

BANQUE DU LIBAN

Basic Circular No 101 addressed to Banks

Attached is a copy of Basic Decision No 9207 of December 10, 2005, on Bai'salam Operations (Pre-paid Purchase of Goods) carried out by Islamic banks.

Beirut, December 10, 2005

The Governor of Banque du Liban

Riad Toufic Salamé

Basic Decision No. 9207

Bai'salam Operations carried out by Islamic Banks

The Governor of Banque du Liban,

Pursuant to the Code of Money and Credit, particularly Article 70 thereof;

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

Pursuant to the Decision of the Central Council of Banque du Liban taken in its meeting of December 7, 2005,

Decides the following:

Article 1¹: Definitions:

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

Purchaser: the Islamic Bank or its client or any other Purchaser according to the case.

Seller: the Islamic Bank or its client or any other seller according to the case.

Commodity: the movables of specified quantity and quality that can be sold.

Bai'salam: a contract for selling a fully-described commodity that does not exist on the time of the bargain but shall be delivered on a specific future date, whereby the Purchaser pays in advance to the Seller who undertakes, in return, to deliver the Commodity at a later date.

Parallel

Bai'salam: a distinct Bai'salam contract concluded with a third party, in parallel to the initial Bai'salam contract previously established, in order to sell or purchase the Commodity specified in the initial

¹- This Article was amended pursuant to Article 1 of Intermediate Decision No 10756 of June 20, 2011 (Intermediate Circular No 268).

Bai'salam contract, on the agreed upon future date and for a price paid upon the conclusion of the parallel contract.

Article 2: Bai'salam operations are governed by the provisions of the applicable laws and regulations, particularly Article 487 et seq. of the Code of Obligations and Contracts.

Article 3¹:

I- The Bai'salam contract must, at least, expressly and accurately include the following elements:

1. The rights and obligations of the contracting parties, so as to prove that the operation is a Bai'salam operation.
2. A clear description of the Commodity specified in the Bai'salam contract (nature, type, specifications, quantity...)
3. The price of the Commodity (the final amount that must include all expenses, fees and taxes) and its modality payment by the Purchaser upon the signature of the Bai'salam contract.
4. The guarantees given by the Seller.
5. The date and modality of delivering the Commodity by the Seller, and the procedures to be followed for failing to deliver it on time.

II- In parallel Bai'salam operations, the parallel Bai'salam contract must be established distinctly from the initial Bai'salam contract(s) and must, at least, expressly and accurately include all the elements required in the Bai'salam contract and enumerated in Paragraph I of this Article. In addition, the total obligations of the Islamic Bank in the parallel Bai'salam contract must not exceed those specified in the initial Bai'salam contract(s).

Article 4: At the inception of a Bai'salam contract, no debt due by the Seller or any other party to the Purchaser may be considered as a substitute for the price of the Commodity.

Article 5: The Islamic Bank may not hold for more than six months, any assets acquired as a result of a Bai'salam operation. However, the BDL Central Council may renew this time limit or impose on the bank any measure deemed necessary for the liquidation of these assets. The Islamic Bank is also prohibited from carrying out Bai'salam operations on immovables².

¹- This Article was amended pursuant to Article 2 of Intermediate Decision No 10756 of June 20, 2011 (Intermediate Circular No 268).

²- This clause was added pursuant to Article 3 of Intermediate Decision No 10756 of June 20, 2011 (Intermediate Circular No 268).

Article 6: In addition to the provisions of this Decision, Islamic banks are governed, unless otherwise provided for, by all the provisions, regulations and principles applicable to banks.

Article 7: This Decision shall enter into force upon its issuance.

Article 8: This Decision shall be published in the Official Gazette.

Beirut, December 10, 2005

The Governor of Banque du Liban

Riad Toufic Salamé