

GOVERNMENT OF PAKISTAN
SECURITIES AND EXCHANGE COMMISSION OF PAKISTAN

Islamabad, the 25th January, 2016

NOTIFICATION

S.R.O 45 (I)/2016.- In exercise of the power conferred by sub-section(3) of section 234 of the Companies Ordinance, 1984 (XLVII of 1984), the Securities and Exchange Commission of Pakistan ("the Commission") is pleased to notify the Shari'ah Standards No.3 (Default in Payment by a Debtor), No.8 (Murabaha to the Purchase Orderer), No.9 (Ijarah and Ijarah Muntahia Bittamleek) and No.13 (Mudaraba) issued by Accounting and Auditing Organization for Islamic Financial Institutions (AAOIFI) with certain amendments and clarifications as given in the attached annexure for the adoption by the Islamic Financial Institutions, under the regulation and supervision of the Commission. However, other laws/rules/regulations and circulars/directives issued from time to time shall remain applicable.

Provided that the Commission may grant an exemption to any Islamic Financial Institution, if it is in the public interest so to do, from compliance with all or any of the requirements of the aforesaid Standards.

Amendments and clarification for Adoption of AAOIFI Shari'ah Standards Nos. 3, 8, 9
& 13 for Islamic Financial Institutions

AAOIFI Shari'ah Standard No.3 (Default in Payment by a Debtor)

Sub- Clause (e) of Clause 2/1- Amendment:

The words "on giving the debtor reasonable notice of sale" shall be added after the word "debt" in 2nd line of above sub-clause.

AAOIFI Shari'ah Standard No.8 (Murabaha to the Purchase Orderer)

Clause 2/2/2- Clarification:

The phrase, "prior contractual relationship" shall refer to "prior sale contract".

Clause 2/2/5- Clarification:

This clause is not applicable to Shirkat ul Milk.

Clause 2/3/1- Clarification:

Currently, in the context of Murabaha in Pakistan, a bilateral promise / agreement is permissible.

Clause 2/5/6- Clarification:

The institution shall return to the customer the amount of Urbon (earnest money) after deducting the actual damages incurred.

Clause 3/1/3- Clarification:

The agent shall not consume or sell, goods purchased on behalf of the institution until such goods are sold by the institution to the customer.

Clause 3/1/4- Clarification:

The payment mechanism presently adopted by Islamic Finance Institutions(IFIs), whereby the supplier is paid by the bank through the transaction account opened in the name of agent and the customer may also acts as an agent, achieves the rationale behind this clause. However, in exceptional cases where the agent has to be given cash for onward payment to supplier, the matter can be decided by the Shari'ah Adviser and his specific approval would be required for this purpose.

Appendix A & Appendix B- Amendment:

Instead of Appendix A (Notice for Purchase of goods / assets by the agent) and Appendix-B (Notice of the acceptance by the institution), the Model Murabaha Facility Agreement, shall be followed which is available on SECP website:

http://www.secp.gov.pk/SCD/scd_winqs.asp#mwinq

AAOIFI Shari'ah Standard No.9 (Ijarah & Ijarah Muntahia Bittamleek)

Clause 3/2- Amendment:

"Prior approval from Shariah Advisor of the IFI shall be sought whenever an IFI is going to use it as a mode of Islamic finance".

Clause 3/4- Amendment:

"In special cases prior approval from Shariah Advisor shall be sought"

Clause 7/2/5- Amendment:

The above clause will now read as, "The two parties may terminate the Ijarah contract with mutual consent before it begins to run."

Clause 8/1 – Amendment:

At the end of above clause the words, "it is also permissible to ask the customer to give an Undertaking to Purchase Ijarah Asset from the IFI in case of early purchase or default" shall be added.

AAOIFI Shari'ah Standard No.13 (Mudaraba)

Clause 9/6 - Clarification

Waiver of rights with consent of the capital provider is not applicable to the Waqf Fund of Takaful Operators.

No. SECP/IFD/025/2015

Bushra
25/1/16

(Bushra Aslam)
Secretary to the Commission