

# **BANQUE DU LIBAN**

## **Basic Circular No 100 addressed to Banks**

Attached is a copy of Basic Decision No 9084 of July 16, 2005, relating to Mudaraba Operations carried out by Islamic banks.

Beirut, July 16, 2005

The Governor of Banque du Liban

Riad Toufic Salamé

## **BANQUE DU LIBAN**

### **Basic Decision No 9084 Mudaraba Operations carried out by Islamic Banks**

**The Governor of Banque du Liban,**

**Pursuant to the Code of Money and Credit, notably Article 70 thereof,**

**Pursuant to Law No 575 of February 11, 2004 on the Establishment of Islamic Banks in Lebanon, notably Article 4 thereof; and**

**Pursuant to the Decision of the Central Council of Banque du Liban taken in its meeting of July 13, 2005,**

**Decides the following:**

#### **Definitions:**

For the purpose of implementing this Decision, the following expressions shall mean:

Mudaraba operations: operations conducted between the bank which provides the Capital and the agent, the Mudarib, who invests this Capital.

Capital Owner: the Islamic bank holding the Capital.

Capital<sup>1</sup>: the amount allocated from the bank's own funds and/or from the investment accounts.

Mudarib: the Capital Owner's agent who invests the Capital in conformity with the terms of the contract concluded with him, and with the provisions of the laws and regulations in force.

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<sup>1</sup>- The definition of "Capital" was amended pursuant to Article 1 of Intermediate Decision No 12499 of April 10, 2017 (Intermediate Circular No 457).

### **Article 1<sup>1</sup>:**

This Decision shall apply to Mudaraba financing operations carried out by an Islamic bank in its capacity as Capital Owner, whether the Mudaraba Capital is taken from the bank's own funds and/or from the investment accounts recorded in or off-balance sheet.

### **Article 2:**

The Mudaraba contract must, at least, expressly and accurately include the following elements:

1. The exact amount of the Mudaraba Capital, whether it is in cash or in kind, with the inclusive charges.
2. The duration of the Mudaraba.
3. The rights and duties of both parties, particularly in terms of empowering the Capital Owner to monitor and audit the Mudaraba accounts, and the related documents held by the Mudarib.
4. The guarantees given by the Mudarib against his negligence or violation of the Mudaraba contract terms.
5. The conditions and rules pertaining to the Mudaraba extension, liquidation or partitioning.
6. The method for allocating the Mudaraba profits, which must be set as an undivided percentage of the profits and not as a lump sum or a percentage of the Mudaraba Capital.
7. The date and modality for delivering the Mudaraba Capital to the Mudarib, or for putting the said capital at the latter's disposal.
8. A statement in which the Capital Owner indicates whether it agrees that the Mudarib borrows on the Mudaraba Capital, or lends or transfers this capital to another party for Mudaraba purposes, while specifying the conditions governing these operations.

### **Article 3:**

The Capital Owner must, when needed, open in the name of the Mudarib an account from which withdrawals shall be effected and in which the Mudaraba Capital and profits shall be deposited.

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<sup>1</sup>- This Article was amended pursuant to Article 2 of Intermediate Decision No 12499 of April 10, 2017 (Intermediate Circular No 457).

**Article 4:**

The Capital Owner shall bear any loss incurred as a result of the Mudaraba operation, unless such loss is due to a negligence or violation by the Mudarib of the Mudaraba terms.

**Article 5:**

The Capital Owner may not own, for more than six months, assets resulting from the liquidation or partitioning of the Mudaraba operations. The Central Council may impose on the Capital Owner any measure deemed necessary for the liquidation of these assets.

**Article 6:**

The Mudaraba Capital may not be a debt due to the Capital Owner by the Mudarib or by another party.

**Article 7:**

In addition to the provisions of this Decision, Islamic banks are governed, unless otherwise provided for, by all the provisions, regulations and principles concerning banks.

**Article 8:**

This Decision shall enter into force upon its issuance.

**Article 9:**

This Decision shall be published in the Official Gazette.

Beirut, July 16, 2005

The Governor of Banque du Liban

Riad Toufic Salamé