are traded on the same exchanges subject to the same. Trading rules the difference that the Islamic stock market investment fund uses is that the index covers stocks compatible with sharia on the other hand. As in all Islamic financial institutions, Islamic stock exchange investment funds must undergo sharia supervision and surveillance. As of 2011, there is a list of major Islamic stock exchange investment funds in the world. ⁽¹⁰¹⁾

Table 2. Major Exchange Traded Funds in the World.

NAME	MANAGER	DATE OF ESTABLISHMENT AND QUOTED EXCHANGE
DJIM Turkey	Our Securities	2006 \ Istanbul
Participation Index Exchange Traded Fund	Our Securities	2012 \ Istanbul
MSCI World Islamic	IShares	2007 \ London
MSCI Emerging Markets Islamic	IShares	2007 \ London
DJIM Titan 100	BNP Paribas	2007 \ Zurich
DJIM Malaysia Titans 25	CIMB	2008 \ Kuala Lumpur
FTSE Sharia Japan 100	Daiwa	2008 \ Singapore

100.R. Wilson (Screening Criteria for Islamic Equity Funds)London, 2004,p. 35-44

101.Y.O. OKAT(Real Estate Investment Funds) Corporate Investors Magazine, 2010, p. 46-49

2.2.5. Islamic Real Estate Funds and Partnerships

Real estate investment trusts, real estate, real estate capital market these are collective investment institutions that can invest in their vehicles, real estate projects. Real estate-based rights and capital market instruments and can establish ordinary partnerships to realize certain projects. The purpose of a real estate investment partnership is high return potential investments in real estate, real estate-based projects, earning rental income, and real estate purchase income from real estate in its portfolio as an investor. Who is a partner by purchasing real estate investment partnership shares, indirectly benefiting from high-yielding real estate proceeds?

In the real estate investment partnership system, real estate investment is achieved through the purchase of shares of a company that invests in it rather than the lower liquidity real estate itself. The problem of liquidity disappears. Real estate investment funds, similar to real estate investment trusts, invest their resources in real estate group assets. However, unlike real estate investment trusts, real estate investment funds receive their fund shares regularly at the request of investors essentially. Real estate investment funds, in terms of performance and risk with these features it is a tool that always finds advantageous real estate investments but appeals to individual investors who want to remain liquid considering their personal needs on the other hand.

Islam Real estate investment funds and partnerships are not structurally different from classical real estate investment funds and partnerships as in all Islamic financial institutions. Transactions and accounts in Islamic real estate investment funds and partnerships must undergo scrutiny and surveillance classic of Islamic real estate investment funds and partnerships another important point where it leaves the funds and partnerships is the fact that the insurance contracts related to the real estate owned by the Islamic funds and partnerships have to be made within the framework of Islamic insurance (Guarantee) Malaysia was the first country to make official regulations regarding Islamic real estate investment funds and partnerships. Arrangements made in Malaysia in 2005 allow Islamic real estate investment trusts to account for up to 20% of the rental income arising from inappropriate activities as sharia⁽¹⁰²⁾

102.Y.O. OKAT, Real Estate Investment Funds, Corporate Investors Magazine, .ibid

2.2.6. Appropriate Valuation of Islamic Investments in Securities (Stocks, Bonds, Bills of Exchange, Checks, etc.)

Securities are dividing into two parts, namely the capital market and the check-in. The money market checks in the capital market are markets in which securities have been traded for more than one-year bonds, and stocks are the primary stocks used by these markets.

Guarantee debt securities that provide the right to pay Guarantee the yield of the guarantees is usury Government-issued guarantees Public Sector guarantees the guarantees issued by companies are called Private Sector Guarantees. Because of these valuable papers issued by the state or companies to find equity, monthly or quarterly usury payments are made, the purchase and sale of Guarantee are not religiously suitable. As the usury rate transaction is clearly and explicitly another of the capital market checks, stocks are documents that provide the right to partnership and participate in profit and loss with the shares issued by companies that need equity. It recognizes as a partner in the company, as well as broad rights such as participation in management and voting.

There are many types according to the characteristics of the stock. The types of stocks that take into account only profit and that do not take into account loss are not regarded as religiously appropriate three perspectives have emerged for other stocks. These are discussed below in the titles. ⁽¹⁰³⁾

1. Advocates that Stocks are not Relevant Religiously: According to those who advocate this view, one of capital market checks. Therefore, it is the product of a capitalist system. In addition, since it is not clear exactly what the stocks mean, the state of ignorance is in question. It is stated that the stock of the shares is traded. In addition, the purchase of the shares is deemed unsuitable as it is stated that the people's goods are unfairly eaten because of the fact that their legal infrastructure is not suitable. ⁽¹⁰⁴⁾

103.Servet Bayındır /Jurisprudence and Economic Finance/Suleymaniye Foundation Publications, Istanbul: 2015, p. 99.

104.Abdel Azeez Bayındır / Trade and Interest / Istanbul / 2007, p. 346

2. Advocates that Stock is Relevant Religion: Overall shares, the company's assets, profits, and partnerships represent a loss; the rights to be provided by the share and the usage of these rights by-laws and agreements and that these agreements can be dealt with under the heading of "Speculation" in Islamic law. It is permissible to become a partner by purchasing shares in this way to a company that has the necessary sharia requirements. It is said to be the view that the system is the product of a capitalist system, in essence. It is presented as an answer that it is necessary to look at the situation, that there is no ignorance because, in order for ignorance, the parties should be disproportionate or exorbitant.
3. Advocates that Stock is Eligible under Certain Conditions: Advocates of this view are stated that the investments to be made according to the fields of activity of the companies will be interpreted differently the result of the Stock Exchange Seminar held in Rabat in 1988 with the initiative of the Islamic jurisprudence academy affiliated to the Islamic conference organization and the seventh of the academy mentioned in Jeddah in 1992 as a rule. It is still halal because of the participation of the shares in profit and loss in the period meeting. However, it was stated that the sharia provision was closely related to the legitimacy of the commercial transactions and purposes of the company that issued it buying and selling stocks if the company earns income through religious haram means such as usury, drink trade, black market, cheating, lies. Deception and it is a reporter that it is not permissible to come from this to participate in haram. ⁽¹⁰⁵⁾

Money Market Tools: Market instruments are markets where securities are traded for a one-year money market tools bond (Treasury, Financing, and Bank) repo / reverse repo. Asset-based it is referred to as Securities (ABS) bonds, short-term right to receivables are the debt securities the bonds, which we refer to as the younger brother of the bond, are called treasury bills if they are issued by the government, financial bills if companies issue them, and bank bills if issued by banks.

105.TDV Islamic Encyclopedia, Note, Access Date: 02.09.2019, <https://islamansiklopedisi.org.tr/senet>

In order to meet the short-term liquidity, need, investors are paid interest in exchange for these valuable papers Guarantee. Which are the younger brothers of the bond, are not regarded as religiously appropriate as they are paid clearly it will also include overnight, daily, weekly or monthly periods in the repo, which represents the purchase and sale promises of securities, and Repo, which indicates the purchase and sale promises in this way. Since usury, income is obtainer.

These are also not considered permissible, whereas the deferred securities (ABS) are issued by some financial institutions against their receivables bank and arising from the loans extended by companies, the receivables arising from leasing contracts. The sale of real estate in the portfolios of real estate investment trusts includes receivables through the issuance of ABS. Financial institutions provide liquidity from these receivables that are not due yet. Investors can benefit from the return of a pool of receivables with different qualifications. ABS., issued in a usury paid manner, is also not permissible.⁽¹⁰⁶⁾

2.3. The Role of Islamic Banks in Iraq and Turkey (Research Sample)

2.3.1. The Emergence of Islamic Banks in Iraq

Islamic banks were established in Iraq in 1993, then their number increased from one bank to nine banks in 2010, and it became 24 Islamic banks in 2017(22 local and 2 foreign banks) in addition to the high growth rates of its capital to a level. Comparable to that achieved by its counterparts from commercial banks, as shown in Table No (3), the work of Islamic banks was distinguished from commercial banks by providing various banking services to their customers without relying on the principle of charging interest on loans and being satisfied with. Commissions that are low compared to the interest rates are taken from commercial banks in exchange for lending operations.⁽¹⁰⁷⁾

The establishment of Islamic banks in Iraq participates in their activities, and their activities in accordance with Islamic law have an effective role in investment and economic and social development. It has wide methods in the process of contributing to

106.What is Emlak dream, Asset Backed Securities (VDMK) issue?, Access Date: 02.09.2019,

107.Annual /report/ of the Central Bank of Iraq for the year 2010
<https://www.emlakdream.com/varliga-dayali-menkul-kiymetler-vdmk-ihraci- definition>

the establishment of productive projects in a way that contributes to generating incomes and providing real goods and services finding job opportunities and new jobs and reducing the effects that lead to weakening the economy in addition to serving trends development that has become tangible in Islamic countries in recent times as a result of the most prominent role of Islamic banks in social development in terms of their pursuit of goals that are not limited to increasing profits only. But go beyond raising the standard of living of the individual and society to the level of well-being. ⁽¹⁰⁸⁾

Table 3. The Number of Banks Represents the Size of the Capital of Islamic Banks in Iraq

	Banks Names	The Capital of the Banks
1	Kurdistan International Bank for Investment and Development	400 Billion dinars
2	Cihan Bank for Islamic Investment and Finance	255 Billion dinars
3	National Islamic Bank	251 Billion dinars
4	Elaf Islamic Bank	250 Billion dinars
5	Iraqi Islamic Bank	250 Billion dinars
6	Islamic Cooperation Bank	250 Billion dinars
7	AL Bilad Islamic Bank for Investment and Finance	250 Billion dinars
8	World Islamic Bank	250 Billion dinars
9	South Islamic Bank	250 Billion dinars
10	Al-Rawahal Islamic Bank (wills)	250 Billion dinars
11	Arab Islamic Bank	250 Billion dinars
12	Islamic Holding Bank for Finance and Investment	250 Billion dinars
13	Al Ansari Islamic Bank for Investment and Finance	250 Billion dinars
14	The International Trust Bank for Investment and Finance	250 Billion dinars
15	Al-Rajih Islamic Bank for Investment and Finance	250 Billion dinars
16	Noor Iraq Islamic Bank	250 Billion dinars
17	Zain Iraq Islamic Bank	250 Billion dinars
18	Al Qertas Islamic Bank for Investment and Finance	250 Billion dinars
19	Al-Nahrain Islamic Bank	125 Billion dinars
20	The Tigris and Euphrates Bank for Development and Investment(wills)	112 Billion dinars
21	International Islamic Bank	100 Billion dinars
22	ABU Dhabi Islamic Bank	50 Billion dinars
23	AL-Baraka Turkey Islamic Bank	50 Billion dinars
24	Asian Bank of Turkey (liquidation)	

Source: 2017 Central Bank of Iraq annual report

108. D. Abdul-Razzaq Rahim Al-Jabri (Islamic Banks Between Theory And practice) Osama House for Publishing and Distribution Jordan / Amman First Edition) . 1998 p. 173

2.3.1.1. The Historical Development of the National Islamic Bank

The establishment of the bank was established (As a private joint-stock company) under the numbered incorporation license 26073 dated 5 /5/2005 with a capital of (25) billion dinars fully paid and obtained the approval of the Central Bank of Iraq doing comprehensive banking activities. The bank was allowed to mediate the buying and selling of foreign currencies according to the license issued by the number 9.3.2641 on 26 /9/2005. However, the security conditions prevented him from practicing actual banking activity until April 2010, after changing his ownership and the relative improvement in the security conditions in the country. ⁽¹⁰⁹⁾

2.3.1.2. Developments on its Paid-Up Capital

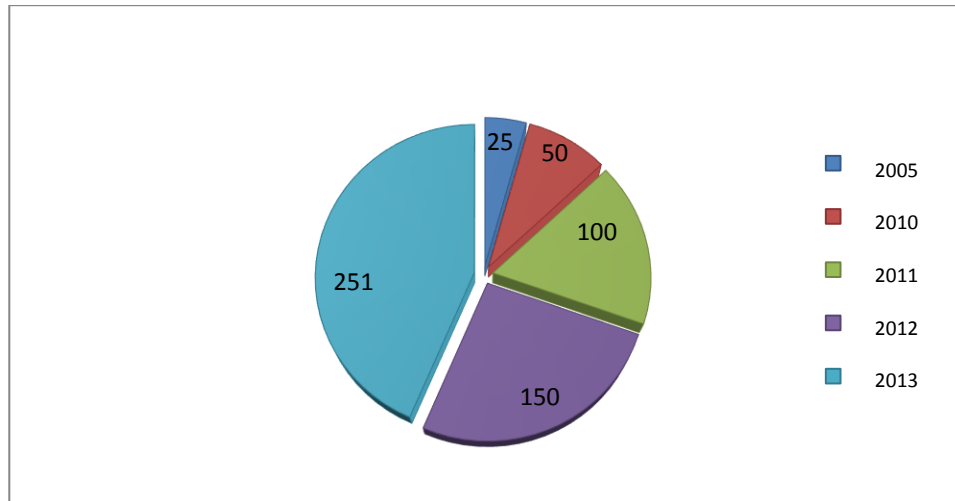
Bank money from (25) twenty-five billion Iraqi dinars to (50) fifty million Iraqi dinars on 19 /3/2010 and to (100) one hundred billion Iraq. Dinars on 14 /8/2011 was also increased to (150) one hundred and fifty billion dinars on 22 /10/2012, and the bank has completed increasing its capital to (251) billion dinars on 29/8/2013, according to the time limits established in the instructions of the Central Bank of Iraq.

Table 4. Developments on its paid-up Capital.

Years	2005	2010	2011	2012	2013
Paid-Up Capital (Billion Dinars)	25	50	100	150	251

The National Islamic Bank: The Bank's Annual Report for the period (2010-2018)

109.The National Islamic Bank / The Bank's Annual



The National Islamic Bank: The Bank's Annual

Figure 10. For Capital Above.

2.3.1.3. The Most Important Achievements of the Bank During 2018

In summary, the most important achievements of the National Bank are as follows:

1. Strengthening the risk management division and the anti-money laundering and terrorist financing division with highly professional banking cadres that contributes to establishing effective control over all banking operations.
2. It became a general reserve at the budget (9,050) billion dinars.
3. The reserves of expansion have become at the budget date (1,650) billion dinars.
4. The credit risk provision is appropriate to the required standards in accordance with Instructions no (4) for the year 2010.
5. Continuing and expanding building banking relationships with foreign banks.
6. It works on updating the approved application systems, especially the system TEMENOS.
7. Update the policies and procedures to suit international banking standards.

2.3.1.4. The Social and Humanitarian Responsibilities of the Bank

There are many social and humanitarian responsibilities of the National Bank, among the most important, as follows:

1. employees Support Fund within the social and humanitarian responsibility of the bank. The Social Solidarity fund has been established to support employees' workers in the bank. With the aim of creating a kind of social solidarity to alleviate the burden of employees in cases that require high material expenditures, such as performing surgical operations or paying treatment and medication fees of a continuous nature. Especially for severe cases or contributing to social situations such as death and marriage.
2. Financial contribution to the initiative to support community and humanitarian activities organized by the Central Bank of Iraq.
3. The bank contributed to training Iraqi university students in initial studies, as well as master's students at the higher institute for financial and accounting Studies, and providing all data the necessary facilities with a view to increasing their application expertise. The bank also contributed to providing financial and in-kind rewards for students those distinguished in those universities who have advanced ranks in the results of educational achievement in those universities. In order to motivate them to progress and give continue to serve their dear country, the bank contributes to the orphan and Al Ain Charitable Foundation.

Table 5. Statement of Comparison of Bank Accounts during the Years (2010-2018).

Year	2018	2017	2016	2015	2014	2013	2012	2011	2010
Account Assets	-	-	-	-	-	-	-	-	-
Cash holdings & Banks	108,025	195,698	169,242	128,126	203,311	201,592	229,974	128,126	25,844
Investment	6	106	119	199	199	199	199	199	299
Monetary Credit	443,468	527,297	454,972	459,370	330,602	361,163	255,311	103,828	32,188
Debtors	43,898	52,264	41,008	20,619	22,794	55,464	2,347	4,481	11,937
Fixed Assets	6,607	5,585	5,399	5,714	6,095	6,340	2,764	3,315	3,188
Total assets	602,004	780,950	670,740	707,709	562,921	624,678	490,515	239,869	73,456
Liabilities	-	-	-	-	-	-	-	-	-
Current A/C& Deposit	281,256	451,900	329,794	376,237	243,719	316,819	298,377	129,678	22,058
CBI Loans	950	-	-	-	-	-	-	-	-
Revisions	20,990	19,473	45,481	39,253	29,524	19,433	12,324	2,903	-
Creditors	21,947	21,225	10,633	3,554	4,217	2,605	2,613	283	903
Capital	251,000	251,000	251,000	251,000	251,000	251,000	100,000	100,000	50,000
Reserves	25,861	37,352	33,832	37,665	34,461	34,821	27,201	7,005	495
Total Liabilities	602,004	780,950	670,740	707,709	562,921	624,678	490,515	239,869	73,456
Revenues & Expenditures	-	-	-	-	-	-	-	-	-
Revenues	18,669	40,429	41,745	53,213	54,769	55,213	42,517	22,311	4,434
Expenditures	9,323	10,118	14,936	17,827	17,598	15,579	10,401	22,311	4,434
Profits (distribution)	9,346	30,311	26,809	35,386	37,171	39,634	32,116	7,797	1,925

Source: The National Islamic Bank Annual Report (2010-2018)

The report also referred to the bank's practice of participating in activities and Murabaha. But did not refer to the details of these activities, which are considered to be the core business of the bank, as well as a statement of profit settlement losses for the purposes of income tax did not clarify the details of the surplus mentioned.

2.3.1.5. Budget and Bank Activities Assets and Liabilities

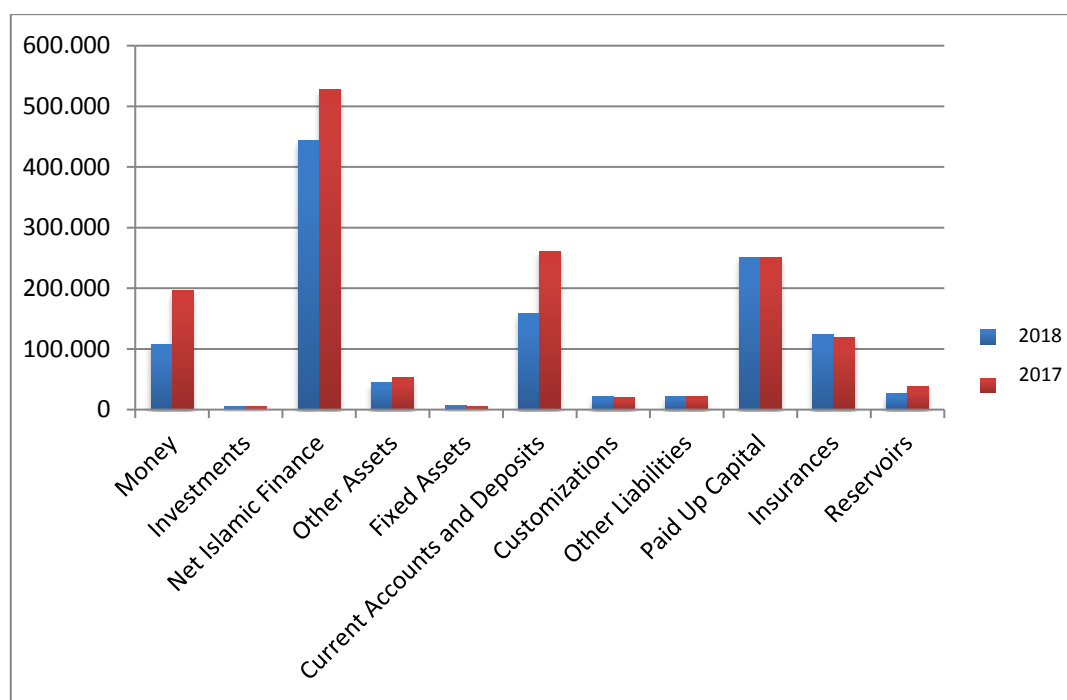
Total assets (Balance Sheet) under the general budget areas in

31/ 12 / 2018, about (602) billion dinars, and the following table shows that.

Table 6. Assets and Liabilities.

Account	The Balance 31/12/2017	The Balance 31/12/2018
Assets	-	-
Money	195,698	108,025
Investments	106	6
Net Islamic Finance	527,297	443,468
Other Assets	52,264	43,898
Fixed Assets	5,585	6,607
Total Assets	780,950	602,004
Liabilities	-	-
Current Accounts and Deposits	360,377	157,728
Customizations	19,473	20,990
Other Liabilities	21,225	21,947
Paid Up Capital	251,000	251,000
Insurances	191,523	124,478
Reservoirs	37,352	25,861
Total Liabilities	786,950	602,004

Source: The National Islamic Bank Annual Report (2017-2018)



Source: The National Islamic Bank Annual Report (2017-2018)

Figure 11. Assets and Liabilities.

2.3.1.6. Cash Liquidity

1. The annual cash liquidity ratio for the year 2018, (28%) of the total assets of the bank.
2. Money: The balance of the cash account in the fund at the end of 2018 reached the limits of (108) billion dinars, as shown in the liquidity table below. As it amounted to a (cash account) that includes the bank's cash flow consisting of cash sums in local and foreign currencies kept in its treasury and those deposited with Local and foreign banks with current accounts to cover international bank transactions in opening documentary credits. Remittances are arising from the auction in dollars before registration to the accounts of the beneficiaries and for the purposes of legal deposits with the Central Bank of Iraq. The following table shows a comparison of some of the bank's liquidity indicators.

Table 7. Demonstrate Comparison of Some Indicators of the Bank's Liquidities.

Statement	2017	2018
Cash on Hand (In Local and Foreign Currency)	57,333	19,707
Cash in Local Banks	1,219	1,585
Cash at the Central Bank of Iraq	91,675	50,932
Legal Deposits with the Central Bank of Iraq	28,319	20,830
Cash at Foreign Banks	17,064	14,971
Total	195,610	108,025

Source: The National Islamic Bank Annual Report (2018)

2.3.1.7. Cash Credit and Credit Pledge

1. Cash credit: The bank practiced contributions and Murabaha activities in accordance with the provisions and regulations of Islamic Sharia, as the amount of cash credit granted for the year 2018 amounted to (443) billion dinars. After that, it was at the end of 2016 up to (433) billion dinars, after deducting the provision for credit facilities of (36) billion dinars.
2. Credit Pledge:
 - The total amount of the Credit Pledge to (519) million dinars on 31/12/2018 amounted to (954) billion dinars.
 - The volume of documentary credits issued during 2018 amounted to 129 billion dinars.

Table 8. Showing the Size of the Cash Credit and Credit Pledge by to.

Year	2010	2011	2012	2013	2014	2015	2016	2017	2018
Cash Credit	32	104	255	261	331	459	455	527	443
Credit Pledge	176	326	952	973	1,145	904	945	828	519
Total	208	430	1,207	1,334	1,476	1,364	1,409	1355	962

Source: The National Islamic Bank Annual Report (2010-2018)

2.3.1.8. Investments

The balance of the investment account amounted to an amount of (6) million dinars up to 31 /12/2018 and below. A detailed list of those investments and the historical and market cost of stocks, as follows.

Table 9. Investments.

The Company	Number of Shares	Share Purchase Price	The Value	Close Price	The Market Value of The Shares
Light Industries Company	20,129,891	0,967	19,469,843	0,310	6,240,266
Total			19,469,843		6,240,266

Source: The National Islamic Bank Annual Report (2018)

A. Other assets (receivables): Debtors balance reached in

31/12/2018) 43 billion dinars, with a decrease of (16%) Compare to a year. In 2017.

B. Projects under implementation: The balance of the account for projects under implementation, as it was on /31/12/2018, reached (235) million dinar and an increase (47%) compared to 2017.

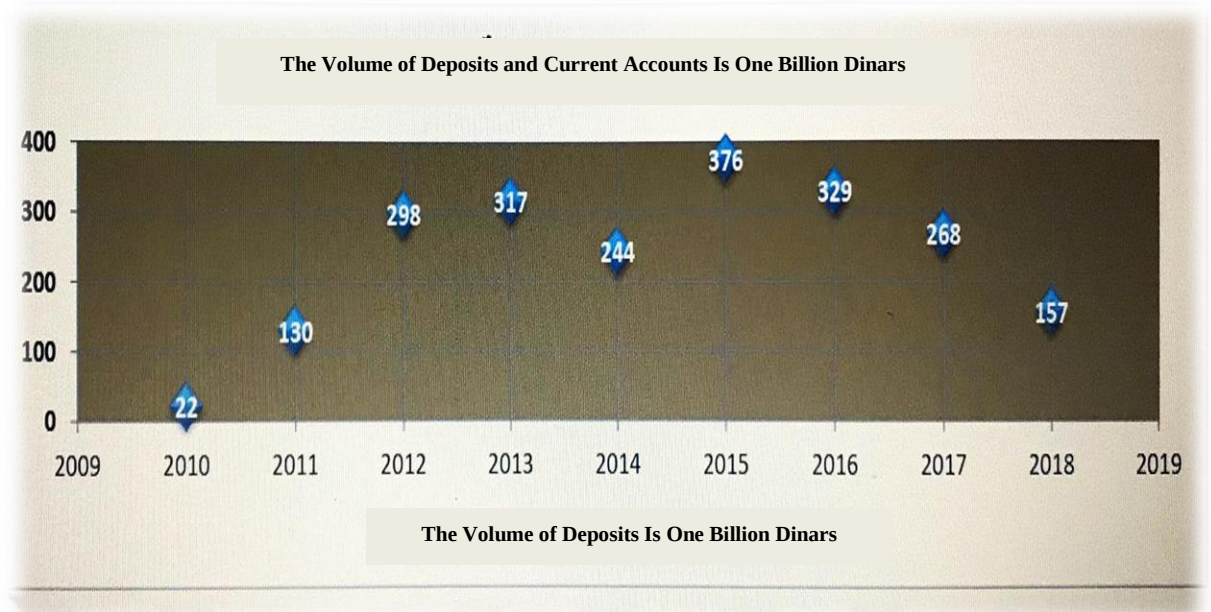
2.3.1.9. Current Accounts and Deposits

The balance of current accounts and deposits at the end of 2018 reached (156) billion, as shown in the following table.

Table 10. Current Accounts and Deposits (2017-2018).

Statement	2017	2018
Current Accounts Payable	225,364	127,342
Savings Deposits	27,169	28,936
Investment Deposits	7,844	500
The Nature of Current Accounts	8,024	-
Total	268,401	156,778

Source: The National Islamic Bank Annual Report (2017-2018)



Source: The National Islamic Bank Annual Report (2017-2018)

Figure 12. The Volume of Deposits and Checking Accounts for the Years (2010-2018).

2.4. The Emergence of Islamic Banks in Turkey

Islamic principles are called institutions that operate as banks of the Islamic bank or a bank without interest. The practice of (Islamic Bank) is becoming more common. There are religious, economic, and political reasons that generate banks without interest in the hands of Muslims. An assessment of the savings that do not go to the well-known banking system due to the prohibition of interest in the Islamic religion. The revival of social, cultural, and economic relations between Islamic countries, especially the economic development of these countries, through the trend towards those who suffer from a lack of funds from Islamic countries with excess funds.

It is deciding to establish Islamic banks for reasons such as founding etc. Developments in the field of ideas that began in 1940 on the topic were given the first result in the field of application with an Islamic bank many Islamic banks have been established since then, mostly in Islamic countries the primary financial methods and tools of these institutions, which adopt the principle of operating according to the principle of profit and loss are interest-free, Murabaha and enforcement partnerships.

Islamic banks were established in Turkey as a Special Finance Corporation with the Decree of the Council of Ministers dated 16.12.1983. These institutions were

included in the Banking Law in 1999. In 2005, they were completely included in the Banking law, and deposit and investment banks have been brought into the same situation and took the name of Participation Bank.

Turkey, established in 1985, AL Baraka Turkish Finance house Inc. Faisal Financial Corporation A.S. According to Islamic banking principles are the first institutions to be established. Founded in 1989, Kuveyt Turk Evkaf Finance Corporation A.S. was established in 1991, Anadolu Finance Corporation, A.S. established in 1995, İhlas Finance Corporation A.S. and in 1996 Established Asya Finance Corporation A.S. followed in 2001, Turkey During the crisis, İhlas Finance went bankrupt and was closed the same year, the country inherited from the Group of Faisal Finance. Family Finance has taken the name. Turkey Finance Participation Bank was establishing this bank merged with Anadolu Finance in 2005. ⁽¹¹⁰⁾

Table 11. Institutions Operating in the Islamic Banking and Finance Sector in Turkey⁽¹¹¹⁾

Banks Names	Years	Continuity in service
State Industrial Worker Investment Bank	1975	————
Income Partnership Bonds (GOS)	1984	————
Al Baraka Turk Private Finance Corporation, Faysal Finance	1985	Continuous
Kuveyt Turk	1989	Continuous
Anadolu Finance	1991	————
İhlas Finance	1995	————
Asya Finance	1996	————
Turkey Finance	2005	Continuous
Ziraat Participation Bank, Foundation Participation	2015	Continuous
Vakif Participation Bank	2015	Continuous
Turkey Emlak Participation banks	2019	Continuous

Source: Yatbaz 2019: 135 has been prepared by the Author. The number of banks operating in Turkey

110.OZSOY Ismail (A participation bank in Turkey) Istanbul, 2011, p.47, TKBB.

111.Source: YATBAZ / has been prepared by the Author / The number of banks operating in Turkey 2019: 135

2.4.1. The Historical Development of Al Baraka Bank Turkey

Al Baraka Turk Participation Bank (Al Baraka Banking Group), which has a very strong capital structure in the Middle East, the Islamic Development Bank was founded and led by a local industry group. Found in 1984, the active service process of the participation bank started in 1985,

Considering the data from 30. June.2019, 65.99% of the partnership structure is foreign, 8.77% domestic, 25.23% open to the public. It consists of shares being an international participation bank serving 230 branches at home, 2 branches abroad and 3.884 personnel (Al Baraka.com). Al Baraka Turk Participation Bank A.S. has Turkish Commercial Code since 2007 when the public offering took place relevant articles, Banking legislation. Capital Markets Board (CMB) legislation in accordance with the Capital Markets Board of the Institution No 17.1 Subject to the Management Communiqué and the Corporate Governance Principles attached to it Al Baraka Turk is also a member of "Banks" issued by the Banking Regulation and Supervision Agency (BRSA) the management determined by the regulation on corporate governance principles depends on the structure, process, and principal provisions. ⁽¹¹²⁾

2.4.2. Institutional Structure

Committees, advisory boards, and directorates connected to the board of directors of Al Baraka Turk Participation Bank are shown with the help of Figure. ⁽¹¹³⁾

112. www.albaraka.com.tr/Assets/tr/pdf/yatirimci-iliskileri/Albaraka-Turk-2018-Activity-Report.pdf, P: 75 Access 23.6.201

113. Organization Chart of Al Baraka Turk Participation Bank. Source: www.albaraka.com.tr/Assets/tr/pdf/Yatirimci-Iliskileri/Albaraka-Turk-2018-Activity-Report.pdf, p: 75, Access: 23.6.201

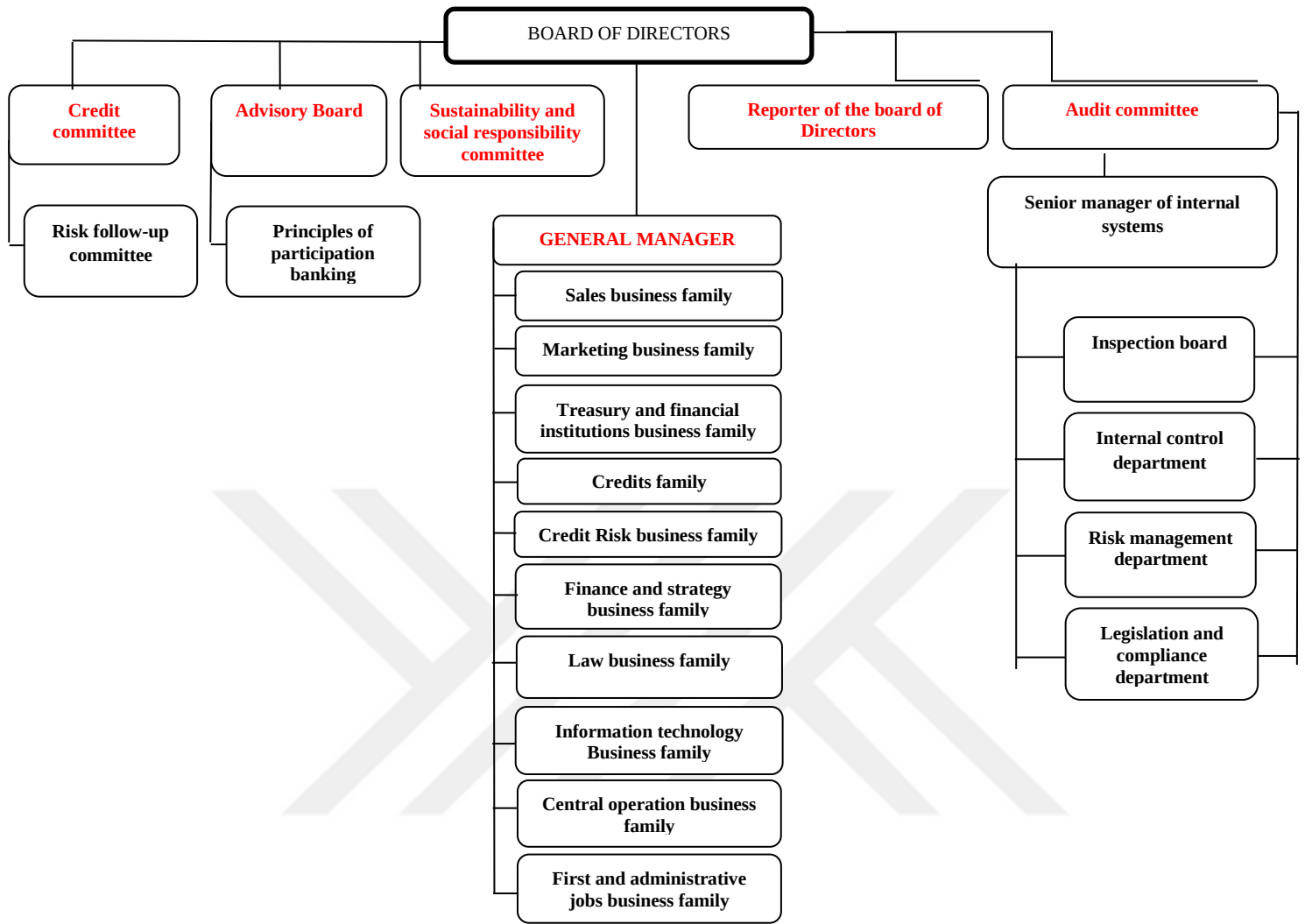


Figure 13. Organization Chart of Al Baraka Turk Participation Bank.

The capital structure of the bank as of 2018, 65.99% foreign partnerships, 8.77% are domestic investors, and 25.22% are public shares by Table (12) shows a distribution.

Table 12. Capital Structure of Al Baraka Turk Participation

Bank Capital Distribution as of 31. Dec.2018		
Partnership Structure	Share Amount (TL)	Rate (%)
Foreign Partnership	593.952.843,31	69,99
- Al Baraka Banking Group	486.523.265,68	56.06
- Islamic Development Bank	70.573.964,72	7,87
- Other	31.106.964,72	3,47
Local Partners	78.932.964,72	8,77
Public	227.114.100,97	25,22
Total	900.000.000,00	100,00

Source: www.albaraka.com.tr/assets/tr/pdf/yatirimci-iliskileri/albaraka-turk-2018-Activity-Report.pdf, p: 84, access: 23.6.2019

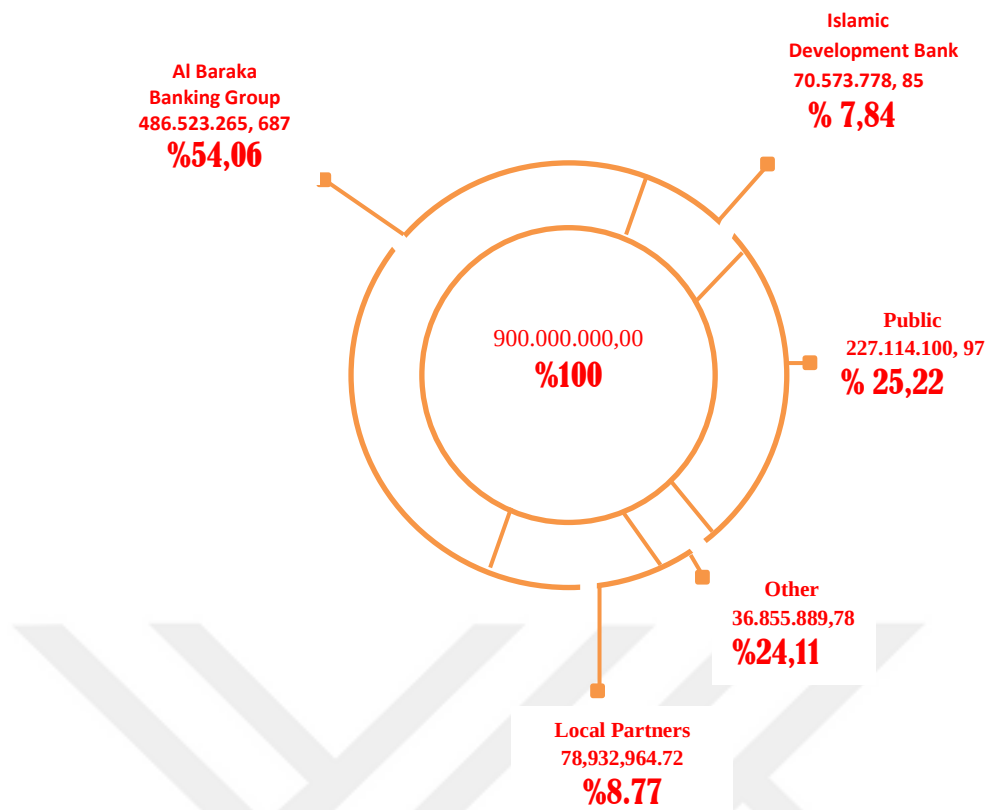


Figure 14. Partnership Structure of Al Baraka Turk Participation Bank (Capital Distribution).

2.4.3. Service Type and Fields of Activity

The participation bank operates on the principle of interest-free. It gathers mainly special current accounts and participation accounts. Corporate finance support, personal finance support, profit-loss partnership, investment financial leasing, property provision documents are made available through financing and joint investments in the records. Special current two-way fund accounts and participation accounts are separated from other accounts based on their maturities the Bank's participation rates in profit and loss arising from the operation of participation accounts for Islamic banking activities. The rate of participation in the loss is not less than fifty percent of the rate of participation in money.

The type can be determined separately in terms of amount and maturity groups by raising funds in individual accounts for financing predetermined projects or other investments. Especially to be allocated to that work, private fund pools are created with a maturity not less than one-year participation accounts. Funds collected by this method are separate by taking into account their maturity and independence from other accounts.

It is operating in the accounts, and there is no transfer from the collected funds to other maturity groups by the end of the financing period, private fund pools are recommending.

In addition to the banking activities, Baraka Insurance, Anadolu Insurance, through its branches, Güneş Insurance, Allianz Insurance, Unico Insurance, Neova Insurance, Ankara Insurance, Coface Insurance, Avivasa retirement Life, on behalf of Generali Insurance, insurance agency, with Anadolu Life retirement Avivasa Participation, with pension and individual in the name of life retirement insurance agency, our Securities. S. A. on behalf of a brokerage firm, precious trading transactions of mines. Intermediation for fast money transfer transactions services, credit card, and merchant (P.O.S.) services at the same time, the bank extends non-cash loans of various qualities, especially letters of guarantee, letter of credit, and acceptance loans.

2.4.4. Market Share and Financial Indicators in the Sector

The banking sector in which Al Baraka Turk Participation Bank is located and its place in the area of participation banking. Its core business and sizes are also present with the help of the tables and figures on the pages that follow the basic indicators specific to the bank.

Table 13. Participation Bank's Position in the Sector and Market Shares.

Sector Growth	2016-2017(%)			2017-2018(%)		
	Al Baraka Turk	Participation Banks	Banking Sector	Al Baraka Turk	Participation banks	Banking Sector
Asset Size	10,3	20,5	19,3	16,5	29,1	18,7
Credits (Disbursed Funds)	10,9	25,5	20,9	3,9	19,8	14,5
Deposit (Collected Funds)	9,3	26,6	16,8	31,1	30,3	19,9
Market share	2017 (%)			2018 (%)		
	Al Baraka Turk\ Participation banks	Al Baraka Turk\ Banking sector	Participation Banks \ Banking Sector	Al Baraka Turk\ Participat ion banks	Al Baraka Turk\ Banking sector	Participation Banks \ Banking Sector
Asset Size	22,6	1,1	4,9	20,4	1,1	5,3
Credits (Disbursed Funds)	22,7	1,2	5,1	19,7	1,0	5,3
Deposit (Collected Funds)	23,6	1,4	5,9	20,5	1,3	6,5

Source: www.albaraka.com.tr/assets/tr/pdf/yatirimci-iliskileri/Albaraka-Turk-2018-Activity-Report.pdf, p: 22, access: 23.6.2019

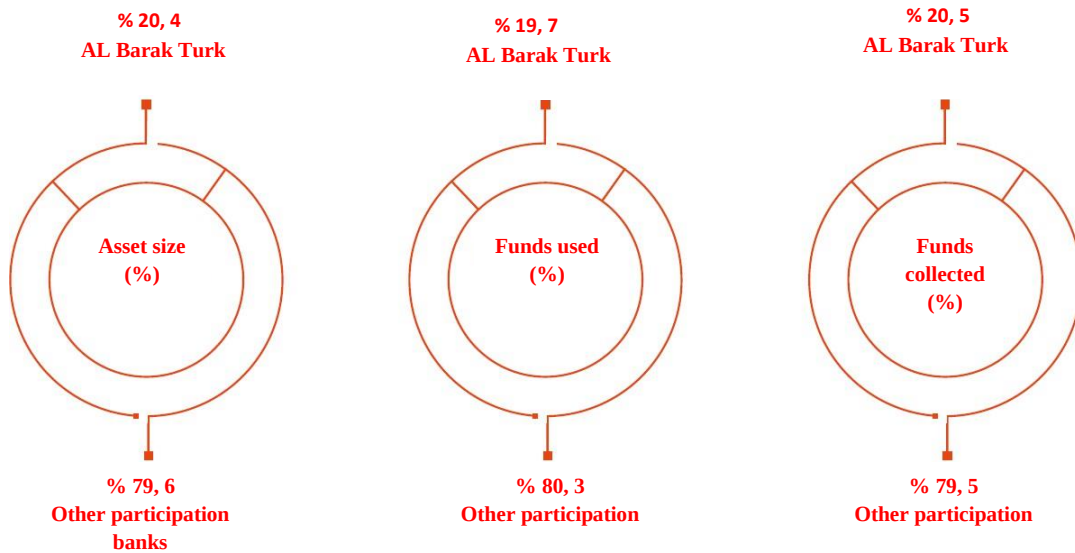
**Figure 15.** Graphical Display of Al Baraka Turk's Participation Banks and Market Shares in the Turkish Banking Sector.

Table 14. In terms of Financial Size of Al Baraka Turk Participation Bank Place in Participation Banks.

Financial titles	Al Baraka Turk		Kuwait Turk		Turkey General		Vakif Participation		Ziraat Participation		the overall total	the overall total
	2019Q1	2019-Q1 2018 (%)	2019Q1	2019-Q1 2018 (%)	2019Q1	2019-Q1 2018 (%)	2019Q1	2019-Q1 2018 (%)	2019Q1	2019-Q1 2018 (%)	2018	2018
FUNDS COLLECTED	11.333.290	-3,8	23.599.501	4,8	11.318.598	3,8	8.079.919	10,8	8.405.989	1,9	60.745.274	60.745.274
	19.294.449	14,5	39.912.117	26,8	20.798.634	30,3	9.301.969	17,9	7.640.722	10,7	79.060.460	79.060.460
	30.627.739	7,0	63.511.618	17,6	32.117.32	19,6	17.381.888	14,5	16.046.711	5,9	139.805.734	139.805.734
FUNDS USED	27.778.116	8,7	50.921.172	9,2	32.136.103	8,4	14.597.797	8,6	20.527.103	15,94	132.976.902	132.976.902
FOLLOWING RECEIVABLES (GROSS)	2.045.243	-	1.533.343	-	1.720.867	-	308.885	-	366.410	-	5.287.14	5.287.14
FOLLOWING RECEIVABLES (GROSS) FUNDS USED	7,4%	-	3,0%	-	5,4%	-	2,1%	-	1,8%	-	18,9	18,9
TOTAL ACTIVE	44.593.923	5,6	83.569.920	12,6	51.218.267	8,9	23.416.142	11,7	24.957.680	12,5	206.652.776	206.652.776
SELF ASSET	3.257.122	-0,1	5.683.103	4,5	4.412.731	2,1	1.567.970	2,7	2.667.407	20,2	206.652.776	206.652.776
NET PROFIT	27.146	-72,2	254.003	25,1	83.265	-7,0	52.650	-3,4	104.261	51,7	514.433	514.433
PERSONAL NUMBER	3.930	-1,5	5.867	-0,1	3.540	-3,3	1.096	0,4	1.090	4,6	11.993	11.993
NUMBER OF BRANCHES	231	0,4	419	1,0	308	0,7	91	0,0	81	1,3	1.122	1.122

Source: <http://www.tkb.org.tr/mukayeseli-tablolat>

Table 15. Five-Year Summary Financial Information of Al Baraka Turk Participation Ban.

Major Financial Indicators (Thousand TL)	2014	2015	2016	2017	2018
Total Assets	23.046.424	29.561.990	32.850.738	36.229.077	42.223.652
Funds Collected	16.643.218	20.346.178	23.155.134	25.3069.840	28.623.474
Funds Used (Including Financial Leasing)	16.183.692	19.505.392	22.722.054	25.193.463	26.184.989
Equity	1.790.927	2.103.914	2.279.593	2.481.506	3.261.451
Net profit	252.631	302.863	217.609	237.093	133.968
Personal number	3.510	3.736	3.796	3.899	3.988
Number of Branches	202	213	213	220	230
Main Financial Ratios (%)					
Funds Used / Total Assets	70,2	66,0	69,2	69,5	62,0
Fund Used / Fund Rate Collected	97,2	95,9	98,1	99,5	91,5
Funds Collected / Total Assets	72,2	68,8	70,5	69,9	67,8
Average Equity Profitability	15,6	15,8	10,0	10,0	4,3
Average Asset Profitability	1,3	1,1	0,7	0,7	0,3
Follow-up Loan Rate	2,0	2,4	4,7	4,7	6,9
Net Follow-up Loan Rate	0,2	0,9	2,3	2,0	3,6
Provision for Loans Under Follow-Up Separation Rate	87,9	60,0	52,3	57,7	47,3
Capital Adequacy Ratio	14,2	15,3	13,5	17,1	14,7

Source: www.albaraka.com.tr/assets/tr/pdf/yatirimci-iliskileri/Albaraka-Turk-2018-Activity-Report.pdf, p: 90, access: 23.6.2019

Al Baraka Turk, in spite of problems in global markets and domestic economic fluctuations in 2018 increased by 16.5% compared to the previous year and increased to 42.2 billion TL. Its real support for the economy continued in 2018. Al Baraka Turk increased its funds (loans) by 4% compared to the end of the previous year to 26.2. Share of the funds used in the total assets was 62%, funds collected by the Bank increased by 13% in 2018 and increased to TL 28.6 billion. The Bank was a subsidiary of Baraka Asset Rental in 2018. A.S, with 22 times. A loan certificate was issued, and a total of TL 3.3 Billion was obtained from these issues the Bank's resource structure was diversified with domestic lease certificates. Al Baraka Turk continued to maintain its strong equity structure by increasing its shareholders' equity by 31% compared to the previous year to TL 3.3 billion. The net profit of the Bank in 2018 was 134 million TL. Having increased its operating income by 33% to TL 4 billion, The Bank increased its profit share revenues by 13.6% to TL 3 million. The Bank capital adequacy ratio was 14.7% above the legal obligation level at the end of 2018.

2.4.5. The Accounting Policies of the Organization Based on the Preparation of the Financial Statements

Unconsolidated financial statements and consolidated financial statements, 5411 regarding the banking law No 26333 dated 1 November 2006, Accounting of Banks was published in the official gazette: The provisions of the regulation on the procedures and Principles regarding the Implementation and storage of documents and banking regulation and supervision other regulations, communiqués disclosures, and circulars published by the board of directors (BRSA).

On accounting and financial reporting principles and if no special regulation has been made by the BRSA by the Public oversight accounting, auditing standards authority (POA) which was enacted, Turkey accounting Standards (TAS) and Turkey financial reporting standards (TFRS) provisions (collectively accounting and financial reporting regulations BRSA) in accordance with it is prepared format and content of the unconsolidated financial statements to be disclosed to the public. Their disclosures and footnotes were published in the official newspaper dated 28 June 2012, number 28337 financial statements to be announcing to the public by banks. With regard to these

accounting records are prepared in accordance with the statement of disclosures, footnotes, and communication.

That bring additional and amendments to this communique as Turk currency. It is kept in accordance with the banking law, Turk commercial code, and Turkish tax legislation in the preparation of the financial statements. Excluding financial instruments (Assets, liabilities) and revaluated real estates with their fair values based on a historical cost basis to be kept accounting policies used in the preparation of financial statements. Use valuation principles, regulations, communique, disclosures, and circulars issued by the BRSA regarding the principles of accounting and financial reporting.

Moreover, TAS/ TFRS enforced by POA on matters not regulated by them (All "BRSA Accounting and Financial Reporting Legislation") is determined according to the principles included in the scope according to the transitional provisions of TFRS 9 Financial Instruments. The financial statements and footnotes of the previous period have not been rearranged TFRS 9 financial instruments as of 1 January 2018, the standard "TAS 39 financial instruments.

Accounting and Measurement "to be applied instead of the Standard Bank, unconsolidated financial "Loans" published in the official newspaper No. 29750 dated 22 June 2016 and entered into force as of January 1, 2018. According to the regulation on the Procedures and Principles regarding the classification and Provisions to be Reserved for them, published by the UPS, it has started to apply the TFRS 9 standard for the first time as of January 1, 2018. TFRS 15 revenue from customer contracts and other TAS/ TERS changes that entered into force it does not have a significant impact on its policies, financial status, and performance, TFRS 16, which came into force as of January 1, 2019, the Bank's compliance studies regarding the leasing standard are ongoing "Financial Statements to be announced to Public by Banks" published in the official newspaper No. 30186 on 20 September 2017 In the communiqué on the amendment to the communique on the disclosures and footnotes regarding these, financial statement formats have been determined for the periods after 1 January 2018,

the Bank prepares its financial statements after this date according to the formats in the related communique. ⁽¹¹⁴⁾

2.4.6. Differences Regarding Presentation of Murabaha Transactions in TFRS AAOIFI Standards and Financial Statements

In this part of the study, according to the financial reports of Al Baraka Turk Participation Bank, the title of Murabaha financing is analyzed, and their explanations are analyzed. In addition, by the Al Baraka Banking Group (Al Baraka Banking Group), the presentation of Murabaha transactions was examined by looking at the financial statements prepared according to AAOIFI in the annual reports prepared in 2018, and comments on the differences were included.

2.4.7. Presentation of Murabaha Transactions in Financial Statements According to TFRS

In the official newspaper No. 27846 dated 14.2.2011 Turkish trade law No. 6102 published 88 (Change: 26/6 / 2012-6335 /9 art.) real and legal subject to the provisions of articles 64 and 88 by the Public oversight accounting and auditing standards authority when preparing the individual and consolidated financial statements of individuals.

Released Turkey Accounting Standards, the conceptual framework of accounting principles and their integral part of the review, which the provision that they have to comply with and apply providing language and term unity in the implementation of these regulations and financing in order to make the tables valid in international markets. Only in accordance with international standards, only the Public it is stated that its oversight will be determined and published by the accounting and auditing standards authority 528 of the same law (Amended: 26/6/2012-6335/26 art.) banks and other loans financial statements of financial institutions such as financial leasing and factoring insurance and reinsurance companies. All institutions within the scope of the capital market law and consolidated financial as for the statement of Turkey accounting standards and public oversight, accounting and auditing standards authority in cases

114. Albaraka.com 2018 annual report, 126. ibid

where there is a provision specified in administrative arrangements. Said the provisions in the special laws of institutions, boards, and organizations established to regulate and supervise areas apply it is given in the official newspaper No 30186, dated 20 September 2017 financial Statements to be announced to the public by banks.

By the regulation on the Bank's Credit Transactions published in the official newspaper No.26333 dated November 2006, the funds provided by the corporate finance support, personal finance support, profit-loss partnership investments, financing of money against a property, and common investments methods will be counted as credit, and the procedures and principles regarding these have been regulated IFRS 9 at the meeting organized by the Islamic Finance Consultation Group on 5 September 2014. It agrees that the financial instruments standard can also be applied to Murabaha transactions. What is the priority of the core concept that is the basis of this view. For a transaction to be a sale according to ISFR, all possible risks arising from owning that asset and the benefits must be transferred to the other party in participation banking. The bank gives power of attorney to the customer for the said asset or service. The customer purchases on behalf of the bank and then becomes a party to a forward sale transaction by the bank.

Therefore, the purpose of the customer in Murabaha is to pay the price of the goods received by selling the goods, and the purpose of the bank is to earn profit by this way in the classical Murabaha, there is a direct trade between the parties and the transaction takes place when the seller tells the first price and profit rate in modern Murabaha. There is a system because the main purchaser repays the amount in installments using financing due to the cash requirement (2010: 38-39). Banks have almost minimized the risk because of the measures they have taken. Based on these evaluations and the concept of essence's priority. It believes that Murabaha transactions are a method of using funds rather than sales the bank is in the position of financial intermediary.

Banks, because of the measures taken. The risk is almost minimized lowered these evaluations, and the concept of the essence of Self is essential that Murabaha transactions are a method of using funds rather than sales opinion is dominant the bank is in the position of financial intermediary.

Murabaha fund with most methods of participation banks in Turkey it appears that they are using private to Al Baraka Turk Participation Bank evaluation. Analysis of the bank's financial information will be discussed within the framework of Murabaha transactions.

Murabaha transactions under the heading loans in the financial statement table it is given loans and their distribution. Information to be examined in the research is located between the activity of the bank in 2018 in (Table16) information received from the financial statement table in the reports compiled because of groups given in the heading of loans in the table Factoring receivables, non-performing loans, expected loss provisions. Any items without a numerical size prepared as a summary (Table16) are not included in the statement of financial position. ⁽¹¹⁵⁾

115.Al Baraka Turk Participation Bank Financial Status Statement, p. 110-112.ibid

Table 16. Obtained from the Financial Statement Table of Al Baraka Turk Participation Bank and Information Subject.

Assets		Current period 31.dec.2018 (thousand TL)		
		Turk Money	Foreign Money	Total
I	Financial assets	3.824.347	10.260.210	14.084.557
Ii	Loans (net)	15.976.372	10.208.617	26.184.989
2.1	Credits	15.008.011	10.165.668	25.173.679
	Measured by amortized cost	1.008.011	10165.668	25.173.679
	Fair value difference profit loss projected	-	-	-
	Fair value difference other comprehensive reflected in income	-	-	-
2.2	Receivables from rental operations	275.304	4.250	379.554
	Financial lease receivables	418.495	4.305	422.800
	Operating lease receivables	-	-	-
	Unearned income (-)	(43.191)	(55)	(43.246)
Iii	Held for sale and related to stopping activities Fixed assets (net)	648.970	718	649.688
Iv	Partnership investments	33.837	5.907	39.744
V	Tangible fixed assets (net)	655.230	219	655.449
Vi	Intangible assets(net)	31.419	-	31.31.419
Vii	Current tax assets	3.492	-	3.492
Vii	Deferred tax asset	170.099	-	170.099
Ix	Other activities	362.551	41.664	4042.15
Total assets		21.706.317	205.517.335	42.223.652
Liabilities		period 31.12.2018 (thousand TL)		
		Turkish lira	Foreign currency	Total
I	Funds collected	11.779.608	16.843.865	28.623.473
	Private current accounts (real person commercial Non)	1.134.274	2.253.033	3.387.307
	Private current accounts (other)	1.675.382	3.200.185	4.865.567
	Total current accounts	2.809.656	5.453.218	8.262.874
	Participation accounts (real person commercial Non)	6.972.816	7.040.228	14.013.044
	Participation accounts (other)	1.997.136	2.928.959	4.925.323
	Precious metal dh	-	-	1.421.400
Ii	Total participation accounts	8.969.952	9.969.187	20.359.767
Iii	Loans received	1.834.328	5.017.765	6.852.093
Iii	Due to money markets	771.957	-	771.957
Iv	Derivative financial liabilities	1.545	-	1.545
V	Provisions	89.535	736	90.271
Vi	Current tax debt	53.041	3.181	65.222
Vii	Capital liabilities vehicles		1.204.297	1.204.297
	Credits		1.204.297	1.204.297
Viii	Other liabilities	1.288.023	74.320	1.362.343
Ix	Equity	3.269.225	(7.774)	3.261.451
	Total liabilities	19.087.262	23.136.390	42.223.652

Source: Al Baraka Turk Participation Bank Financial Status Statement,

Table 17. Distribution of Current Cash Loans

Period 31. 12 .2018 (Thousand TL)					
CASH LOANS					
	Standard Qualified Credits	Again Configuration location in the scope those without	Contract conditions Alteration who made	Again Finance who made	Total
Credits	19.961.950	4.586.686	84.914	540.129	25.173.679
Export loans	1.011.290	81.016	-		
Import loans	1.708.418	132.927	155		
Business loans	9.526.688	3.794.661	79.045		
Consumer loans	2.326.204	177.374	4.703		
Credit cards	313.127	16.801	-		
Given to the financial sector Credits	63.275		-		
Other loans	5.061.948	383.907	1.011	126.937	5.524.8803
Other receivables	-	-	-	-	-
Total	19.961.950	4.586.686	82.914	540.129	25.173.679
Other loans distribution					
Other loans					
Commercial with instalments Credits	1.301.900				
Other investment loans	472.512				
Foreign loans	1.143.043				
Profit loss partnership Investments	2.145.198				
For a customer buying securities loans	370.076				
Other	92.074				
Total	5.524.803				

Source: Al Baraka Turk Participation Bank 2018 Annual Report, Footnote (Part Five 1-6) p.192

Loans make up 62% of total assets. The loans in question were measure at their amortized cost. Interest income (finance income) was calculated using the effective interest method receivables arising from Murabaha transactions were measured as a financial receivable (as a loan) and were measured at cost value after provision for impairment the distribution of cash loans for 2018 can be seen in the table below the distribution of current period cash loans.

When the footnote regarding the information in the financial statement table (Part Five 1-6) is analyzed. Loans amounting to 25.173.679 TL of the loans with standard qualifications, 4.586.686 TL of the loans that are not within the scope of restructuring, 84.914 TL It will be seen that 540,129 TL of the loans that are amended in terms of the contract are re-financed loans.

TL 5.524.803 of Loans of 25.173.679 TL consists of other loans the share of profit-loss partnership investments in other loans is TL 2.145.198. This section represents the investments in Participate considering the AAOIFI standards. All of these projects consist of real estate development projects carried out in various regions in Istanbul and Ankara. It is an investment partnership agreement signed based on the equity method. Which the customers have signed with the bank over the profit and loss partnership; therefore, 2,145,198 TL of the total amount of 25,173,679 TL presented under the heading of loans consists of Participate, and the remaining 23,028,481 TL consists of Murabaha Financing.

Participation banks and leasing companies make lease contracts that result in the transfer of ownership, a new contract arising from the combination of sales and leasing) Table18) looking at the receivables from the leasing transactions of the Bank, all of them consist of Financial Lease receivables, and these receivables amount to TL 379.554, but only 1.43% of total loans. In the Liabilities account, the class of the Financial Statement, how much of the funds collected is composed of current accounts is examined(Table18) looking at the funds accumulated in the current accounts constitute 28.8% of the Funds collected current private accounts are accounts that can be opened at the participation banks. Withdrawn partially or completely at any time and contain funds that are not paid any return to the account holder.

The participation bank does not pay interest or dividends to these accounts, looking at the ratio of participation accounts in the funds collected. It will be seen that it is 71.2%. Participation Accounts consist of funds collected within the framework of profit and loss partnership and in the financing of industry. Trade and service sectors in line with the interest-free principle of these funds are the accounts operated by sharing the profit or loss arising from the use of the account between the account owners and the participation bank. The account holder delivers his funds to the bank for the purpose of

operating his savings, and an agreement on profit and loss is made between them. This type of partnership is referred to as labor-capital partnership (Speculation). In Islamic law, the depository bank deposits money into its bank account, and the bank that uses and operates these funds shows its labor. The contract requires being a partner in the loss as well as profits of the Bank's subsidiary Partnership Baraka Asset Rental in 2018 All Capital-like Debt Instruments.

Debt Instruments to be included in the contribution capital calculation it is observed that it consists of Capital-like Loans Bank November 30, 2015, non-resident investors from structured business with Turkey, Al Baraka through instrument it issued a \$ 250,000,000 instrument and provided a subordinated loan with a maturity of 10 years with a repayment option of the first five years. Since the other liabilities item of the balance sheet does not exceed 10% of the balance sheet total, detailed information about the contents of this item is not included in the footnotes.

Income and expenses from the Profit or Loss Statement of the Bank for the period January 1-December 31, 2018, and only for-profit shares are shown in the table below.

Table 18. Information on Profit Share Income / Expenses Received from Profit or Loss Statement.

Period 1 January-31 December 2018 (Thousand TL)		
I	Profit share income	3.019.738
1.1	Profit shares from loans	2.651.251
1.2	Income from required reserves (central bank)	58.557
1.3	Revenues from banks	1.940
1.4	Income from money market transactions	-
1.5	Income from securities	235.414
1.6	Financial lease income	70.404
1.7	Other profit share income	2.172
II	Profit share expenses (-)	2.000.179
2.1	Profit shares given to participation accounts	1.337.809
2.2	Profit shares are given to the loans used	552.653
2.3	Profit shares are given to money market transactions	103.864
2.4	Profit on issued securities shares	-
2.5	Other profit share expenses	5.853
III	NET PROFIT SHARE INCOME / EXPENSE	1.019.559

Source: Al Baraka Turk Participation Bank 2018 Annual Report, p.116

TL 2,651,251 of revenue from the share of profits of 3.019,738 TL, if required to be expressed as a ratio, 88% of which consists of dividends taken from loans it has been previously reported that the amount excluded from profit-and-loss (partnership) partnership investments in loans consists of Murabaha financing.

2.4.8. Al Baraka Banking Group AAOIFI Statement of Financial Position (2017-2018)

The financial Statement Table, which is arranged according to AAOIFI, consists of the assets. Liabilities, unrestricted investment account and the equities of the owners of the bank, and the equity of the participating bank partners these counted groups and total amounts are displayed separately assets and liabilities are classified according to their structure. Assets are reported without discriminating between current and fixed assets, and liabilities are reports without paying attention to maturity in the financial statement table prepared according to IFRS.

In the explanations regarding receivables in the footnotes of the Financial Statements, Murabaha, Forward, Istisna receivables are reported separately. Likewise, obligations, current accounts, limited investment accounts funds collected from other banks, Forward debts, Istisna debts.

While preparing the Income Statement, the revenue, expense, gain, and loss related to the investments are explained according to the type of significant revenue, expense, gain, and loss of other activities.

Financial status table prepared by Al Baraka Banking Group in accordance with AAOIFI accounting standards, (Table19) Comprehensive Income-Expense Profit-Loss Statement (Table20) also presented.

Table 19. Al Baraka Banking Group AAOIF Statement of Financial Position (2017-2018).

GROUP		COMPANY		
Assets	2018 R'000	2017 R'000	2018 R'000	2017 R'000
Cash and cash equivalents	670.034	584.088	669.829	583.846
Sales receivables	2.198.822	1.540.787	2.198.822	1.540.787
Participation financing	3.738.41	3.511.587	3.738.841	3.511.587
Rent financing	15.422	-	15.422	-
Investment securities	24.425	25.717	24.425	25.717
Investment in subsidiary company	-	-	20.148	17.942
Total investments	6.647.544	5.662.179	6.667.487	5.679.879
Other assets	27.583	64.382	51.110	90.823
Property and equipment	116.175	113.627	56.615	61.305
Investment properties	10.339	10.502	-	-
Intangible assets	36.992	29.329	36.992	29.329
Total assets	6.838.633	5.880.019	6.812.204	5.861.336
LIABILITIES, UNRESTRICTED INVESTMENT ACCOUNTS, AND OWNERS' EQUITY				
Liabilities				
Customer current accounts and other	714.835	570.822	714.835	570.822
Payables	55.098	64.975	49.425	56.052
Other liabilities	20.0131	14.981	20.031	14.981
Total liabilities	789.964	650.778	784.291	650.855
Equity of unrestricted investment account holders	5.089.604	4.465.814	5.089.604	4.465.814
Sukuk	201.667	45.879	201.687	45.889
Profits distributable to depositors	39.860	55.957	39.860	55.957
Total liabilities, unrestricted investment accounts	6.121.095	5.218.428	6.115.442	5.218.515
Owners' equity	717.538	661.591	696.762	642.821
Cash and cash equivalents	322.403	322.403	322.403	322.403
Sales receivables	82.196	82.196	82.196	82.196
Participation financing	876	1.460	876	1.460
Rent financing	312.063	255.532	291.287	236.762
Total liabilities unrestricted Investment accounts and owners' equity	6.838.633	5.880.019	6.812.204	5.861.336

Source: Al Baraka Integrated Annual Report 2018 (Al Baraka Unified Annual Report).

Table 20. Al Baraka Banking Group AAOIFI Statement of Profit or Loss and Other Comprehensive Income for the Year Ended (2017-2018).

GROUP	COMPANY			
	2018 R'000	2017 R'000	2018 R'000	2017 R'000
Income from sales receivables	163.933	146 .367	163 .933	146. 367
Income from participation financing	373.890	341. 815	373. 890	341. 815
Income from rent financing	4.824	-	4. 824	-
Return on unrestricted investment accounts before the bank's share as speculation	542.647	488.182	542. 647	488. 182
Less: bank's share as speculation	(276.625)	(248. 202)	(276. 410)	(247.941)
Return on unrestricted accounts	266.022	239. 980	266 237	240. 241
Bank's share in income from investment (as speculation and as a fund owner)	276.625	248. 202	276. 410	247. 941
Bank's income from its own investments	1.436	1. 368	8. 436	10. 368
Revenue from banking services	19.719	20. 171	19. 719	20. 171
Other revenue	29.109	27. 533	28. 659	27. 022
Total bank revenue	326.889	297. 274	333. 224	305. 502
Administrative and general expenditure	(213.839)	(204. 795)	(223. 015)	(214 349)
Depreciation of property and equipment	(12.225)	(10. 982)	(14. 946)	(15. 069)
Amortisation of intangible assets	(8.974)	(7. 355)	(8. 974)	(7. 355)
Depreciation of rent	(408)	-	(408)	-
Profit before taxation	91.443	74. 142	85. 881	68. 729
Taxation	(21.735)	(23. 225)	(18. 181)	(19 219)
Profit for the period	69.708	50. 917	67. 700	49. 510

Source: Al Baraka Integrated Annual Report 2018 (Al Baraka Unified Annual Report),

CONCLUSION AND SUGGESTIONS

The Islamic Banks, which perform the function of converting savings of individuals and institutions into investments, are in the position of financial intermediaries considering that the basics of banking are based on 3500 BC, saving money in societies. The feature of being a medium of exchange, its use in lending-buying transactions has led to the concept of interest called time value of money over time. However, interest, which is the basic working principle of today's conventional banks, is prohibited even in celestial religions. When the basic sources of the Islamic religion research it will be seen that interest, which has formed the backbone of the banking system, is strictly prohibited.

Therefore, traditional banking is not suitable for evaluating the funds of people living with Islamic beliefs and morals and institutions and organizations operating the desire to evaluate Islamic funds in line with the Islamic principles. Islamic principles prepared the birth of the Islamic banking system in 1970. Islamic funds which are waiting to be direct to investment in many Islamic countries but seeking suitable ground, have attracted the attention of the western world.

Interest-free banking has rapidly expanded in countries that want to attract some funds. The country leading the interest-free finance model, especially in Europe, is England. 20 financial institutions carry out Islamic banking activities in the UK, which is seeking alternative earnings. Britain plans to make London the most important interest-free financial center in the world. The fact that interest-free finance products are less affected by economic crises further increases the interest in these products in the UK. The model operates mostly for derivatives and Islamic investment instruments considering the number of interest-free finance courses taught at universities.

It is quite meaningful how far and Islamic banking is concentrated with the investment in education. It is not difficult to see that the UK, which serves with five million Muslim population and 20 Islamic banks in its country, is not only serving the domestic market but also rather focusing on Islamic funds in the Middle East.

As for Islamic banks in Iraq and Turkey, this study focuses on in both countries, the National Bank in Iraq and Al Baraka Bank in Turkey. The Iraqi government issued

a decision to establish an Islamic bank following the provisions of the Companies Law of 1997, the Public Companies Law of 1997, and the Banking Law of 2004.

Provided that its articles of incorporation and its bylaw include a commitment to practice banking activities, establishment of Islamic banking was permitted without interest taking and bid according to banking transaction formulas that do not conflict with the provisions of Islamic Sharia. Thus, Islamic financial operations were including in legislation in the field of accepting deposits and providing other banking services or in the field of financing and investment.

In Turkey, the law on interest-free banking activities came into effect in 1983. After the regulations regarding participation banks in the Banking Law, first banks were established in 1985 under the name Private Finance House 1999.

With the Banking Law, which came into effect in 2005, banks are divided into three according to their working principles. Of the Banking Law in the definitions and Abbreviations section, the concept bank refers to depository banks, participating banks, and development and investment banks indicated.

The role of Islamic banks in Iraq and Turkey in recent times has witnessed wide developments in financing and investment. Moreover, these developments have led to the emergence of several Islamic banks in both countries, Turkey has more than 10 Islamic banks which 6 of them now active, it has reached 24 Islamic banks in Iraq.

These banks operate according to Islamic principles and Sharia in terms of providing economic and social services. Islamic banks now compete with traditional banks. This contributes to Banks in the agricultural and industrial sector by providing loans, employs the manpower and increases the growth of domestic and gross production. Islamic banks are providing services through speculation participation, Murabaha, operations, and its exclusion from usury and its compliance with Islamic law.

For this reason, the role of Islamic expenses has become effective in Islamic countries. According to this research and annual banks reports examined in this study, the Islamic banks have flourished in the last ten years and increased their activities in financing and investment in the economy of Islamic countries.

In addition, this research shows that the increasing role of Islamic banks in Iraq and Turkey regardless of their achievement. According to the approach of Islamic law to reach economic well-being and social prosperity because Islamic transactions lead to fair distribution, these banks expand economic or social financing and investment that they operate. They are taking care of the nation's interests by the full implementation of Islamic concepts and teachings.

This study states that the role of finance in Iraqi banks is more effective than Turkish banks in providing financing, such as developing small projects through providing interest-free loans. As for the role of investment in Turkish banks, it is more effective than Iraqi banks in providing economic and social services and development in the agricultural and industrial fields. The objectives that Islamic banks focus on are to provide the best services through the application of Islamic principles. Today, Islamic banks have become influential in the economies of countries in terms of financing and investment.

There are some contraceptional subject about Islamic banks. According to critics, most of the Islamic banks have lost their Islamic legitimacy, because they support financing less. Speculation and participation are replacing with the form of Murabaha in the purchase order. Although it is preferable to apply the Sharia formula, most Islamic banks have moved away from achieving social justice, social integration, and supporting the future economic decision of the state.

The practical reality of some Islamic banks is that they encountered problems in applying most financing and investment formulas. Including some Islamic banks' circumvention on some financing formulas by providing non-Sharia formulas for these tools, the bank's desire is to acquire the largest share of deposits and make profits. In addition to that, most of them disclose no rates of employment and investments in detail for each formula and rely on combining these formulas under the name of Speculation, Participation, and Murabaha.

Islamic banks have an important and effective role in socio-economic financing and investment through the approach of the Islamic Sharia to reach economic and social prosperity. Because Islamic transactions lead to fair distribution.

In this study, the following issues are highlighted for Islamic banks to play an active role in development and investment:

It is necessary that reducing routines of measures against the project owner by the state to achieve the project's success and development. The success of these projects is lead to an increase in the national income, and growth has been achieved in various sectors such as agriculture, industry, and trade.

Islamic banks should reach the size of the financing to an amount that helps meet the project requirements. In this way, the project objectives can be achieved.

Investors should be encouraged to deposit their money in Islamic banks. This ratio must be an exact factor that attracts capital because this money will return to finance projects by Islamic banks and achieve their goals.

Islamic banks should be active in the administration or oversight of funded ventures. Thus, the project manager does not make mistakes. If the managers lack adequate experience in project management or face sudden economic fluctuations in the world, project manager may give rise to project failure.

To establish a perfect standardized Islamic banking relation, Islamic Banks and other economic organizations all over the Islamic world consent as an "Islamic Developmental Economic Association". The works of creating an Islamic Academy that is trained in Islamic banking has been being operated. Thus, an institution can be created for the specific Islamic orientations and preventing extremely bad situations.

Setting a deliberate plan to restructure and modernize the agricultural sector and increasing production shoal be prioritized as there are vast lands suitable for investment in most developing and Islamic countries. The agricultural sector contributes to providing most of the primary resources and raw materials necessary for the industry. This can contribute to providing the necessary food resources to achieve food security and stability as well as industrial and commercial development.

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