

BANQUE DU LIBAN

Basic Circular No 102 addressed to Banks

Attached is a copy of Basic Decision No. 9208 of December 10, 2005, on Istisnah Operations (Lease of work and skill) carried out by Islamic Banks.

Beirut, December 10, 2005

The Governor of Banque du Liban

Riad Toufic Salamé

Basic Decision No 9208

Istisnah 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 the 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 Ordering Party (the Islamic Bank or its client according to the case).

Seller: the Manufacturer (the Islamic Bank or any other manufacturer according to the case).

Commodity: the product that undergoes a manufacturing process and is therefore transformed by comparison to its initial state.

Istisnah
Contract: the contract concluded between the Purchaser and the Seller, whereby the Seller undertakes, on the Purchaser's demand, to manufacture a Commodity and to deliver it to the Purchaser on the fixed delivery date, in return for cashing the agreed upon price.

Parallel Istisnah: the Istisnah operation carried out under a second Istisnah contract that is distinct from the initial Istisnah contract and is concluded by the Islamic Bank (the Seller) with another

¹- This Article was amended pursuant to Article 1 of Intermediate Decision No 10757 of June 20, 2011 (Intermediate Circular No 269).

Seller (a third party) in order to fulfill the obligation stated in the initial Istisnah contract, so that the Islamic Bank becomes the Purchaser in the second contract.

Article 2¹: Under this Decision, Istisnah operations are those in which the Seller undertakes to provide the work input and the materials needed to manufacture the Commodity, in accordance with the specifications set in the Istisnah contract.

Article 3²:

I- The Istisnah contract must, at least, explicitly and accurately include the following elements:

- 1- The rights and obligations of the contracting parties, so as to prove that the operation is a manufacturing operation conform to the provisions of this Decision.
- 2- A clear description of the Commodity (nature, type, specifications, components, quantity...).
- 3- The price and method of payment of the Commodity, in addition to all expenses, costs, fees and taxes paid or to be paid by the Purchaser.
- 4- The guarantees given by the Seller.
- 5- The date and modality of delivering the Commodity by the Seller, and the penalty for failing to deliver it on time.
- 6- The possibility for the Seller, if manufacturing the Commodity proves to be unfeasible, to supply or obtain another similar Commodity.

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

Article 4: At the inception of the Istisnah 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.

¹- This Article was amended pursuant to Article 2 of Intermediate Decision No 10757 of June 20, 2011 (Intermediate Circular No 269).

²- This Article was amended pursuant to Article 3 of Intermediate Decision No 10757 of June 20, 2011 (Intermediate Circular No 269).

Article 5¹: The Istisnah contract may be concluded in order to complete a project that was started by a former Seller. In this context, the Purchaser must liquidate the operation with the former Seller, and then conclude with a new Seller a new Istisnah contract governing the remainder of the work.

Article 6: The Purchaser is prohibited from entering on his own account, into any Istisnah contract with a firm if he owns directly or indirectly the third or more of the said firm.

Article 7²: The Advisory Board, specified in Law No 575 of February 11, 2004 on the Establishment of Islamic Banks in Lebanon, shall decide whether the Purchaser may conclude a sales contract with the same Seller and for the same Commodity being the subject of the Istisnah contract.

Article 8: The Islamic Bank may not hold for more than six months, any assets acquired as a result of an Istisnah operation. However, the BDL Central Council may authorize the renewal of this time limit or impose on the bank any measure deemed necessary for the liquidation of these assets.

Article 9³: Istisnah operations are governed by the provisions of the applicable laws and regulations, particularly those of Article 372 et seq. of the Code of Obligations and Contracts.

Article 10⁴: 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, particularly the provisions of Article 2 (bis), Paragraph I, Subparagraphs (g) and (h) of Basic Decision No 7776 of February 21, 2001 on operations relating to credit, investment, shareholding and participation.

Article 11: This Decision shall be effective upon its issuance.

¹- This Article was amended pursuant to Article 4 of Intermediate Decision No 10757 of June 20, 2011 (Intermediate Circular No 269).

²- This Article was amended pursuant to Article 5 of Intermediate Decision No 10757 of June 20, 2011 (Intermediate Circular No 269).

³- This Article was amended pursuant to Article 6 of Intermediate Decision No 10757 of June 20, 2011 (Intermediate Circular No 269).

⁴-This Article was amended pursuant to Article 7 of Intermediate Decision No 10757 of June 20, 2011 (Intermediate Circular No 269).

Article 12: This Decision shall be published in the Official Gazette.

Beirut, December 10, 2005

The Governor of Banque du Liban

Riad Toufic Salamé