

Law No 575 dated February 11, 2004

The Establishment of Islamic banks in Lebanon

Single Article:

The draft law included in the Decree No 9351 of December 27, 2002, relating to the Establishment of Islamic banks in Lebanon is adopted as amended by the Commission of Finance and Budget.

This law shall enter into force upon its publication in the Official Gazette.

Baabda, February 11, 2004

Signed: Emile Lahoud

Promulgated by the President of the Republic

The President of the Council of Ministers

Signed: Rafic Hariri

The President of the Council of Ministers

Signed: Rafic Hariri

Law on the Establishment of Islamic Banks in Lebanon

Article 1:

Islamic banks are the banks whose Articles of Association comprises an undertaking not to contravene, in the operations they carry out, the provisions of Islamic Law (Sharia), particularly with the prohibition to pay or receive interest.

Unless otherwise specified in this Law, Islamic banks shall be governed by all legal and regulatory provisions in force in Lebanon, particularly those relating directly or indirectly to banks, including the Code of Commerce, the Code of Money and Credit and the Banking Secrecy Law.

Article 2:

The establishment of an Islamic bank or a foreign Islamic bank's branch in Lebanon requires an authorization from the Central Council of the Banque du Liban.

The Central Council of the Banque du Liban shall prescribe a special regulation comprising all the conditions required to the granting of such an authorization.

The Central Council of the Banque du Liban grants its authorization when deemed serving the public interest. The Council has discretionary power in granting or refusing the authorization and its decisions are not subjected to any ordinary or extraordinary recourse, whether administrative or judicial, including the recourse for excess of power.

Non-Islamic banks operating in Lebanon may establish or take part in the establishment of Islamic banks and may hold shares in Islamic banks established in Lebanon, provided they:

- 1- obtain a prior approval from the Central Council of the Banque du Liban; and
- 2- comply with the provisions of Article 153 of the Code of Money and Credit.

Article 3:

Islamic banks are entitled to offer and provide all banking, commercial, financial and investment services and operations, including the establishment of companies and the participation in established projects or projects under establishment.

Unless agreed with the client to link its deposits to the bank's annual results or to the results of the operations according to a procedure set for this purpose by the Central Council of the Banque du Liban, cash deposits received by Islamic banks are governed by the provisions of Article 307, Par. 1 and 2, of the Code of Commerce, and by the provisions of Section 2 of Law 28/67 of May 9, 1967.

Deposits received in accordance with Article 3, Par. 2, of this Law, and in accordance with Article 307, Par. 1 and 2, of the Code of Commerce, should have a minimum term of six months. However, Islamic banks may open current accounts in the names of their clients for recording cash deposits and withdrawals, securities purchase and sale operations, and other Islamic banking operations.

Article 4:

Islamic banks are exempted from complying with the provisions of Article 152, Par. 1 and 2, of the Code of Money and Credit. They are authorized to take participations or share ownerships without being bound by the provisions of Article 153 of the said Code, provided they use either their own capital or the deposits governed by Article 307, Par. 1 and 2, of the Code of Commerce with their owners' written approval .

The Central Council of the Banque du Liban issues the special regulations governing each and all the operations of Islamic banks. The Council determines and modifies also, whenever it deems necessary, the working rules of these banks and the ratios required between balance sheet and off-balance-sheet items which must be maintained by Islamic banks in order to achieve their objectives, protect their depositors and clients, and safeguard their liquidity and solvency.

Article 5:

In addition to real estate rights that commercial banks may acquire, and notwithstanding the provisions of the Law implemented by Decree No 11614 of January 4, 1969, and its amendments (on ownership of real estate rights by non-Lebanese in Lebanon), Islamic banks may acquire real estate rights exclusively for investment projects. The acquisition is done by virtue of the prior authorization of the Central Council of the Banque du Liban , which must verify the seriousness of the project and fix in its authorization the time-frame for its execution, provided the said rights are acquired for a non-renewable period not exceeding twenty-five years and are within the limits of the maximum areas authorized for acquisition by non-Lebanese in each District (Mohafaza).

The authorization shall not become effective before the approval of the Council of Ministers.

Article 6:

Investments and placements in Lebanon must account, at least, for 50% (fifty per cent) of the assets and rights included in the balance sheet items of each Islamic bank.

The Central Council of the Banque du Liban is entitled, in conformity with public interest requirements, to increase the above-mentioned ratio and to decide whether certain balance sheet items are included therein or not. In this matter, the decision of the Council is not subject to any ordinary or extraordinary recourse, whether administrative or judicial, including the recourse for excess of power.

Article 7:

The Islamic banks must inform their clients, notably the owners of result-linked deposits, in writing and periodically every three months at least, of the kind, nature, risks and results of the operations and investments they undertake, as well as of the size of their direct or indirect participation in such projects.

Article 8:

Islamic banks must keep their clients accounts in a manner that separates the deposit accounts, opened according to Article 307, Par. 1 and 2, of the Code of Commerce, from the result-linked deposit accounts, opened according to Article 3, Par. 2, of this Law.

The Banking Control Commission at the Banque du Liban shall ascertain that the bank is complying with this obligation. The provisions of the Banking Secrecy Law of September 3, 1956 cannot be opposed to the Banking Control Commission in the exercise of these functions.

Article 9:

The Constituent Assembly of each Islamic bank and, thereafter, the Ordinary General Assemblies, appoint, for a renewable three-year period, a consultative body consisting of three experts in Islamic Law and doctrine, and in banking and financial operations.

The consultative body opines about the bank's compliance, in its operations, with the prescriptions of Islamic Shari'a. For this purpose, it shall submit a report to both the Board of Directors and the Shareholders' General Assembly.

The consultative body may, on its own initiative, submit to the Shareholders' General Assembly and the Board of Directors any proposal it deems useful for properly achieving the bank's object pursuant to the prescriptions of the Shari'a.

Article 10:

This Law shall enter into force upon its publication in the Official Gazette.