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Clearance & Forwarding Services

خدمات جمركية متكاملة

لإرسال الاستفسارات الجمركية يرجى المراسلة على
البريد الإلكتروني

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LEGISLATIVE DECREE 35/2005

The president of the Republic,
acting upon the provisions of the Constitution,
hereby decrees as follows:

Article 1 – Definitions

A - Islamic bank: means the bank whose memorandum of association and bylaws embody a commitment to carry on banking business on other than credit and/or debit interest charge basis and according to those banking practices which do not conflict with the precepts of Sharia (Islamic community law) whether as to the acceptance of deposits and provisions of other banking services or to funding and investment.

B – Sharia control commission: means a commission composed of a specified number of jurisprudence, Sharia and legal advisers nominated by the Islamic bank's general assembly and whose duty is to exercise Sharia control the bank's business and contracts to ensure their consistency with the Sharia precepts.

Article 2

The establishment of Islamic banks shall be subject to the legal basics and rules and to the procedures specified in Law 28/2001 on establishment of private and mixed banks. The order licensing the bank's establishment shall be issued by the Cabinet following a proposal by the Central Bank of Syria and the Money and Credit Board's recommendation based on a conviction that such licensing serves the public interests and the national economy requirements and contemplates coverage of the banking market.

Article 3

Subject to the Money and Credit Board's approval, operating banks entered in the register of banks may contribute towards establishment of Islamic banks provided that:

- (1) These operating banks observe the maximum limits of contribution by corporate persons in the capital of the established bank as prescribed in Law 28/2001; and
- (2) The operating banks contribution in establishment of an Islamic bank does not exceed 20% of such operating bank's net funds as specified by the Money and Credit Board (MCB) in each case after examination of the status of the bank willing to make such contribution.

Article 4

A - The Islamic bank's licensing deed should specify its declared capital which should not be less than five billion Syrian Pounds spread over nominal shares each having a minimum par value of five hundred Syrian Pounds and indicate as well the capital paid up upon the bank's establishment and not falling below 50% of the declared capital stock.

B – The capital stock should be replenished within three years from the dates on which the bank launches its activities. The bank may during this period suspend payment of dividends to its shareholders.

Article 5

The bank licensed under the provisions of this Legislative Decree may not sell or assign its license to any other party unless otherwise with MCB's approval. Nor may any bank which contributes in establishment of an Islamic Bank may assign its interest to any other party unless otherwise with MCB's approval

Article 6

The following shall be the Islamic bank's object:

A – Provide banking services and carry on funding and investment business not based on interest charge in all its forms and descriptions;

B – Develop the means of attracting funds and savings directed to participation in productive investment through ways and means not running counter to the Sharia precepts.

Article 7

An Islamic bank may carry on the following banking business consonant with the controls, limits and conditions laid down by MCB:

A – Accept for specified or unspecified term all and any deposits in fiduciary accounts, investment joint accounts, or allocated investment accounts;

B – Provide such financial and banking services and initiate various banking operations as authorized by Law 28/2001 and not running counter to Sharia precepts whether such operations are done for the Islamic bank or for or in participation with third party;

C – Carry out funding operations not based on interest charge for various terms and in economic domains not running counter to Sharia precepts, such transaction being through Sharia contract provisions such as speculation contracts, participation control, tender contracts, pecuniary sale contracts through purchase orders, manufacture contracts, scaled sale contracts, processing license contracts, property acquisition contracts, and other financial contracts approved by the bank's Sheriat control commission (SCC);

D – Invest the funds of prospective clients in investment accounts jointly with the Islamic bank's resources under a joint speculation system or invest them in a designated investment account under a special agreement with the client;

E – Carry out direct or financial investment operations for these operations or for or in participation with third party, including the acquisition of movable property, partnership contracts, establishment of existing or under incorporation companies which carry on various economic activities;

F – Carry on any other banking activities which are not based on interest charge and are approved by SCC and permitted under MCB’s instructions.

Article 8

Islamic banks should seek that all their banking and investment operations and services are based on other than interest charge in any form, particularly:

- (a) Debt interest charge collected or paid in all lending, borrowing and deposit cases including any remuneration paid by the borrower without being corresponding to any service involving an acceptable beneficial effort as viewed by SCC;
- (b) Sales interest charge within the framework of banking business in banking operations linked to term payment, as well as the interest charge involved in similar operations.

Article 9

Notwithstanding the provisions of art. 20 (1,2) in Law 28/2001 and of art 100 (1,2) in Law 23/2002, Islamic banks may acquire, sell, exploit, lease and rent movable and immovable property including the reclamation of leased and title movable and immovable property and their development for agriculture, industry, tourism or housing, as well as the establishment of companies and contribution towards developing projects in domains compatible with Sheria in the course of performance of Islamic banking operations in favour of or in participation with clients. MCB may subject these acquisition, investment and contribution operations to the controls and limits it deems fit.

Article 10

A – Following a recommendation by its board of directors and a resolution passed by its general assembly, the bank shall appoint for a three-year renewable term a commission called “Sheriat control commission (SCC) comprising at least three members of jurisprudence, Sheria and legal advisers, whose view shall be binding upon the Islamic bank and which shall:

- (1) Monitor the Islamic bank’s business and activities as to their consistence with and non-violation of Sharia precepts;
- (2) Opine on the phraseology of contracts required for the bank’s business and activities;
- (3) Look into any issues requested by the bank’s board of directors or consistently with the Central Bank of Syria’s instructions.

B – The Central Bank of Syria will draw up the regulation of acceptance and non-acceptance of SCC members in Islamic banks and the modus operandi of these commissions and will put them up to MCB for approval and ratification.

C – The bank’s SCC shall put up to the bank’s general assembly an annual report reflecting the extent by which the bank has observed the Sharia precepts during the period subject of the report as well as SCC’s remarks and recommendations. This report should be included in the bank’s annual report.

D – Neither SCC nor any of its members can be removed or discharged during their tenure unless otherwise through a resolution passed by the bank’s general assembly of shareholders.

E – The bank management should inform the Central Bank of Syria about the resolution under which SCC is appointed or removed or upon making any amendment in SCC’s formation.

Article 11

A - Islamic banks shall be governed by the provisions of Part IV in Law 23/2002 embodying the regulation and control of the banking profession in the Syrian Arab Republic as to anything that does not run counter to the provisions governing Islamic banks and contained in this Legislative Decree.

B – MCC shall lay down the controls regulating the operation of Islamic banks, including the rules and provisions related to fluidity, capital stock adequacy, investment concentration rates, and the rules of computing the appropriations to be credited for addressing the risks of procedures, as well as the controls of exceptions allowed to these banks under this Order in accordance with the provisions of Law 28/2001 and Law 23/2001. The Islamic banks monitoring criteria issued by the Council of Islamic Financial Services should be taken into consideration upon monitoring the operation of Islamic banks.

C – MCB may determine all or a part of:

- (1) The maximum limit of the value of operations related to a specific activity;
- (2) The maximum limit of the bank’s contribution in the companies which the bank establishes or holds shares therein as well as the maximum limit of the bank’s contribution in a given project;
- (3) The maximum limit of the funds which can be invested abroad as a proportion of the sum total of investments;
- (4) The rules and conditions which must be followed in the bank’s relation with its clients and shareholders.

D – Islamic banks shall be subject of the obligations set forth in articles 105, 106 and 107 of Law 23/2002 and related to submission of financial statements to the Central Bank of Syria. These obligations can be modified with the Central Bank’s approval to become compatible with the accounting criteria issued by the Accounting and Auditing Commission for Islamic Financial Institutions.

Article 12

A – MCB may enlist the aid of a legal advisory commission comprising advisors specialized in Sharia, jurisprudence and Law to opine on the issues referred to it by MCB and concerning Islamic banking activities.

B – MCB shall nominate the SCC members and lay down their operation procedure. Their allowances shall be determined under an order by the Prime Minister following a proposal by MCB.

Article 13

A -The Islamic Bank management should inform periodically and in writing the shareholders and depositors about the risks associated with the bank investments and their results and about the bank's investment percentages in these investments. The said management should also draw a line of distinction between fiduciary deposits, joint investment deposits and allocated investment deposits.

B – The interoffice bank controllers and the controllers of the Government Commission for Banks should ascertain that the bank adheres to the obligations referred to in this Article.

Article 14

The Islamic bank should maintain a reserve account fund that addresses the risks of joint investment accounts in order to cover any losses resulting from joint investment in the fiscal year's end. This fund shall be sustained as follows:

A - No less than 10% will be credited to this fund from the joint investment accounts net profits realized on the transactions carried out during the year.

B – This percentage can be increased in consequence of instructions issued by MCB and shall apply as from the fiscal year following the year in which this modification has been determined.

C – This credit to the reserve fund account will discontinue when the amount gathered in this fund becomes double the capital paid up to the Islamic bank or upon attainment of any other amount determined by MCB.

D – These credits will be exempted from the current capital yield tax.

Article 15

1. Islamic banks shall participate in the setoff and settlement system managed by the Central Bank and according to rules not running counter to the Sharia precepts.

2. The Central Bank shall carry out some or all of the following operations:

(a) Open accounts in Syrian Pounds and foreign currencies at Islamic banks;

(b) Open accounts in Syrian Pounds and foreign currencies within the Central Bank itself;

(c) Accord the Islamic banks short or medium term funding through instruments and procedures that do not conflict with Sharia precepts;

(d) Sell to and buy from Islamic banks those financial papers and other instruments compatible with Sharia precepts;

(e) Issue instruments which are consistent with Sharia precepts under the conditions and limits determined by MCB and are sale and purchase negotiated with entities subjected to the Central Bank's supervision and control.

Article 16

1. Upon its liquidation, an Islamic banks shall be wound up according to criteria determined by MCB on the basis of applicable laws and to the extent by which these laws do not conflict with the Islamic bank provisions set forth in this Legislative Decree.

2. The obligations and debts of an Islamic bank under liquidation shall be discharged according to the following basics serial order:

- (1) The liquidator's fees and the costs and expenses incurred in the liquidation proceedings;
- (2) The bank personnel's entitlements in labor salaries and indemnities accruing under the applicable labor legislation;
- (3) The depositors' entitlements in fiduciary accounts;
- (4) The taxes and duties payable to the Public Treasury;
- (5) The creditors' entitlements and any other funds deposited with the bank for other than the purposes of investment and profit sharing therein;
- (6) The depositors' entitlements in joint and allocated investment accounts according to the following basics:

- The depositors' entitlements in joint investment accounts will be paid according to their relevant conditions, provided this payment is preceded by charging these entitlements the liquidator's fees and costs related thereto and then the charges related to these very entitlements. MCB will determine the mode of earmarking the investment risks fund balance after covering all costs and risks charged to the investments generating this fund so that these risks and costs can be addressed.

- The entitlements of depositors in the allocated investment accounts will hinge on the results of this investment. The depositors will bear these results on the basis of the remaining proceeds gained after these are subject to deduction of their related costs and the liquidator's fees.

(7) The shareholders' entitlements in an Islamic bank under liquidation shall be settled on the basis of apportioning the balance of funds pro rata the shares held by each shareholder.

Article 18

The contracts concluded by an Islamic bank in the course of transacting the operations and providing Islamic banking services shall be exempted from the profit tax chargeable to such contracts and from the stamp duty tax as well.

Article 19

The Islamic banks established in accordance with the provisions of this Legislative Decree shall be governed as well by provisions of laws and regulations applicable in the Syrian Arab Republic, particularly Law 28/2001, Law 29/2001, Law 23.2001, the Money Laundering Control Law promulgated by Legislative Decree 59/2003, the Trade Law 149/1949 as amended, and the applicable banking custom rules, unless otherwise specifically prescribed in this Legislative Decree.

Article 20

MCB shall issue the instructions and explanations related to this Legislative Decree.

Article 21

This Legislative Decree shall be published in the Official Journal.

Damascus, 4 May 2005.



President of the Republic
Bashar Assad