

# **SHARIA GUIDE**

## **FOR PERSONAL FINANCING**

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# SHARIA GUIDE

## FOR PERSONAL FINANCING



SECRETARIAT OF SHARIA COMMITTEE

## SECRETARIAT OF SHARIA COMMITTEE

**Notice:**

This book is a translation of the Arabic book. In case of any difference between Arabic and English versions, the Arabic version shall prevail.



الموضوع: الدليل الشرعي للتمويل الشخصي المرفقات: ١

### قرار الهيئة الشرعية رقم (١٣٨)

الحمد لله رب العالمين، والصلاة والسلام على نبينا محمد وعلى آله وصحبه أجمعين،  
أما بعد:

فإن الهيئة الشرعية لبنك البلاد في اجتماعها الرابع والسبعين بعد الأربعمئة، المتعقد يوم  
الأربعاء ٢٧/٠٣/١٤٤٠هـ الموافق ٢٠١٨/١٢/٠٥م، في مدينة الرياض بالمقر الرئيس  
للبنك، قد اطلعت على مسودة "الدليل الشرعي للتمويل الشخصي"، المعد من أمانة  
الهيئة الشرعية، وهو دليل يعنى ببيان الأحكام الشرعية لجملة من مسائل التمويل الشخصي  
بالمراجعة والإجارة التمويلية التي يكثر السؤال عنها، ونمى إليها حاجة المتعاملين من عملاء  
البنك وغيرهم.

وقد أعد هذا الدليل بناء على القرارات والضوابط والتوجيهات الصادرة عن الهيئة  
الشرعية، مع تحرير للمسائل التي لم يصدر بشأنها رأي من الهيئة.

وبعد اطلاع الهيئة على الدليل، وإبداء عدد من الملاحظات، وإجراء التعديلات عليه، وبعد

اطلاعها على توصية اللجنة التحضيرية الصادرة عن اجتماعها السابع بعد الثلاثمئة، المتعقد

القرار (١٣٨)

صفحة ٢

٢

١٣٨

١٣٨



يوم الثلاثاء ١٢/٠٣/١٤٣٩ هـ الموافق ١٤/٠٨/٢٠١٨ م، وبعد المداولة والمناقشة قررت

الهيئة ما يأتي:

الموافقة على "الدليل الشرعي للتمويل الشخصي" بالصيغة المرفقة.

هذا، وتوصي الهيئة بطباعته وتوزيعه؛ لتعميم نفعه.

وفق الله الجميع لهذا، وجعل العمل في رضاه، والله أعلم، وصلى الله على نبينا محمد وعلى آله وصحبه وسلم.

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أ. د. عبدالعزيز بن فوزان الفوزان (عضواً)



***In the Name of Allah, the Most Gracious, the Most Merciful***

**Subject: Sharia Guide for Personal Financing**

**Sharia Committee Resolution No. (138)**

All praise is due to Allah, the Lord of the worlds, and may Allah's peace and blessings be upon our Prophet Mohammad, and upon all his household and companions.

In its 474<sup>th</sup> meeting held on Wednesday 27/03/1440 AH, corresponding to 05/12/2018 AD, at the bank's headquarter in Riyadh, the Sharia Committee reviewed the **"Sharia Guide for Personal Financing"** prepared by the Secretariat of the Sharia Committee. This Guide demonstrates the Sharia rulings pertaining to some frequently asked questions related to Murabaha personal financing and lease financing, which are of great importance to the bank's customers and others.

This Guide has been prepared based on the resolutions, regulations and guidelines issued by the Sharia Committee, paying thorough and precise care to issues for which no resolutions have previously been issued.

Having reviewed the Guide, taken notes and made amendments to it,

Having considered the recommendation issued by the Preparatory Committee in its 307<sup>th</sup> meeting held on Tuesday 03/12/1439 AH, corresponding to 14/08/2018 AD,

And having conducted elaborate deliberations and discussions, the Sharia Committee, resolves:

**Approving the “Sharia Guide for Personal Financing” in its attached form.**

**The Committee recommends printing and distributing this Guide for its wider utility for all stakeholders.**

May Allah guide us to the right path, and peace and blessings be upon our Prophet Mohammad, and upon all his household and companions.

## **Sharia Committee Members**

**Sheikh Abdullah Bin Suleiman Al Maneea**

(Chairman)

**Prof. Dr. Abdullah Bin Mohammad Al Mutlaq**

(Vice Chairman)

**Prof. Dr. Abdullah Bin Musa Al Ammar**

(Member)

**Dr. Mohammad Bin Saud Al Osaimi**

(Member)

**Dr. Abdulaziz Bin Fawzan Al Fawzan**

(Member)

**Prof. Dr. Yousef Bin Abdullah Al Shubaili**

(Member)



# Table of Contents



<b>Subject</b>	<b>Page</b>
<b>Foreword: Chief Executive Officer of Bank Albilad .....</b>	<b>15</b>
<b>Foreword: Secretary of the Sharia Committee of Bank Albilad .....</b>	<b>17</b>
<b>Preface .....</b>	<b>21</b>
<b>Key Terms .....</b>	<b>23</b>
<b>Definition of Banking Murabaha.....</b>	<b>25</b>
<b>Definition of Lease Financing .....</b>	<b>27</b>
<b>Main Differences between Murabaha and Lease Financing.....</b>	<b>29</b>
<b>Chapter (I): Common Issues Among Personal Financing Products.....</b>	<b>31</b>
<b>First Stage: Promise to Finance.....</b>	<b>33</b>
Issue (1): Preliminary mutual agreement between the customer and the bank.....	33
Issue (2): Binding bilateral promise between the customer and the bank.....	33
Issue (3): Obtaining finance under a friend/relative's name .....	34
Issue (4): Stipulating transfer of salary before finance .....	36
Issue (5): Stipulating that the customer shall provide guarantees before finance.....	36
Issue (6): Stipulating that the customer shall bear the bank's loss upon a revocation of contract.....	37
Issue (7): Stipulating that the customer shall bear the administrative costs .....	37

Issue (8): Stipulating that the customer shall bear the taxes and fees of the sold object .....	37
<b>Second Stage: Finance Implementation.....</b>	<b>39</b>
Issue (9): Signing on behalf of either party to finance contract .....	39
Issue (10): Stipulating late payment penalty for the monthly installments or rentals.....	39
Issue (11): The bank's undertake to accept early payment or early transfer of ownership.....	40
Issue (12): The bank's undertake to accept early payment or early transfer of ownership in return for a deduction from the deferred price or the future rental .....	40
Issue (13): The bank's undertake to deduct from the monthly installments or monthly rentals, provided that the customer remains with the employer .....	41
Issue (14): Stipulating that the customer shall bear the costs of litigation and collection of installments.....	41
Issue (15): Stipulating that the deferred installments shall fall due in case of any delay in the payment of finance installments .....	42
Issue (16): The bank's undertake to waive the debt, or early transfer the ownership in case of death .....	42
<b>Third Stage: Post-Finance Implementation .....</b>	<b>45</b>
Issue (17): Inability to deliver the sold or leased property .....	45
<b>Chapter (II): Shares Murabaha .....</b>	<b>47</b>
<b>First Stage: Promise to Finance.....</b>	<b>49</b>
Issue (18): Shares Murabaha of companies whose activities are permissible and are not involved in prohibited transactions .....	49
Issue (19): Shares Murabaha of companies whose activities are permissible, but are involved in prohibited transactions.....	49
Issue (20): Shares Murabaha of companies whose activities are prohibited.....	50

## Table of Contents

---

Issue (21): Top-up shares financing .....	50
Issue (22): Shares refinancing .....	51
Issue (23): Portfolio financing (margin investment) .....	51
<b>Second Stage: Finance Implementation.....</b>	<b>53</b>
Issue (24): The bank signs the sale contract with the customer before the bank purchases the shares .....	53
Issue (25): The customer purchases shares that the bank has not yet received in its portfolio .....	53
Issue (26): Transferring the debt of shares Murabaha financing from one bank to another.....	54
<b>Third Stage: Post-Finance Implementation .....</b>	<b>55</b>
Issue (27): The bank gives an interest-free loan to the customer until the completion of finance procedures .....	55
Issue (28): The bank sells the customer's mortgaged shares.....	55
<b>Chapter (III): Auto Murabaha .....</b>	<b>57</b>
<b>First Stage: Promise to Finance.....</b>	<b>59</b>
Issue (29): Stipulating to deposit a specific amount before the finance...	59
Issue (30): Offering the car for a price higher than its market price.....	59
Issue (31): Offering the car for a price lower than its market price.....	60
Issue (32): Selling the car to more than one purchaser at the same time .....	61
Issue (33): Murabaha on a car owned by the customer .....	61
Issue (34): Murabaha on a car in which the customer owns a share.....	62
Issue (35): Registering the car in the name of a relative/friend for the purpose of Murabaha .....	62
Issue (36): Murabaha on a car not owned by the bank.....	63
Issue (37): Taking possession in auto Murabaha .....	63

Issue (38): Murabaha on a car previously sold by the bank on credit to a former customer .....	64
Issue (39): Purchasing the same car from the same showroom by the bank .....	64
Issue (40): Murabaha on a car previously owned by the customer .....	64
Issue (41): Murabaha on a car for which the customer pays its owner a portion of the price.....	65
Issue (42): Murabaha on a car for which the customer pays its owner an <i>'Urbun</i> .....	66
Issue (43): Murabaha on a car for which the customer pays its owner a reservation fee .....	66
Issue (44): Murabaha on a car for which the customer pays its owner a <i>Hamish Jiddiyyah</i> .....	67
Issue (45): Murabaha on a car financed for the customer by way of an <i>Ijarah Muntahia Bittamleek</i> (rent-to-own) .....	67
Issue (46): Murabaha on a car for which the customer pays brokerage fees to the brokers .....	68
Issue (47): Terminating the customer's contract with the car owner for the purpose of Murabaha on it.....	68
<b>Second Stage: Finance Implementation.....</b>	<b>71</b>
Issue (48): Effect of the price payment on transferring the car ownership to the bank.....	71
Issue (49): Financing the customer before completing the regulatory procedures to register the car .....	71
Issue (50): Purchasing the car by the bank based on <i>Khiayar al-Shart</i> ....	72
Issue (51): Referring the customer to the car agent with regard to the warranty .....	72
Issue (52): Stipulating the liability of auto Murabaha customer for insurance and maintenance.....	73

## Table of Contents

---

Issue (53): Transferring the debt of auto Murabaha financing from one bank to another.....	73
<b>Third Stage: Post-Finance Implementation .....</b>	<b>75</b>
Issue (54): Selling the mortgaged car.....	75
Issue (55): Defects in a car obtained by means of auto Murabaha financing.....	75
<b>Chapter (IV): Auto Lease Financing.....</b>	<b>77</b>
<b>First Stage: Promise to Finance.....</b>	<b>79</b>
Issue (56): Difference of the rental between lease financing and operating Ijarah .....	79
Issue (57): Lease financing on a car owned by the customer .....	79
Issue (58): Registering the car in the name of a relative/friend for the purpose of leasing it by means of auto lease financing .....	80
Issue (59): Lease financing on a car that the customer purchased and paid its owner a down payment .....	80
Issue (60): Lease financing on a car that the customer purchased and paid its owner a purchase <i>'Urbun</i> .....	81
Issue (61): Lease financing on a car that the customer purchased and paid its owner a reservation fee.....	81
Issue (62): Lease financing on a car that the customer purchased and paid its owner a <i>Hamish Jiddiyyah</i> .....	81
Issue (63): Lease financing on a car that the customer purchased and paid the broker a fee .....	82
Issue (64): The bank authorizes the seller to receive the lease down payment and fees from the customer .....	82
<b>Second Stage: Finance Implementation.....</b>	<b>83</b>
Issue (65): Effect of the price payment on transferring the car ownership to the bank .....	83

Issue (66): Financing the customer before completing the regulatory procedures to register the car .....	83
Issue (67): Purchasing the car by the bank based on <i>Khiayar al-Shart</i> ....	84
Issue (68): Concluding auto lease financing contract on a car before the bank owns it .....	84
Issue (69): Referring the customer to the car agent with regard to the warranty .....	85
Issue (70): Stipulating to recover the leased car from the customer in case of his default in payment .....	85
Issue (71): Stipulating the liability of auto lease financing customer for insurance and maintenance.....	86
Issue (72): Transferring the debt of auto lease financing from one bank to another .....	86
<b>Third Stage: Post-Finance Implementation .....</b>	<b>89</b>
Issue (73): Defects of the car during the lease financing period.....	89
Issue (74): Paying the rental in case of late delivery of the car or suspension of its usufruct in lease financing .....	89
Issue (75): Modifications made by the customer to a car leased through auto lease financing.....	90
Issue (76): The customer's assignment of the lease financing contract to another customer.....	90
Issue (77): Amounts refunded to the customer upon the termination of auto lease financing contract.....	91



# Foreword

## Chief Executive Officer of Bank Albilad



All praise is due to Allah, the Lord of the worlds, and may Allah's peace and blessings be upon the most honorable Messenger, our Prophet Mohammad, and upon all his household and companions.

Allah has guided us since Bank Albilad's establishment to work according to Islamic-based financing formulas. From then on, the bank was able to present a distinguished model in the application of Islamic banking. Further, the bank has put forward many alternatives and Sharia-based solutions for many banking applications that have positively reflected on the bank's business and operations during the last period and may serve as an example to be emulated.

Motivated by our belief in the importance of spreading knowledge about Islamic banking provisions among institutions and individuals, we have endeavored diligently to share the scientific product of the Sharia Committee of Bank Albilad, and to translate these efforts and works within a number of scientific publications. This came as a contribution to spreading awareness of Islamic banking through disseminating the scientific research and Sharia-based evidence for banking applications, which effectively made Bank Albilad a pioneer - and still occupies a unique position - in the field of supporting and publishing scientific research related to financial transactions and Islamic economy. This was as part of the bank's active social responsibility in all fields, and in an effort to build a scientific knowledge system linked to the needs of the labor market, in order to achieve our goals and maximize the benefit of our works among all segments of society.

Today, in conjunction with the increasing global demand for Islamic banking products, which have become present in various countries worldwide and circulated in international forums and conferences, and in support of the



Saudi Vision 2030 for reinforcing the work of Islamic banking, this publication **“Sharia Guide for Personal Financing”** came as part of this continuous series that we launched in 1429 AH with the issuance of **“Standards Abstracted from Resolutions of Sharia Board of Bank Albilad”**, which was followed by the book entitled: **“Sharia Guide for Real Estate Finance”**, and then the Sharia Guide videos. All of these publications were translated into English, in addition to dozens of other publications in Arabic to have widely shared benefits and reach as many interested parties as possible.

In conclusion, I would like to express my sincere thanks to the bank’s Board of Directors for its continued support in various fields and for encouraging such initiatives.

I also extend my thanks to the Sharia Committee and its secretariat for the efforts made, and their ongoing quest for the development of Islamic banking.

We ask Allah, the Great and Almighty, to bless these efforts and bring benefit of this blessed publication.



***Chief Executive Officer of Bank Albilad***  
***Mr. Abdulaziz Bin Mohammad Al Onaizan***



# Foreword

## Secretary of the Sharia Committee of Bank Albilad



All praise be to Allah, and may peace and blessings be upon Allah's Messenger, our Prophet Mohammad, and upon all his household and companions.

It is Allah's grace and favor upon us that we have recently witnessed the increasing interest and demand for Islamic-based financing formulas offered and provided by Islamic banks. These formulas have demonstrated in a short period of time their ability to develop products which are tailored to meet the desires and needs of customers in accordance with the provisions of Islamic Sharia, and have proven the firmness and stability of the Islamic banking industry. Over the past period, the Islamic banks offered many products that opened distinguished markets and great opportunities for customers.

Bank Albilad has paid great attention to providing many Sharia-based formulas of financing and service products for customers. With this diversity and multiplicity in the executed operations and products offered to customers, the Secretariat of Sharia Committee has received many questions that are frequently asked about by customers and employees of the bank, along with some practices that may affect the integrity of dealing from the Sharia-based perspective. This was a reason for issuing Sharia guides directed to customers to answer inquiries and correct frequently asked transactions. Among the first publications issued by the Secretariat of the Sharia Committee of Bank Albilad was the **"Sharia Guide for Real Estate Finance"**, with the aim of explaining a number of real estate financing issues that are urgently needed due to the non-compliance of some real estate practices with Sharia provisions.

We are ever thankful to Allah that this Guide has achieved great success, as more than 4,000 copies were distributed in Arabic and more than 1,000 copies in English. The Guide was also published on the bank's website in order to

reach as many interested parties as possible, and it was also produced in the form of motion graphics to have widely shared benefits and reach the largest possible segments.

We also thank Allah for turning this Guide into an academic and a scientific curriculum for many training courses and practical lectures.

Accordingly, we have decided to stay the course in this regard, collect all the questions and inquiries received from customers about consumer financing, and adopt the same methodology in the **“Sharia Guide for Real Estate Finance”**, which are as follows:

- 1- Collecting the most important issues of consumer financing in Bank Al-bilad, by reverting to the records of both the Sharia Studies and Research Department and the Sharia Audit Department, and the practical cases they contain. More than fifty cases were selected, which received an in-depth study and included direct communication with customers, in an attempt to describe the case, understand the motives of each party, and establish the point of contention to reach the Sharia ruling relevant.
- 2- Collecting the scientific material related to these issues from publications and statements issued by the Sharia Committee of Bank Albilad.
- 3- Preparing the Guide’s plan and methodology for presenting its issues and their rulings.
- 4- Dividing the Guide’s issues into four chapters: The first chapter deals with the common issues among personal financing products, the second chapter deals with shares Murabaha, the third chapter deals with auto Murabaha, and the fourth chapter deals with auto lease financing. Each chapter is divided into three stages in line with finance stages, namely: the stage of promise to transfer ownership, the stage of finance implementation, and the stage of post-finance implementation, and this division is clearly visible in the Guide’s Table of Contents.
- 5- These issues were extracted and reformulated in the form of Q&A. Some notes and Sharia-compliant solutions were added to some issues in order to be more comprehensive to the needs of the interested parties.
- 6- The Guide’s draft was submitted to the Shari Committee which made several amendments to it, then the Committee issued a decision of approval, which represented its Fiqh-based opinion by the majority.

## Foreword

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Lastly, I ask Allah, the Great and Almighty, to make this work pure and sincere for His sake, and to make it beneficial and good for all.

I cannot fail to express my sincere thanks to the members of the Sharia Committee for their support, advice and guidance to produce this Guide in the appropriate format.

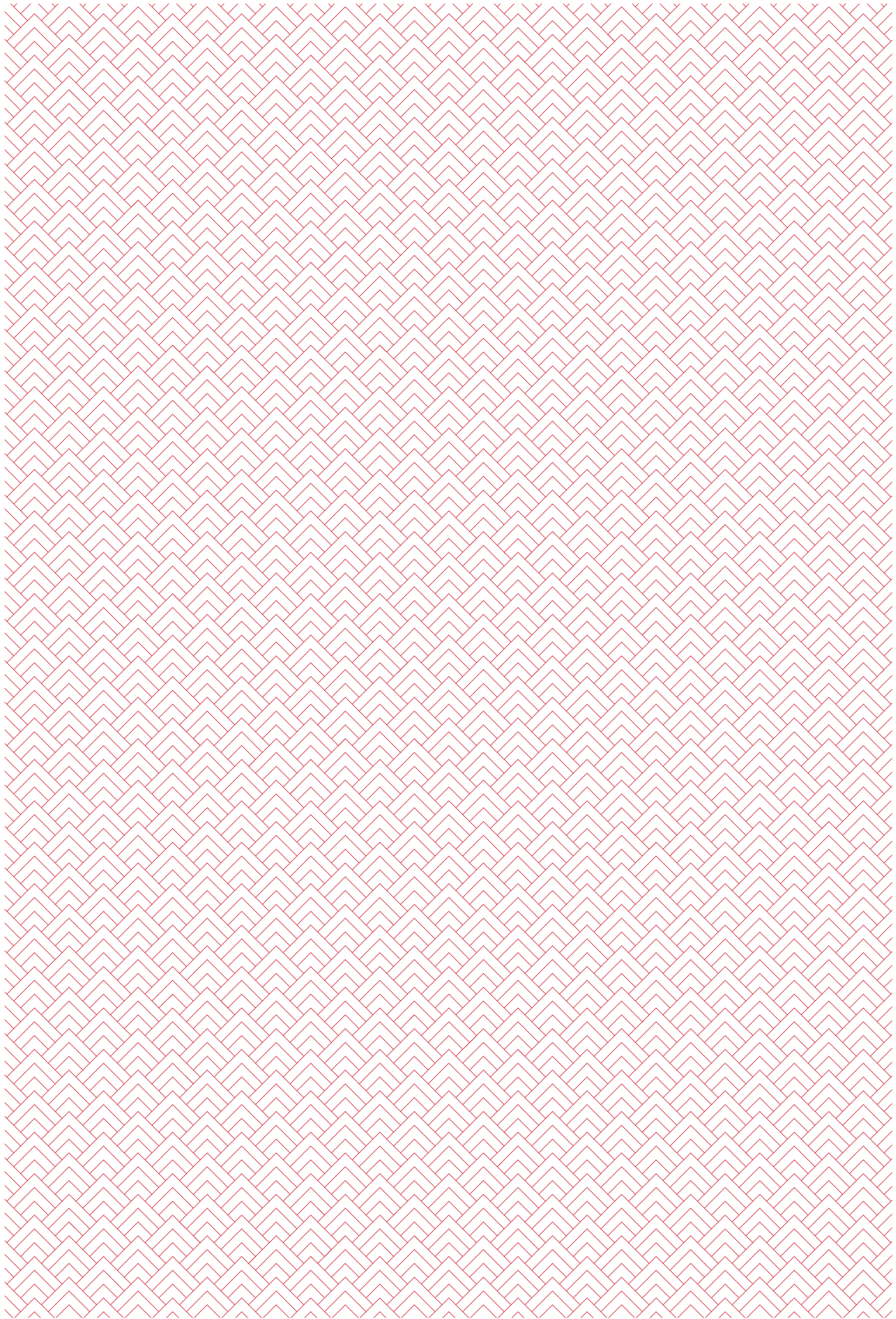
I extend my thanks to the bank's management, headed by the Chairman of the Board of Directors, Mr. Nasser Bin Mohammad Al Subeaei, and the CEO, Mr. Abdulaziz Mohammad Al Onaizan, for their great support for any initiative or program that supports the promotion and dissemination of awareness of Islamic banking. I would also like to express my appreciation to colleagues in the Sharia Division of Bank Albilad and to those who succeeded in working on this blessed project until it came out in its final form.

In conclusion, we ask Allah, Exalted be He, to bless this work and make it beneficial for all. May peace and blessings of Allah be upon our Prophet Mohammad, and upon all his household and companions.

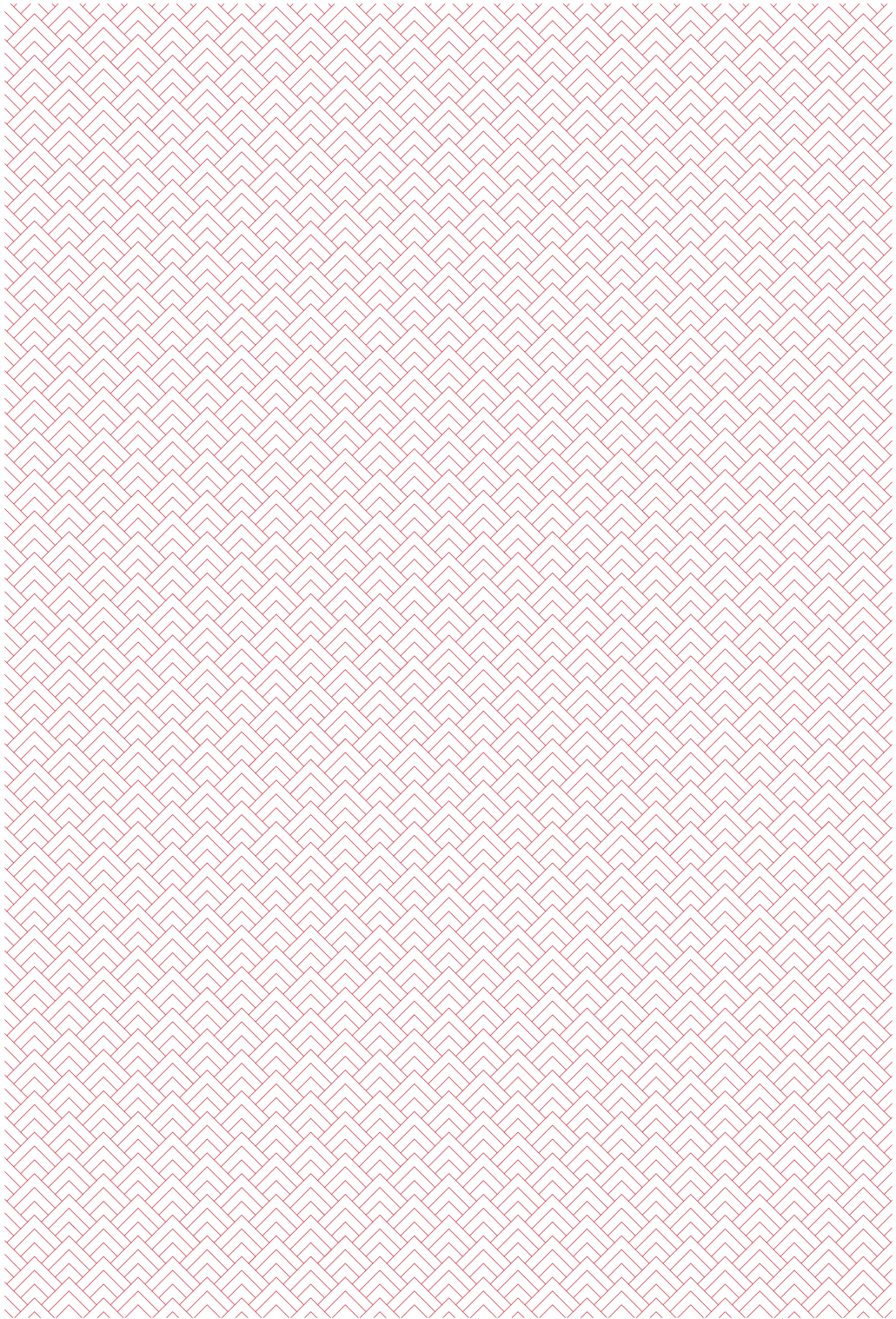


***Secretary of the Sharia Committee of Bank Albilad***

***Mr. Mohammad Bin Abdulaziz Al Zoman***



# **PREFACE**



## Key Terms



**Promissory Note:** A form of commercial papers (which are: check, bill of exchange and promissory note) whereby the issuer (a debtor) promises to pay a certain amount of money, at a specific date, to a particular person (a beneficiary/creditor).

**Surety (Liable Guarantor):** Someone who is liable before the creditor to pay the debtor's debt in the event of his default. Accordingly, when the debtor fails to pay his debt which has become due, the creditor may demand the surety (guarantor) to pay the debt, and the surety has a right of recourse to the debtor for repayment.

***Khiyar al-Shart* (Cooling-Off Option):** An option stipulated by the contracting parties giving either or both of them the right to revoke the contract within a specified period of time.

**'Inah Sales:** Two transactions (sell and buy back) between two parties on a commodity, one of them is at a current price, and the other is at a deferred price that is more than the current price.

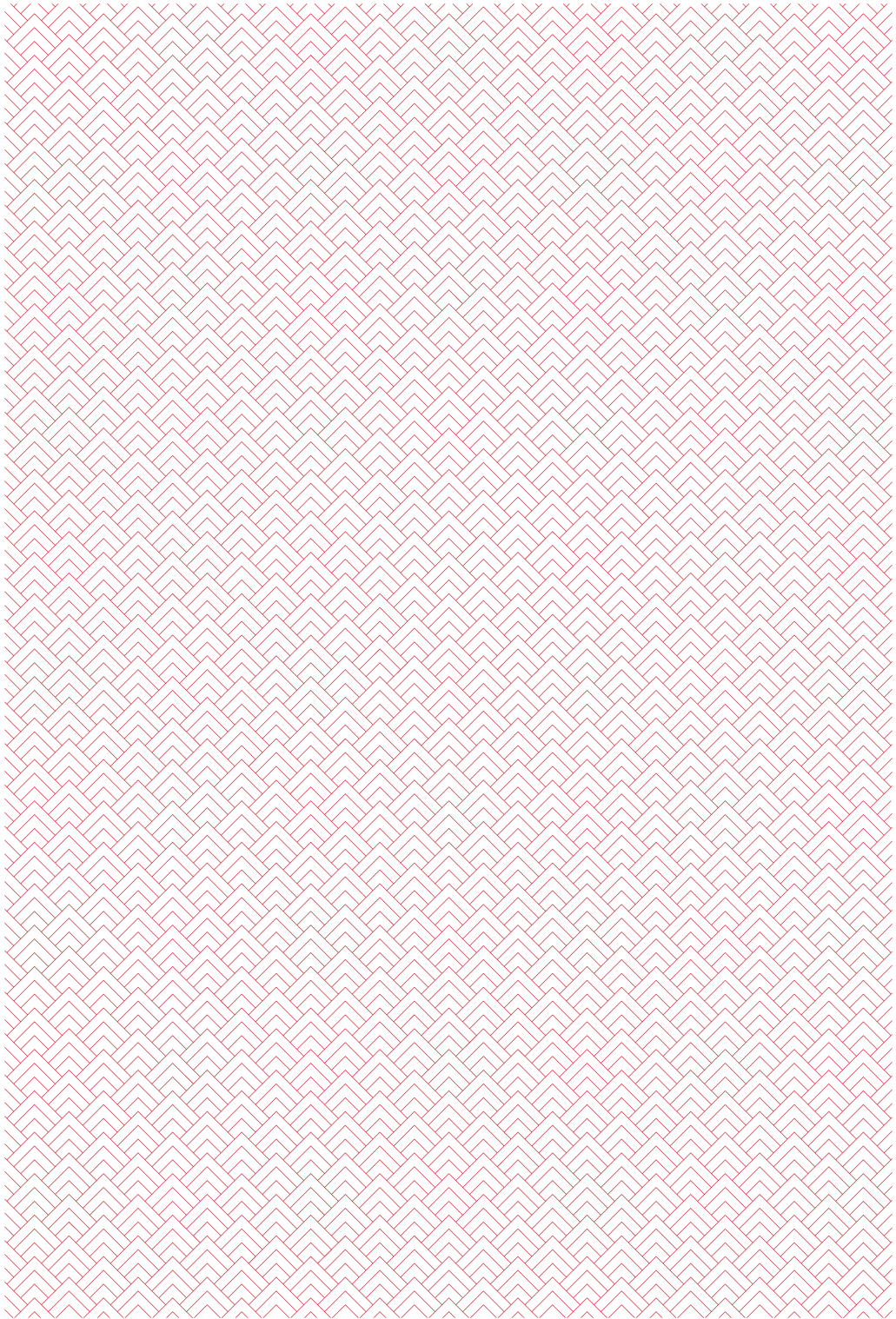
**Operating Ijarah:** The usual form of lease intended to own only the usufruct of the leased asset for a specific period.

**Major Maintenance:** The work required to keep the car itself, according to accepted custom.

**Operating Maintenance:** The work required to keep the car in the condition necessary to provide the contractual usufructs under Ijarah (lease), according to custom.

**Ownership Right:** Part of the rent paid in exchange for the customer's right to own the car at the end of the Ijarah period, and it is refunded in case of contract termination or nullification.







# Definition of Banking Murabaha



**Banking Murabaha:** A form of finance consists of several steps starting with the customer making a promise to purchase a commodity from the bank. The bank then purchases the commodity and sells it on credit to the customer at a definite profit. It is consistent with the Fiqh-based Murabaha in a number of characteristics.

## Steps for executing auto or shares Murabaha:

- 1- The customer applies to the bank for auto or shares Murabaha financing, providing the specifications of the car or shares to be purchased.
- 2- The bank reviews the customer's application.
- 3- After the final approval, the bank purchases the car or the shares from its owner, and takes possession of it as required by Sharia.
- 4- The bank signs auto or shares sale contract with the customer, specifying the price and the term. Then, the ownership of car or shares is to be transferred to the customer.
- 5- The customer receives the car or shares he purchased to use and dispose of.

## Common Sharia violations in Murabaha:

- 1- The bank signs the sale contract with the customer before the bank purchases the car or shares from the owner. This is a form of selling something that one does not own, which is forbidden by Sharia.
- 2- The customer purchases the car or shares from its owner before the bank takes possession of it, be such a purchase by paying a down payment or an '*Urbun* (earnest money), and then purchases it from the bank on credit. This is a form of '*Inah* sales<sup>(1)</sup> which are forbidden by Sharia.

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(1) This is because the customer has already owned the commodity through the sale =

## Sharia Guide for Personal Financing

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- 3- The finance contract includes a condition imposing penalty on the customer in case of a late payment.

Further issues and notes can be viewed by referring to the Guide's Table of Contents.



- 
- = contract concluded with the owner. The issue shall be that the bank purchases the car owned by the customer and then sells it back to him at a deferred price that is more than the current price.

## Definition of Lease Financing



**Auto lease financing:** A form of finance consists of a number of steps starting with the customer making a promise to lease a car. The bank then purchases the car and leases it to the customer for a specific rental and term. The rulings pertaining to *Ijarah* (lease) are applied during the period of lease. After the customer pays the lease installments in full without violating his obligations to the contract, the bank shall then transfer the ownership of the car to him through a sale contract based on a prior promise or through a *hibah* (gift) as stated in the contract. Lease financing is called also *Ijarah Muntahia Bittamleek* (rent-to-own), lease with a promise to transfer the ownership, and lease with a subsequent ownership.

### Steps for executing auto lease financing:

- 1- The customer applies to the bank for auto lease financing, providing the specifications of the car to be leased.
- 2- The bank reviews the customer's application.
- 3- After the final approval, the bank purchases the car from its owner.
- 4- The bank signs auto lease financing contract with the customer, specifying the rental and the term.<sup>(1)</sup>
- 5- The customer receives the leased car to make use of it.
- 6- After the customer pays the lease installments in full, the bank transfers the car's ownership to the customer, after paying an ownership payment agreed-upon in the contract, or the bank may grant the car to the customer as a *hibah* (gift).

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(1) The bank must take possession of the car before signing the contract with the customer in case of a specified lease, but is permissible to conclude a lease contract with the customer before taking possession of the car in case of a lease for an unspecified asset undertaken to be delivered according to agreed-upon specifications. [See: Issue 6]

**Common Sharia violations in auto lease financing:**

- 1- The customer signs a lease contract with the bank for a specified car before the bank actually purchases it. However, they may enter into a lease contract for an unspecified car undertaken to be delivered according to agreed-upon specifications.
- 2- Signing a lease contract with a transfer of ownership contract for one car at the same time. The two contracts should be separate, so that each of them occurs at a different time. Thus, the rulings pertaining to Ijarah (lease) are applied during the lease period, and after that the rulings pertaining to ownership are to be considered. However, transferring the ownership may be contingent on paying the lease payments or the ownership payment.
- 3- Charging the customer with the guarantee of the car, such as the guarantee against damage, major maintenance and insurance cover. This is like when the lessee is authorized to take out the insurance cover, with being liable for any deficit in the insurance compensation. Actually, the guarantee should be borne by the lessor (the bank), and the bank may take into account the costs of insurance beforehand when determining the rental. However, the customer may charge the costs of operating maintenance.

Further issues and notes can be viewed by referring to the Guide's Table of Contents.



## Main Differences between Murabaha and Lease Financing



There are many differences between Murabaha and lease financing, the most significant of which are as follows:

Difference	Murabaha	Lease Financing
Commodity ownership	The ownership of commodity is transferred from the bank to the customer at the time the contract is signed. Keeping the commodity registered in the name of the bank does not affect the contract, since this is a form of security not ownership.	The commodity remains in the bank's acquisition during the period of lease, and later its ownership is transferred from the bank to the customer in accordance with agreed-upon conditions.
Commodity guarantee	The customer guarantees the commodity after purchasing and taking possession of it.	The bank guarantees the commodity during the period of lease until the customer takes possession of it.
Amending finance return	It is not permitted to increase the price after the Murabaha contract has been signed, because such a price is a debt established in the customer's liability.	It is permitted to amend the rental for a usufruct that has not been realized after the lease financing contract has been signed, based on the mutual agreement of the two parties, because such a rental is not a debt established in the customer's liability.
Extending the finance contract by increasing its return	It is not permitted to extend the Murabaha contract against an increase in profit because the price is a debt established in the customer's liability.	It is permitted to extend the lease financing contract, by means of amending or renewing it, for a new rental and term agreed-upon by the two parties.

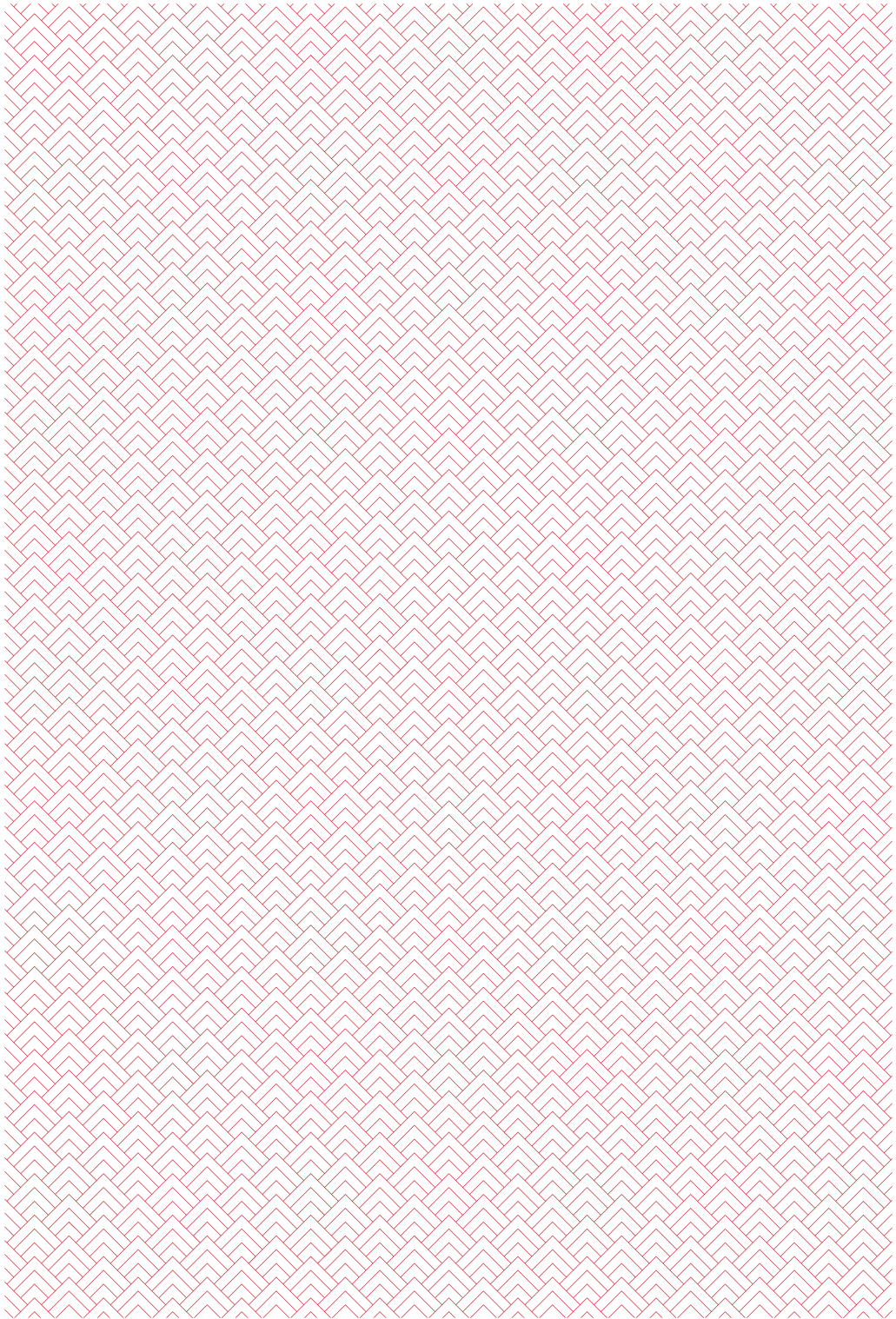
### Amounts paid by the customer to the commodity's owner, his agent or a broker before concluding the finance contract

Advance Payments	Definition	Refundability	Ruling
Down payment	An amount of money that a buyer pays to the seller as a part of the price in a final purchase contract.	Non-refundable	Permissible
<i>'Urbun</i> (earnest money)	An amount of money that a buyer pays to the seller as a part of the price in a purchase contract, whereby the buyer has an option (within an agreed-upon period) to either complete the contract by paying the remaining part of the price or to terminate it. If the buyer decides to terminate the contract, then the seller has a right to keep the <i>'Urbun</i> .	Non-refundable	Permissible
<i>Hamish Jiddiyyah</i> (security deposit)	Any money that a customer pays in advance before signing the contract as proof of his intent and financial ability to execute the transaction.	Refundable	Permissible
Reservation fee	A sum of money that a customer pays to the owner in order to secure booking the asset for a specific period. This is done without concluding a contract between the two parties, provided that the customer has a right to purchase (by himself or whomever he chooses) for a specific price, under a subsequent purchase contract during this period.	Non-refundable	Permissible
<i>Sa'y</i> (brokerage fee)	A fee or commission that a broker receives for acting as an intermediary between the buyer and the seller.	Non-refundable	Permissible



# **CHAPTER (I)**

## **Common Issues Among Personal Financing Products**





## First Stage

### Promise to Finance



#### **Issue (1): Preliminary mutual agreement between the customer and the bank**

The customer applies to the bank for personal financing, and the two parties mutually agree, before purchasing the car or the shares, on the type of finance, a specific amount of the profit or the rental return, and the payment schedule. What is the Sharia ruling regarding this issue?

**Ruling:** Preliminary mutual agreement between the customer and the bank as to the type of finance, the amount of profit or rental return, and the payment schedule, before the bank purchases the car or the shares, is permissible. This is because such an agreement is neither a contract nor is it governed by the rules of the contract. It is just a preliminary mutual agreement and a non-binding promise on the customer's part to enter into the finance process.

#### **Issue (2): Binding bilateral promise between the customer and the bank**

The customer applies to the bank for personal financing, and the bank stipulates that the customer and the bank shall be bound by the finance process if the bank purchases the car or the shares from their owner. If the customer does not proceed with the finance agreement, he shall bear the losses incurred by the bank. What is the Sharia ruling regarding this issue?

**Ruling:** Binding bilateral promise between the two parties is not permissible, and the bank is not entitled to recover the losses it incurred from the customer. This is because the binding bilateral promise is

considered as a contract, and the contract cannot be concluded for something that is not yet in the possession of the seller (the bank). This is according to the *marfu'* (traceable) hadith narrated by Hakim Ibn Hizam (may Allah be pleased with him) stating: *"Do not sell what you do not possess."*<sup>(1)</sup>

It is not permissible to charge the customer with the losses incurred by the bank, because the loss and profit are a consequence of the guarantee that is to be borne by the seller (the bank).

**Note:** The customer may sign a promise and a desire-to-purchase document that is not binding on his part, because this document is not a contract and does not have the rules thereof. It is just a preliminary mutual agreement.

### Issue (3): Obtaining finance under a friend/relative's name

Mohammad desires to obtain personal financing but he is not qualified according to the conditions of the bank. Accordingly, he asks Abdullah (one of his friends or relatives who is qualified, according to the bank's conditions) to apply to the bank for finance. What is the Sharia ruling regarding this issue?

**Ruling:** This process can be executed in the following two forms:

**First:** The bank finances the car for Abdullah, then Abdullah finances the same car for Mohammad using any form of finance, which is permissible.

**This constitutes the following:**

- ◆ The debt Abdullah owes to the bank is independent from the debt Mohammad owes to Abdullah. This means, if the bank drops the debt Abdullah owes to it, the debt Mohammad owes to Abdullah will not necessarily be dropped, unless otherwise agreed upon. Also, if Abdullah repays his debt to the bank, the debt Mohammad owes to Abdullah still remains unsettled.

(1) *"Musnad Ahmad"* [15311]; *"Sunan Ibn Majah"* [2187]; *"Musnad Abu Dawud"* [3503]; *"Sunan al-Tirmidhi"* [1232], al-Tirmidhi said: "It is a *hassan* (good) *hadith*"; and *"Sunan al-Nasa'i"* [4613].

- ♦ In this case, Abdullah and Mohammad may agree that Mohammad shall pay an amount to Abdullah higher or lesser than the amount Abdullah shall pay to the bank. This is because the contract concluded between Mohammad and Abdullah is independent of the contract concluded between him and the bank.
- ♦ Abdullah should possess and take delivery of the car from the bank before selling it to Mohammad.

**Second:** The bank finances the car or the shares for Abdullah, and then Abdullah delivers it to Mohammad. In such a case, Abdullah becomes the actual debtor before the bank, and acts as an agent and guarantor for Mohammad, which is permissible according to the Sharia.

**This constitutes the following:**

- ♦ Mohammad shall observe the finance contract and bear the consequences thereof.
- ♦ Abdullah is not obligated to disclose to the bank that the contract actually belongs to Mohammad. This is based on the hadith narrated by ‘Urwah al-Bariqi that the Prophet (peace be upon him) gave him a dinar to buy a sheep for him. He (‘Urwah) bought two sheep with it, sold one of them for a dinar and came back to him (the Prophet) with a dinar and a sheep<sup>(1)</sup> When the Prophet (peace be upon him) knew about this transaction, he did not prohibit it.
- ♦ Abdullah is responsible for the contract before the bank and cannot escape his obligations on the pretext that the contract belongs to someone else.
- ♦ Abdullah may demand Mohammad of the payments due to the bank as being his agent. However, he shall not be entitled to any compensation in return for the guarantee in case he pays the bank from his own money on behalf of Mohammad. This is because the guarantee, in this case, changes into a *qard* (loan), whereby any compensation will be an interest thereon.

(1) “*Sahih al-Bukhari*” [3642].

**Note:**

- 1- It is preferable that the finance is requested under the name of the real beneficiary to avoid any possible dispute or disagreement.
- 2- Abdullah and Mohammad shall sign a document stating their rights and obligations to avoid any dispute, especially in case of death.

**Issue (4): Stipulating transfer of salary before finance**

The customer applies to the bank for personal financing, and the bank stipulates that the customer shall transfer his salary to the bank. What is the Sharia ruling regarding this issue?

**Ruling:** It is permissible for the customer to enter into a finance contract whereby the bank stipulates that the salary be transferred as a prerequisite for the finance. This is because the transfer of salary is meant as a guarantee for repayment on the customer's part. However, the bank may not stipulate that the customer keeps a certain amount of his salary in the current account which is higher than the monthly installment that is due.

**Issue (5): Stipulating that the customer shall provide guarantees before finance**

The customer applies to the bank for personal financing, and the bank stipulates certain guarantees/securities, such as the mortgage of the car, a promissory note<sup>(1)</sup> or surety<sup>(2)</sup> as a prerequisite for the finance to make sure that the customer will repay the debt. What is the Sharia ruling regarding this issue?

**Ruling:** It is permissible for the customer to enter into a finance contract whereby the bank stipulates certain guarantees, such as the mortgage of the car, a promissory note, or surety. This is provided that the bank shall not use these guarantees to obtain the due amounts except

- (1) **Promissory Note:** A form of commercial papers (which are: check, bill of exchange and promissory note) whereby the issuer (a debtor) promises to pay a certain amount of money, at a specific date, to a particular person (a beneficiary/creditor).
- (2) **Surety (Liable Guarantor):** Someone who is liable before the creditor to pay the debtor's debt in the event of his default. Accordingly, when the debtor fails to pay his debt which has become due, the creditor may demand the surety (guarantor) to pay the debt, and the surety has a right of recourse to the debtor for repayment.

in case of default on the customer's part and after the bank follows all the ordinary procedures to obtain its right. Also, the bank shall take only the debt which is due from the guarantees, while the extra amount shall be paid back to the customer.

**Issue (6): Stipulating that the customer shall bear the bank's loss upon a revocation of contract**

The customer applies to the bank for personal financing, and the bank stipulates compensation for the loss incurred due to the customer's revocation of the contract. What is the Sharia ruling regarding this issue?

**Ruling:** It is not permissible to enter into a financing contract whereby the bank stipulates that the customer bears the loss when he breaches his promise to buy. This is because the loss and profit are a consequence of the guarantee that is to be borne by the seller (the bank).

**Note:** The bank may amend the price on some customers in subsequent financings through increasing the price for those who have revoked previous financings.

**Issue (7): Stipulating that the customer shall bear the administrative costs**

The customer applies to the bank for personal financing, and the bank stipulates that the administrative costs, such as the costs of credit studies, incurred by the bank shall be borne by the customer as non-refundable payments, even if the customer revokes the finance contract. What is the Sharia ruling regarding this issue?

**Ruling:** It is permissible for the bank to impose administrative fees for reviewing the customer's application, provided that the bank, in the calculation of such fees, shall observe the normal costs.

**Issue (8): Stipulating that the customer shall bear the taxes and fees of the sold object**

The customer applies to the bank for personal financing, and the bank stipulates that the fees or taxes paid to a third party shall be borne by the customer. What is the Sharia ruling regarding this issue?

**Ruling:** It is permissible for the bank to offer the shares or the car including fees or taxes paid to a third party; such as the fees for transferring shares to the investment portfolio, or the fees for transferring the car ownership, or the taxes paid.



## Second Stage

### Finance Implementation



#### **Issue (9): Signing on behalf of either party to finance contract**

In a finance process, a person may sign a document or a contract on behalf of one of the parties to the finance contract (the customer, the bank, or the owner of commodity). What is the Sharia ruling regarding this issue?

**Ruling:** It is permissible for a third party to sign on behalf of any party to the finance contract based on the following two conditions:

- 1- The signatory (third party) is to be delegated by the original party and has a valid agency or authorization to sign the contract.
- 2- The signatory (third party) does not act as a deputy for both parties to the contract. That is, the third party himself should not sign on behalf of the seller and the buyer, or on behalf of the lessor and the lessee, as the case when the branch employee signs on behalf of both the customer and the bank.

#### **Issue (10): Stipulating late payment penalty for the monthly installments or rentals**

The customer applies to the bank for personal financing, and the bank stipulates that the customer shall pay penalties in case of any late payment of monthly installments or rentals. What is the Sharia ruling regarding this issue?

**Ruling:** It is not permissible to enter into personal financing contract whereby the bank stipulates that the customer shall pay penalties in case of any late payment of monthly installments of finance, or the lease installments during previous lease periods, even if the bank will distribute these penalties to charitable channels.



**Note:** In a lease financing contract, the bank may stipulate having the right to terminate the contract in case the customer fails to pay the lease installments on time. However, they may agree to either increase the rental for the subsequent period or to extend the period, or both, in case of any delay in payment. This is not regarded as a delay fine, but rather a renewal of the Ijarah (lease) contract for another subsequent period that has not commenced yet and for which the rental has not become due.

**Issue (11): The bank's undertake to accept early payment or early transfer of ownership**

The customer applies to the bank for personal financing, and the bank undertakes before the customer to accept early payment or early transfer of ownership. What is the Sharia ruling regarding this issue?

**Ruling:** It is permissible to enter into a personal financing contract whereby the bank undertakes before the customer to accept early payment or early transfer of ownership at any time during the period of the contract.

**Issue (12): The bank's undertake to accept early payment or early transfer of ownership in return for a deduction from the deferred price or the future rental**

The customer applies to the bank for personal financing, and the bank undertakes before the customer to accept early payment or early transfer of ownership in return for a deduction from the deferred price or the future rental, while providing the customer with a monthly schedule determining the amount of early payment or early transfer of ownership. What is the Sharia ruling regarding this issue?

**Ruling:** It is permissible to enter into a personal financing contract whereby the bank undertakes before the customer to accept early payment or early transfer of ownership in return for a deduction from the deferred price or the future rental, at any time during the period of the contract. The bank should disclose to the customer the method



for determining the amount that should be paid for early payment or early transfer of ownership, as well as the deduction rate, whether the deduction implies all the remaining profit, the remaining rental return, a portion thereof, or otherwise.

**Issue (13): The bank's undertake to deduct from the monthly installments or monthly rentals, provided that the customer remains with the employer**

The customer applies to the bank for personal financing, and the bank undertakes before the customer to make a deduction from the finance monthly installments or rentals, provided that the customer remains with the employer. What is the Sharia ruling regarding this issue?

**Ruling:** It is permissible to enter into a personal financing contract whereby the bank undertakes before the customer to make a deduction from the finance monthly installments or monthly rentals, provided that the customer remains with the employer. If the customer leaves the employer, he shall not be entitled to that deduction during the remaining period of the contract.

**Issue (14): Stipulating that the customer shall bear the costs of litigation and collection of installments**

The customer applies to the bank for personal financing, and the bank stipulates that the customer, in case of any delay in the payment of monthly installments or rentals, shall bear the costs of litigation and collection of installments if the bank sues him or appoints a third party to collect the customer's debt to the bank. What is the Sharia ruling regarding this issue?

**Ruling:** It is permissible to enter into a finance contract whereby the bank stipulates that the customer, in case of any late payment, shall bear the actual costs of litigation and collection of installments incurred by the bank without any increase. Such costs are not regarded as a late payment penalty or a usurious interest because they are not paid for the delay of payment, but rather for litigation and collection procedures.

### **Issue (15): Stipulating that the deferred installments shall fall due in case of any late payment of finance installments**

The customer applies to the bank for personal financing, and the bank stipulates that all or some of the deferred installments shall fall due in case of the customer's default in payment. What is the Sharia ruling regarding this issue?

**Ruling:** It is permissible for the customer to enter into a finance contract whereby the bank stipulates that the deferred installments shall fall due upon default in payment.<sup>(1)</sup> The bank, however, should adopt a just procedure for collecting the deferred installments from the customer, such as:

- 1- Demanding the customer to pay a number of deferred installments equal to the number of defaulted installments.
- 2- Decreasing the deferred profit in proportion to the deferred installments the customer pays due to his default in the payment of due installments.

### **Issue (16): The bank's undertake to waive the debt, or early transfer the ownership in case of death**

The customer applies to the bank for personal financing, and the bank undertakes to waive/discharge the debt of finance (i.e. the unpaid installments), or to early transfer the ownership in case of the customer's death to his inheritors, and so will not demand payment of the unpaid installments from his inheritors. What is the Sharia ruling regarding this issue?

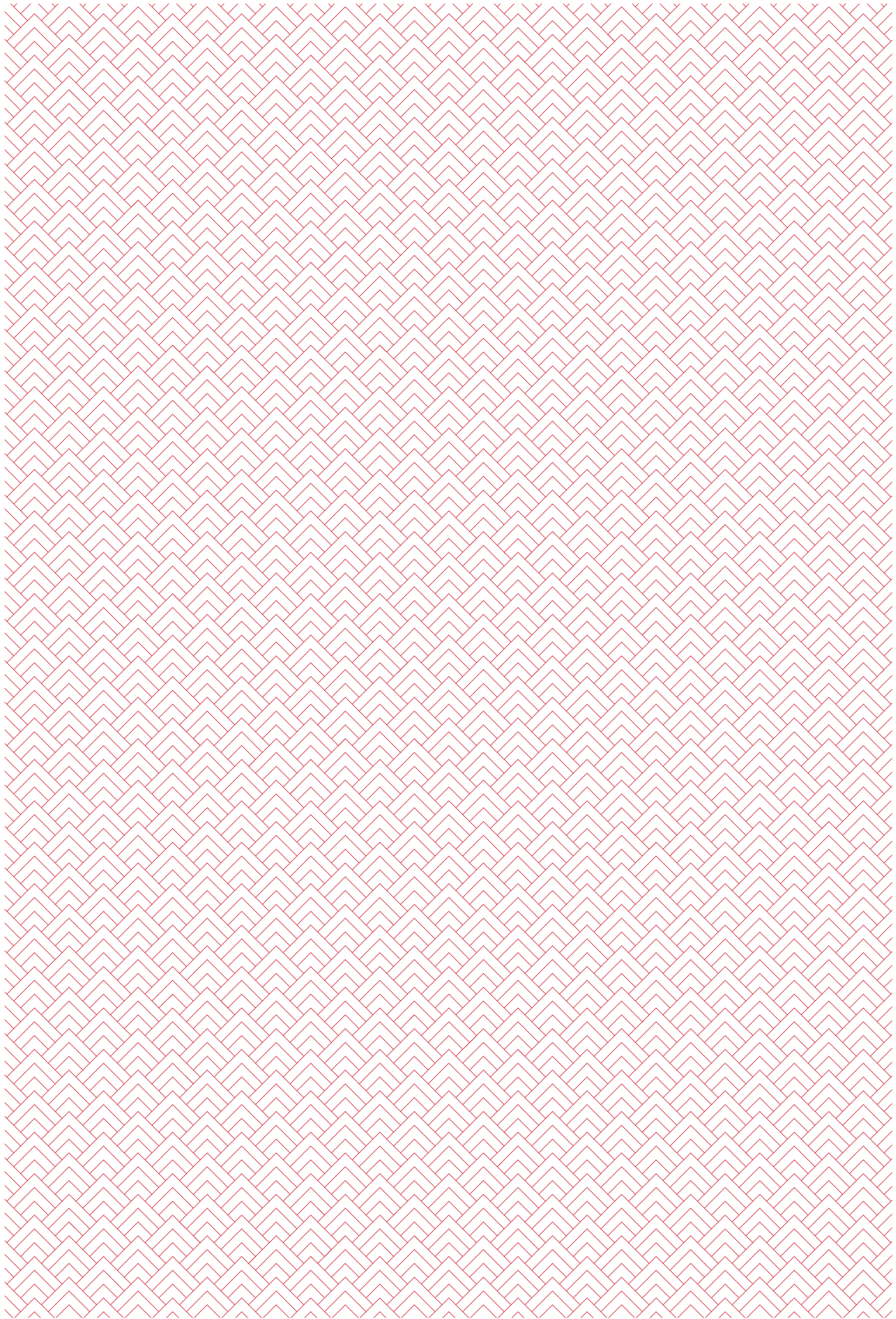
**Ruling:** It is permissible for the customer to enter into a finance contract whereby the bank undertakes to waive/discharge the debt of finance, or to early transfer the ownership in case of the customer's death to his inheritors, and not to demand payment of the unpaid installments from his inheritors. However, the bank may set Sharia-compliant cooperative insurance plans for the cases of death.

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<sup>(1)</sup> The regulations issued in this regard shall be observed.

**Note:** For the customer, the methods adopted by the bank to hedge against such risks, whether through Islamic or commercial insurance or through techniques other than insurance, do not affect the Sharia ruling or the validity of this condition in such transaction.





## Third Stage

### Post-Finance Implementation

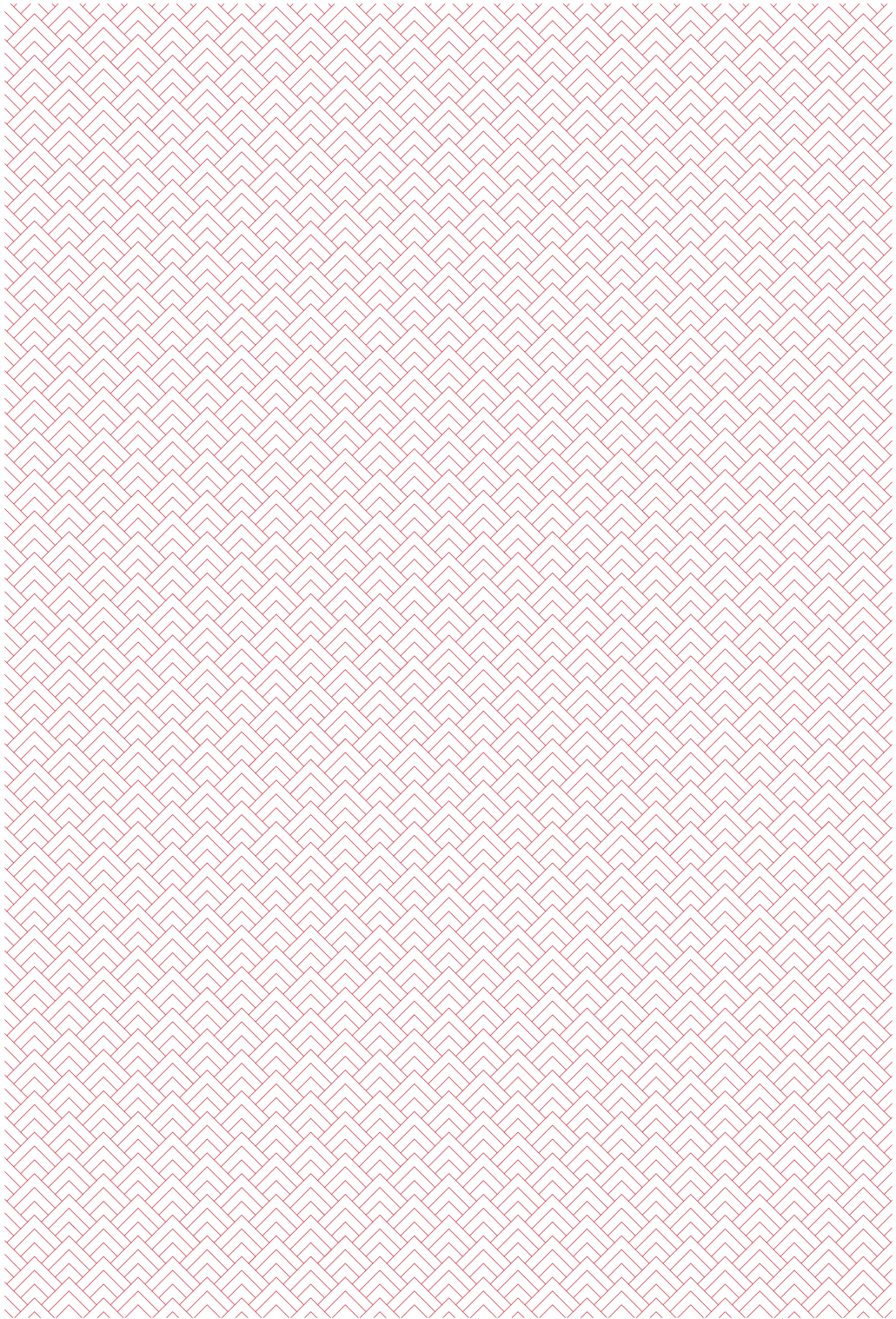


#### Issue (17): Inability to deliver the sold or leased property

The customer applies to the bank for personal financing, and after the bank buys the car or shares to sell them to the customer, or lease the car to the customer, the bank becomes unable to deliver it to the customer. What is the Sharia ruling regarding this issue?

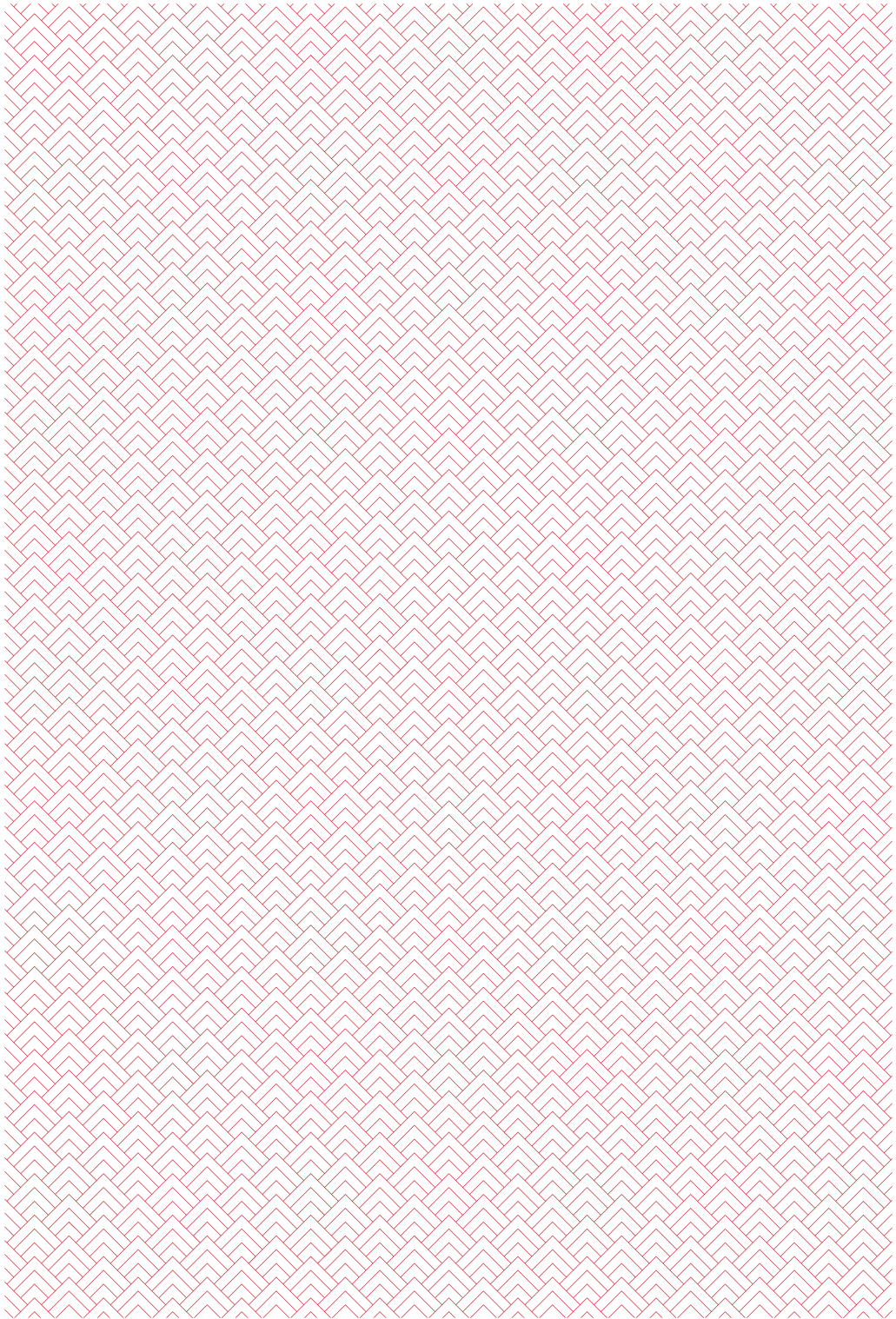
**Ruling:** If the bank becomes unable to deliver the sold car or shares, or the leased car, to the customer for any reason, then the sale or lease contract is terminated due to the bank's inability to deliver the subject matter of the contract. In such a case, the bank shall refund any fees it may have collected from the customer, taking into account the ruling on Issue (74).





# **CHAPTER (II)**

## **Shares Murabaha**





## First Stage

### Promise to Finance



#### **Issue (18): Shares Murabaha of companies whose activities are permissible and are not involved in prohibited transactions**

The customer applies to the bank for shares Murabaha financing on the shares of companies whose activities are permissible, and are not involved in prohibited transactions. The bank purchases shares in these companies, and then sells them to the customer. What is the Sharia ruling regarding this issue?

**Ruling:** It is permissible for the customer to enter into shares Murabaha financing contract on the shares of companies whose activities are permissible, such as the activities of cement and steel companies, and are not involved in prohibited transactions, such as interest-based loans, or prohibited investment.

#### **Issue (19): Shares Murabaha of companies whose activities are permissible, but are involved in prohibited transactions**

The customer applies to the bank for shares Murabaha financing on the shares of companies whose activities are originally permissible, but are involved in prohibited transactions, such as interest-based loans, or prohibited investment. The bank purchases shares in these companies, and then sells them to the customer. What is the Sharia ruling regarding this issue?

**Ruling:** It is permissible for the customer to enter into shares Murabaha financing contract on the shares of companies whose activities are

originally permissible, such as the activities of cement and steel companies, even if involved in prohibited transactions, such as interest-based loans, or prohibited investment, under the following conditions:

- 1- The forbidden loans shall not exceed 33% of the total assets.
- 2- The prohibited investments shall not exceed 33% of the total assets.
- 3- The prohibited returns shall not exceed 5% of the total returns.

The customer shall commit to purify the shares he keeps from prohibited elements. If one of the above conditions is not observed, it is not permissible to finance these shares.

### **Issue (20): Shares Murabaha of companies whose activities are prohibited**

The customer applies to the bank for shares Murabaha financing on the shares of companies whose activities are originally prohibited. What is the Sharia ruling regarding this issue?

**Ruling:** It is not permissible for the customer to enter into shares Murabaha financing contract on the shares of companies whose activities are originally prohibited, such as conventional banks, and other prohibited activities.

### **Issue (21): Top-up shares financing**

The customer, who has an outstanding finance and wants a new one from the same bank, applies to the bank for the remaining amount of the credit limit (top-up financing), where the proceeds of the new indebtedness are not used to settle the previous indebtedness. What is the Sharia ruling regarding this issue?

**Ruling:** It is permissible for the customer to enter into a top-up shares Murabaha financing contract whereby the bank finances a customer, who has previously obtained shares financing, with a new finance that is independent and separate from the previous one, under the following conditions:

- 1- This product shall not be provided for the customers who have past due debts to the bank.

- 2- The customer shall not be obligated to enter into this product in any way. Rather, the choice of product must be based on the customer's own will.

### Issue (22): Shares refinancing

The customer, who has an outstanding finance at the bank, applies for new financing whereby the bank sells him shares Murabaha, creating a new debt with a new term. The customer then sells these shares at a spot price from which he pays the old debt (refinancing), and disposes of the remainder of the price. What is the Sharia ruling regarding this issue?

**Ruling:** It is permissible to enter into shares Murabaha refinancing contract whereby the customer has paid a part of the finance debt and wants to obtain an additional amount, to increase the term of the debt, to combine several debts into one debt, or the like. Hence, the bank finances the customer through Murabaha, creating a new debt with a new term. The customer then sells them at a spot price from which he pays the old debt, and disposes of the remainder of the price under the following conditions:

- 1- The contracting between the bank and the customer should be clear as to the ceiling granted to him, the amount of early payment, the method of calculating the profit, and the payment schedule.
- 2- The contract should include the sale of a real commodity, such as shares.
- 3- The customer should not sign any obligation to sell, and the bank may obligate him to pay his previous debt. However, if the customer does not pay the debt, the bank may sell the mortgaged shares to collect its debts therefrom.
- 4- This product shall not be applied to past due installments, so that it may not lead to debt conversion.

### Issue (23): Portfolio financing (margin investment)<sup>(1)</sup>

The customer investing in shares Murabaha applies to the bank for

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(1) This product is a substitute for the other traditional product (margin investment).

portfolio financing, and the bank finances him for shares to be added to the shares existing in his investment portfolio, provided that the portfolio or a specific percentage of the portfolio's value is mortgaged to the bank. In case the market value of the total shares in the portfolio falls below that percentage, the bank demands the customer to increase his portfolio, or otherwise the bank may sell the shares at the market price and mortgage their value in the customer's investment account until the bank's debt becomes due. If the customer is unable to pay off the debt, the bank may collect it from the mortgaged shares value. What is the Sharia ruling regarding this issue?

**Ruling:** It is permissible for the customer to enter into an investment portfolio financing contract whereby the bank may mortgage all or some of the shares it sold to its customer on credit. The bank may also stipulate that the customer authorizes it to sell the mortgaged shares when the market value of the total shares in the portfolio falls below the agreed-upon percentage without referring to the judiciary. In this case, the shares' price shall be mortgaged instead of the shares, provided that the shares are to be sold at the market price.



## Second Stage

### Finance Implementation



#### Issue (24): The bank signs the sale contract with the customer before the bank purchases the shares

The customer applies to the bank for shares Murabaha financing, and the bank offers to sign the Murabaha contract before the bank purchases the shares. What is the Sharia ruling regarding this issue?

**Ruling:** It is not permissible for the customer to enter into shares Murabaha financing contract before the bank takes possession of the shares. If otherwise, the contract shall be deemed invalid because it is a form of: *“selling what you do not have”*, and the profit gained in this case is a form of: *“profiting from a thing for which the liability for loss is not borne”*, and both transactions are prohibited by Sharia.

#### Issue (25): The customer purchases shares that the bank has not yet received in its portfolio

The customer applies to the bank for shares Murabaha financing, and the bank offers a number of shares not yet received in its portfolio, so the bank deposits the shares in the customer's portfolio without receiving them in its portfolio. What is the Sharia ruling regarding this issue?

**Ruling:** It is not permissible for the customer to enter into shares Murabaha financing contract before the bank receives the shares in its portfolio.<sup>(1)</sup>

(1) According to the scholars of Fiqh, the basic rule for receiving/taking possession of an item is the customary practice of people. Accordingly, receiving the shares in the customer's investment portfolio is considered a kind of Sharia-based taking possession, because every unrestricted matter whereof no a rule in the Sharia or in the language shall be based on the customary practice of people, such as the rule of *hirz* (i.e. item in a place of safekeeping) in theft, and the separation of the two parties in sale.

### **Issue (26): Transferring the debt of shares Murabaha financing from one bank to another**

The customer purchases shares Murabaha from Bank (A), and a debt to be paid in installments becomes established in his liability. After a period of time, the customer found that Bank (B) is better than Bank (A) for any reason, such as taking lower profit, being more flexible, or offering better services. The customer then applies to Bank (B) for a new finance to settle the outstanding finance debt at Bank (A) (buyout). What is the Sharia ruling regarding this issue?

**Ruling:** It is permissible to settle the indebtedness from one bank to another whereby the customer applies to Bank (B) for a new finance to be used, wholly or partially, to settle an outstanding finance at Bank (A). The finance is delivered directly to Bank (A) to early settle the customer's outstanding debt at the bank, and the new debt at Bank (B) remains established in the customer's liability.



## Third Stage

### Post-Finance Implementation



#### **Issue (27): The bank gives an interest-free loan to the customer until the completion of finance procedures**

The customer applies to the bank for shares Murabaha financing, and the bank offers him an interest-free loan until the finance procedures are completed. What is the Sharia ruling regarding this issue?

**Ruling:** It is permissible for the bank to give an interest-free loan to its customer until the finance procedures are completed, provided that the profit of the loan period should not be counted as part of its profits obtained from the finance operation.

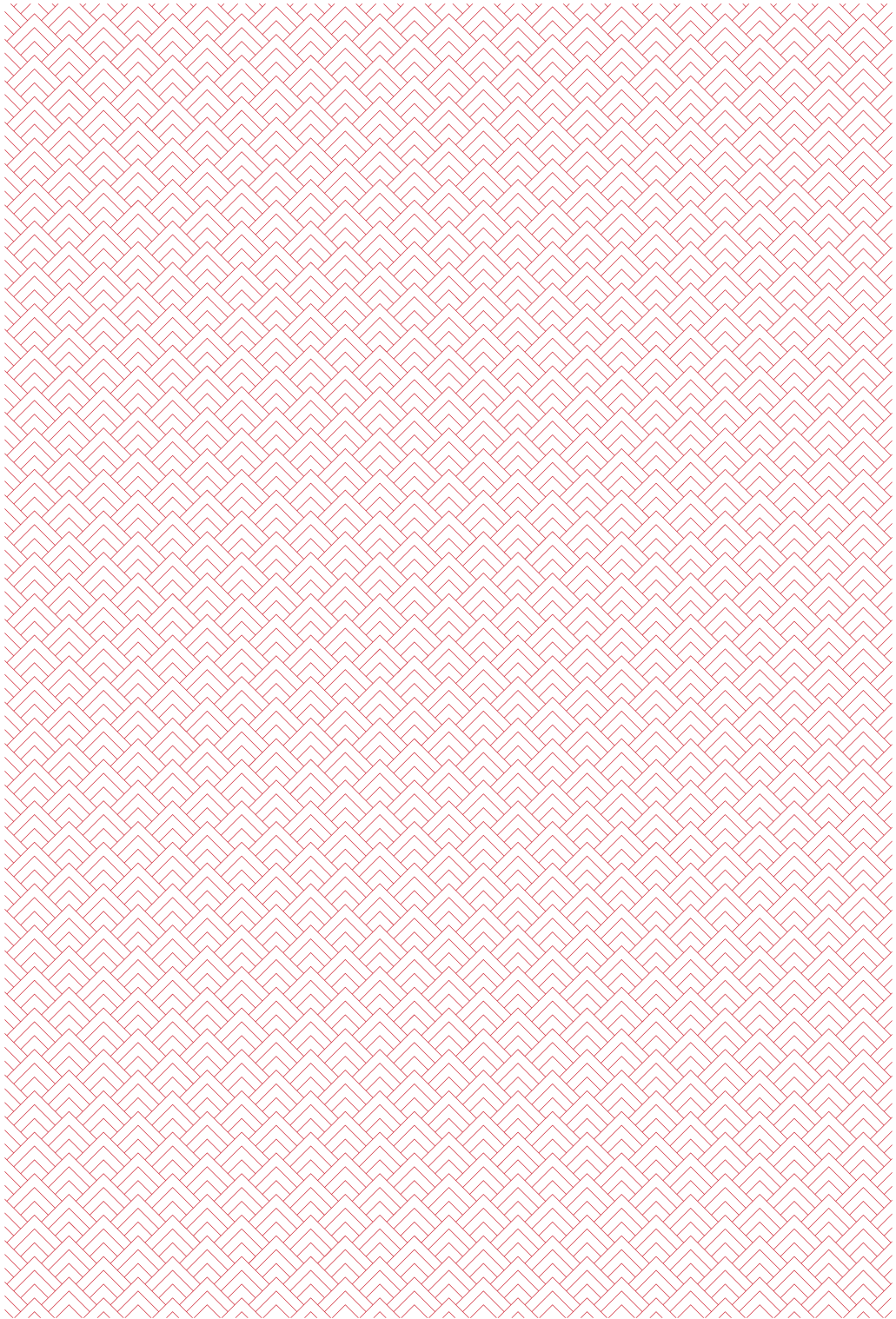
#### **Issue (28): The bank sells the customer's mortgaged shares**

The customer offers shares to the bank as a mortgage against his debt at the bank, then the customer fails to settle his debt on time. So, the bank decides to sell the mortgaged shares to collect its debt from their price. What is the Sharia ruling regarding this issue?

**Ruling:** It is permissible to sell the mortgaged shares in the event of the customer's default, so that the bank may collect the debt from the price of the shares. If the sale price of the mortgaged shares is more than the customer's remaining debt, then the excess amount shall be refunded to the customer. Otherwise, if the sale price is less than the debt, the bank may demand the customer to pay off the remaining amount of the debt.



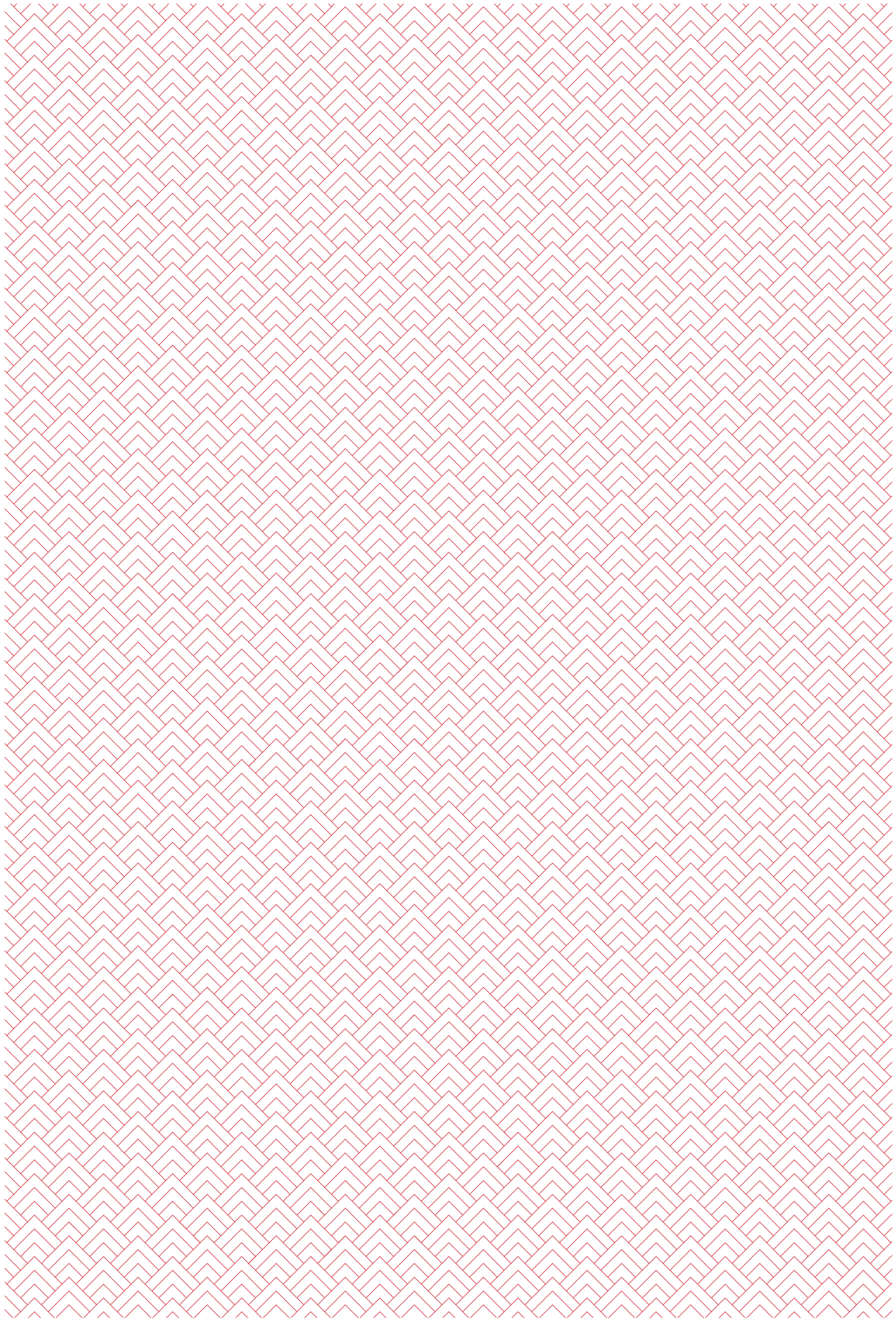






## **CHAPTER (III)**

### **Auto Murabaha**



## First Stage

### Promise to Finance



#### **Issue (29): Stipulating to deposit a specific amount before the finance**

The customer applies to the bank for auto personal financing of SAR 100,000, but his credit limit is SAR 80,000. Thus, the bank stipulates that the customer shall deposit SAR 20,000 as a down payment to ensure his ability to pay the remaining amount exceeding his credit limit. What is the Sharia ruling regarding this issue?

**Ruling:** It is permissible to enter into a personal financing contract whereby the bank stipulates that an advance payment be made before finance, so as to ensure the customer's ability to pay the remaining amount exceeding his credit limit. In case the customer revokes the purchase, then the bank shall refund the down payment to the customer immediately.

#### **Issue (30): Offering the car for a price higher than its market price**

The customer applies to the bank for auto Murabaha financing on a car whose market value is SAR 100,000, and the credit limit granted to him by the bank is SAR 130,000. To make use of the full credit limit, the customer agrees with the owner to offer the car to the bank for a price higher than its market price. That is, the bank purchases the car for SAR 130,000, and the car owner pays the extra amount, i.e. SAR 30,000, in cash to the customer. What is the Sharia ruling regarding this issue?

**Ruling:** It is not permissible for the customer to agree with the car owner to offer the car at a price higher than its market price, and pay the

difference (between the two prices) to the customer. This is because the customer will then get SAR 30,000 in cash, and repay a higher amount at a deferred payment basis, which is a type of forbidden *riba* (usurious transactions).

### **Issue (31): Offering the car for a price lower than its market price**

The customer applies to the bank for auto Murabaha financing on a car whose market value is SAR 100,000, and the customer agrees with the owner to offer the car to the bank for a price lower than its market price, which is SAR 70,000. What is the Sharia ruling regarding this issue?

**Ruling:** The ruling varies according to the reason behind the lower price of the car:

- ◆ If the lower price of the car is due to a real reduction made by the car owner to the customer because of a kinship or friendship relation between them, or because the car owner wants to sell the car quickly and he cannot find a buyer other than the customer, then the transaction is permissible.
- ◆ If the decrease in the price of the car is not real, but is a formal decrease in the offer made to the bank with a condition that the car owner takes the difference from the customer, or sets off an established debt against the difference, or makes an arrangement that the customer resells the car to him later at the same price, then such a transaction is not permissible. Accordingly, the price of the car shall be amended in the offer to the bank in order to match its market price. The amount that the customer would have paid to the car owner is deemed a down payment to the bank.

**Note:** If it is not possible to amend the price of the car in the offer to the bank, the customer shall undertake to pay SAR 30,000 to the car owner in case the owner sells the car to the bank for the discounted price, i.e. SAR 70,000, and then the customer purchases the car from the bank. This agreement between the customer and the owner shall state that this transaction does not imply a purchase

by the customer from the car owner, and thus the car owner is not entitled to the difference in the two amounts in case the finance contract between the customer and the bank is not concluded.

### **Issue (32): Selling the car to more than one purchaser at the same time**

When the bank asks the car owner to sign the purchase contract in order to finance the car for the customer, the bank sometimes discovers that the car owner sold the same car to more than one purchaser at the same time. What is the Sharia ruling regarding this issue?

**Ruling:** It is not permissible to sell the car to more than one purchaser at the same time, because the car ownership has been transferred from the seller to the first purchaser. Accordingly, if the customer knows that the car is sold in this way, it is not permissible for him to enter into the finance contract.

**Note:**

- 1- Price payment is not a prerequisite for transferring the car ownership, because the ownership can be transferred by the *Ijab* (offer) and the *Qabul* (acceptance) stated in the sale contract.
- 2- If the car sale contract is rescinded and the ownership is returned to its seller, as the case when the purchaser chooses to exercise *Khiyar al-Shart* (cooling-off option), then it is permissible to sell the car to another purchaser.

### **Issue (33): Murabaha on a car owned by the customer**

The customer applies to the bank for auto Murabaha financing on a car that he fully owns, so the bank purchases it in cash from the customer, and then sells it to the same customer on credit. What is the Sharia ruling regarding this issue?

**Ruling:** It is not permissible to enter into auto Murabaha financing contract on a car that the customer fully owns, because the transaction whereby the bank purchases a car from the customer in cash and then sells it to him on credit involves '*Inah*'<sup>(1)</sup> which is prohibited.

(1) '*Inah* Sales: Two transactions (sell and buy back) between two parties on a commodity, =

**Note:** This ruling does not differ if the car is registered in the name of someone other than the customer, as long as the customer is the real owner of the car.

### **Issue (34): Murabaha on a car in which the customer owns a share**

The customer applies to the bank for auto Murabaha financing on a car in which he owns a share, so the bank purchases the car in cash and then sells it to him on credit. What is the Sharia ruling regarding this issue?

**Ruling:** It is permissible to enter into auto Murabaha financing contract on a car in which the customer owns a share of less than 50%. If the customer's share in the car is 50% or more, then it is not permissible to conclude the Murabaha contract. However, the bank may purchase the share which is not owned by the customer and then resells it to the same customer. Accordingly, the finance operation involves only the share which is not possessed by the customer.

### **Issue (35): Registering the car in the name of a relative/friend for the purpose of Murabaha**

The customer applies to the bank for auto Murabaha financing on a car he owns but it is registered in the name of Abdullah (one of his friends or relatives), so the bank purchases it from Abdullah, thinking that he is the real owner, as its title deed states the same, and then resells it to the customer. What is the Sharia ruling regarding this issue?

**Ruling:** It is not permissible to make a nominal registration for the car's title deed in order to execute a Murabaha contract with the bank to purchase such a car. Likewise, if the car's title deed is registered under the name of a party other than the owner, then it is not permissible for the real owner to purchase it by means of Murabaha through the bank. This is because such a financing operation would be a form of

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= one of them is at a current price, and the other is at a deferred price that is more than the current price.

*Inah* sales, which are prohibited. In such a case, the bank purchases the car from the customer in cash, and then resells it to the same customer on a deferred payment basis. Hence, the registration of the title deed under the name of another party is only a *heela* (trick) to receive a spot amount against a higher amount that is to be paid in the future.

**Note:** If the transfer of car ownership from the customer to another party is a result of real sale transaction after which the customer wants to purchase the car, then the transaction is permissible. However, there is a sounder solution in terms of Sharia consideration. [See: [Issue 57](#)]

### Issue (36): Murabaha on a car not owned by the bank

The customer applies to the bank for auto Murabaha financing, and the bank offers him to sign the Murabaha contract before the bank purchases the car from its owner. What is the Sharia ruling regarding this issue?

**Ruling:** It is not permissible to enter into auto Murabaha financing contract on a car that is not owned by the bank. The contract shall be deemed invalid because it is a form of: *“selling what you do not have”*, and the profit gained in this case is a form of: *“profiting from a thing for which the liability for loss is not borne”*, and both transactions are prohibited by Sharia.

### Issue (37): Taking possession in auto Murabaha

The customer applies to the bank for auto Murabaha financing, and the bank sells him a car that it has not yet taken possession thereof. What is the Sharia ruling regarding this issue?

**Ruling:** It is not permissible to enter into auto Murabaha financing contract on a car that is not specified or possessed, either actually or constructively, by the bank, because this transaction implies: *“selling what you do not have”*, and the profit gained in this case is a form of: *“profiting from a thing for which the liability for loss is not borne”*, and both transactions are prohibited by Sharia. Constructive possession



takes place by specifying the car by its chassis number, even if the bank has not yet received its customs card. This is because the constructive possession is sufficient in the permissibility of disposing of the commodity even if actual possession has not yet occurred.

**Issue (38): Murabaha on a car previously sold by the bank on credit to a former customer**

The customer applies to the bank for auto Murabaha financing, and the bank offers him a car that it has previously sold on deferred payment basis to a former customer. What is the Sharia ruling regarding this issue?

**Ruling:** It is permissible for the bank to purchase the car from a former customer for a spot price, and then finance it to a new customer by way of Murabaha as long as there is no connivance (potential intentional arrangement) between the bank and the first customer to purchase the car.

**Issue (39): Purchasing the same car from the same showroom by the bank**

The customer applies to the bank for auto Murabaha financing, and the bank sells him a car that it has previously purchased from the same showroom. What is the Sharia ruling regarding this issue?

**Ruling:** It is permissible for the bank to buy the car that it has previously purchased, even from the same showroom, if there is no connivance (potential intentional arrangement), which can be verified as follows:

- 1- A period of time sufficient for the car or its price to change, such as a month or more, has passed between the first and second purchases.
- 2- The contract between the bank and the showroom (the seller to the bank) stipulates that the showroom shall not purchase the cars that the bank sells to its customers.
- 3- A form to be delivered to the customer stipulating that the customer is not allowed to sell the car to the same showroom.

**Issue (40): Murabaha on a car previously owned by the customer**

The customer applies to the bank for auto Murabaha financing on



a car previously owned by him. What is the Sharia ruling regarding this issue?

**Ruling:** It is permissible for a previous owner to enter into auto Murabaha financing contract if the ownership of such a car has been actually transferred from the customer. This can be verified through the following controls:

- 1- A period of time during which the suspicion of *'Inah* sale is excluded shall elapse between the sale and the customer's request for finance.
- 2- The customer signs a declaration that he did not use the previous sale as a *heela* (trick) to obtain finance.

**Issue (41): Murabaha on a car for which the customer pays its owner a portion of the price**

The customer applies to the bank for auto Murabaha financing on a car for which he has paid a down payment or part of its price to the owner, so the bank purchases the car in cash and then sells it to the customer on deferred payment basis. What is the Sharia ruling regarding this issue?

**Ruling:** It is not permissible to enter into auto Murabaha financing contract on a car for which the customer has paid a down payment or part of the price to its owner, because the car has become the property of the customer, and there is nothing left but to complete the price. In such a case, the bank would purchase the car from the customer for a spot price and then sell it to him on deferred payment basis, which is a form of *'Inah* sales prohibited by Sharia.

**Note:**

- 1- It does not make any difference if the customer has not paid anything for the car owner as long as the purchase transaction has been carried out.
- 2- The transaction may become acceptable according to the Sharia if the customer agreed with the car owner to terminate the contract. Accordingly, the car ownership goes back to the seller, and the bank enters into a new transaction directly with the car owner before selling it to the customer. [The amount paid can be settled as in Issue 47]

### **Issue (42): Murabaha on a car for which the customer pays its owner an 'Urbun**

The customer applies to the bank for auto Murabaha financing on a car for which he has paid an 'Urbun (earnest money) to its owner, so the bank purchases the car in cash, and then sells it to the customer on credit. What is the Sharia ruling regarding this issue?

**Ruling:** It is not permissible to enter into auto Murabaha financing contract on a car for which the customer has paid an 'Urbun<sup>(1)</sup> (earnest money) to its owner, because the customer has already purchased the car according to Sharia once he has paid the 'Urbun. Accordingly, the car ownership is transferred to the customer despite the fact that he still has the option to either complete or terminate the contract. In this case, the bank would purchase the car from the customer for a spot price and then sell it to him on deferred payment basis, which is a form of 'Inah sales prohibited by Sharia.

**Note:** The transaction can be acceptable according to Sharia by one of the following two options:

- 1- The customer chooses to terminate the contract during the period of option, and accordingly the car owner is entitled to the 'Urbun (earnest money) and to retain the car ownership. The bank then contracts with the car owner to purchase and sell it to the customer. However, it is recommended that the car owner accepts to refund the 'Urbun.
- 2- The customer agrees with the car owner to terminate the contract and the seller retains the car ownership. The bank then enters into a contract directly with the car owner before selling it to the customer.  
[The amount paid can be settled as in Issue 47]

### **Issue (43): Murabaha on a car for which the customer pays its owner a reservation fee**

The customer applies to the bank for auto Murabaha financing on a car for which he has paid a reservation fee to its owner, so the

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(1) See: (P. 30).

bank purchases the car in cash, and then sells it to him on credit. What is the Sharia ruling regarding this issue?

**Ruling:** It is permissible to enter into auto Murabaha financing contract on a car for which the customer has paid a reservation fee to its owner, because the customer has not yet purchased the car, but rather prevents the car owner from selling it to someone else for a certain period. In such a case, the bank, by order of the customer, would purchase the car from its owner for a spot price, and then sells it to the customer at a deferred price by means of Murabaha, which is permissible.

**Issue (44): Murabaha on a car for which the customer pays its owner a *Hamish Jiddiyyah***

The customer applies to the bank for auto Murabaha financing on a car for which he has paid a *Hamish Jiddiyyah* (security deposit) to its owner, so the bank purchases the car in cash, and then sells it to him on deferred payment basis. What is the Sharia ruling regarding this issue?

**Ruling:** It is permissible to enter into auto Murabaha financing contract on a car for which the customer has paid a *Hamish Jiddiyyah* (security deposit) its owner, because paying the security deposit does not establish the transfer of ownership. That is, the customer has not yet purchased the car, but the purpose of *Hamish Jiddiyyah* is to prove the customer's intent to buy without entering into a purchase contract.

**Issue (45): Murabaha on a car financed for the customer by way of an *Ijarah Muntahia Bittamleek* (rent-to-own)**

The customer obtained auto lease financing from Bank (A). After a period of time, the customer found that Bank (B) is better than Bank (A) for any reason, such as taking lower profit, being more flexible, or offering better services. The customer then applies to Bank (B) to purchase the car from Bank (A) and then sells it to him at a deferred price by means of Murabaha. What is the Sharia ruling regarding this issue?

**Ruling:** It is permissible for the customer to apply to Bank (B) to purchase the car from Bank (A) with the remaining amount of finance, and then Bank (B) sells it to the customer by means of Murabaha.

Also, Bank (A) can provide shares Murabaha financing for the customer, by means of which it pays the remainder of the customer's debt at Bank (B), and the customer owns the car accordingly.

**Issue (46): Murabaha on a car for which the customer pays brokerage fees to the brokers**

The customer applies to the bank for auto Murabaha financing on a car for which he has paid brokerage fees to the brokers, so the bank purchases the car in cash, and then sells it to the customer on credit. What is the Sharia ruling regarding this issue?

**Ruling:** It is permissible to enter into auto Murabaha financing contract on a car for which the customer has paid brokerage fees to the brokers, because paying the *Sa'y* (brokerage fee) in advance to the broker does not constitute a transfer of the ownership since the customer has not yet purchased the car.

**Issue (47): Terminating the customer's contract with the car owner for the purpose of Murabaha on it**

The customer buys a car from its owner, and does not pay him the price, a down payment or an *'Urbun* (earnest money). When the customer applies to the bank for auto Murabaha financing, he finds that a prerequisite for the finance stipulates that no contract should be in effect between him and the owner. Therefore, he requests the car owner to cancel the contract. What is the Sharia ruling regarding this issue?

**Ruling:** It is permissible to enter into auto Murabaha financing contract on a car that the customer has terminated the sale contract between him and its first owner, provided that the termination should be real and has an effect.

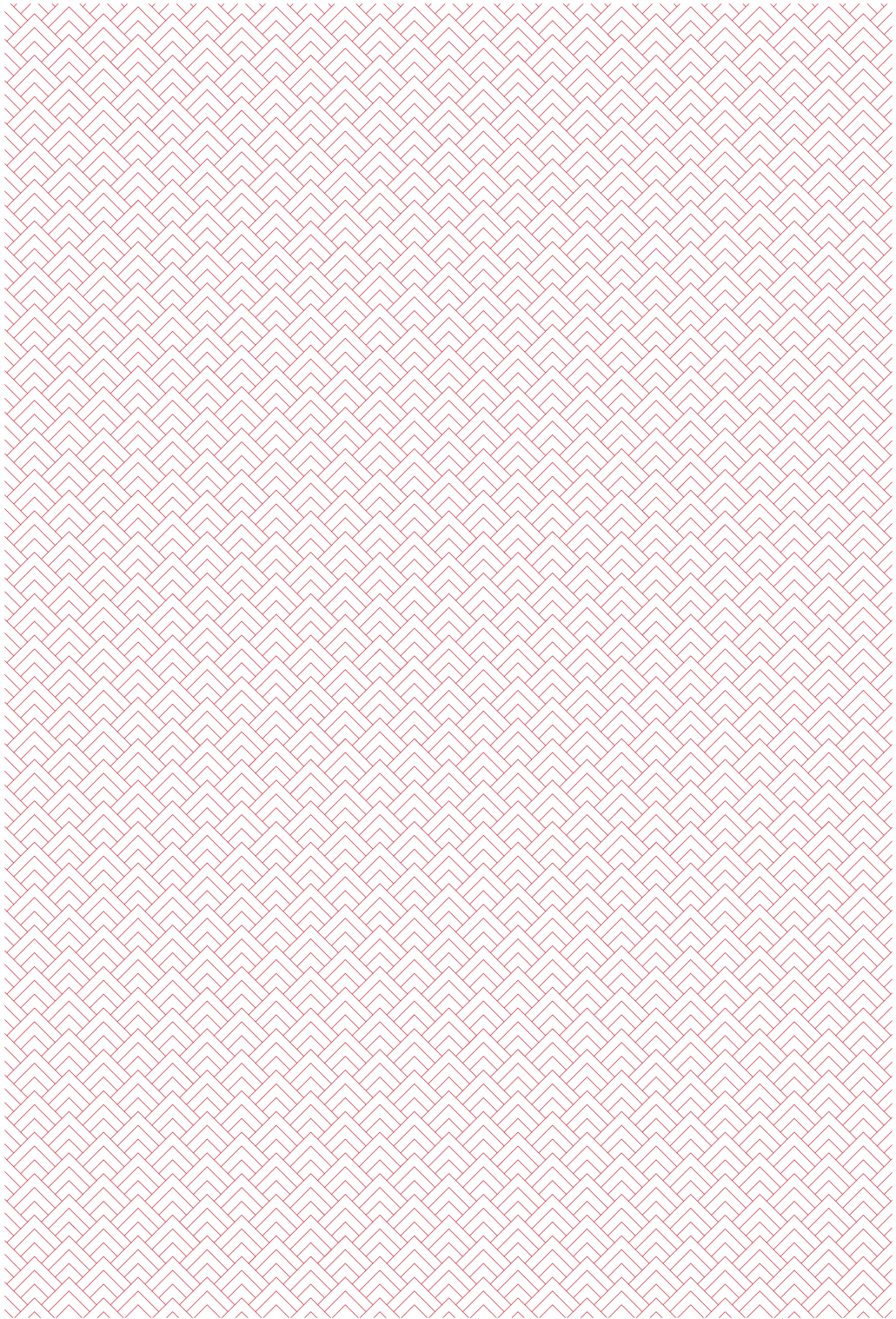
**Note:**

- 1- One indication of the unreality of contract termination is that the period between the date of the previous contract with the car owner

and the date of the customer's request for auto Murabaha financing from the bank is a long period.

- 2- The termination process can take effect even if the amount paid by the customer has not been returned yet, as long as such an amount is a debt established in the owner's liability.
- 3- After termination, the amount paid by the customer to the car owner may be settled by one of the following ways:
  - (a) The car owner pays back to the customer the amount he has paid; either after or before the bank purchases the car from the owner, so the bank purchases the car, pays the full price, and then resells it to the customer at a deferred price by means of Murabaha.
  - (b) The bank purchases the car and pays the price to the owner after deducting the amount paid by the customer, and then resells it to the customer at a deferred price by means of Murabaha. In this case, the amount paid by the customer to the car owner can be regarded as a down payment paid by the customer to the bank.
  - (c) The bank enters into a partnership with the customer to purchase the car from its owner. In this case, the bank owns a share against the amount it will pay and the customer owns a share against what he has paid, and then the bank resells its share to the customer at a deferred price by means of Murabaha.







## Second Stage

### Finance Implementation



#### **Issue (48): Effect of the price payment on transferring the car ownership to the bank**

The customer applies to the bank for auto Murabaha financing, so the bank signs a purchase contract with the car owner, and then offers to sign an auto Murabaha financing contract with the customer before it pays the price to the owner. What is the Sharia ruling regarding this issue?

**Ruling:** It is permissible to enter into auto Murabaha financing contract on a car for which the bank has signed a purchase contract with the owner but has not yet paid him the price, because the purchase of the car by the bank is executed under the *Ijab* (offer) and the *Qabul* (acceptance) stated in the purchase contract. Thus, paying or deferring the whole price or a part thereof does not affect the transfer of car ownership to the bank.

#### **Issue (49): Financing the customer before completing the regulatory procedures to register the car**

The customer applies to the bank for auto Murabaha financing, so the bank signs the car purchase contract with its owner, but has not completed the regulatory procedures necessary for registering the car in the name of the bank, and then offers the customer to sign an auto Murabaha financing contract. What is the Sharia ruling regarding this issue?

**Ruling:** It is permissible to enter into auto Murabaha financing contract on a car for which the bank has signed a purchase contract with the owner, even if the car is not registered in the name of the bank, because the

purchase of the car by the bank is executed under the *Ijab* (offer) and the *Qabul* (acceptance) stated in the purchase contract. As for the completion of the regulatory procedures, it is a mere documentation of the contract.

### **Issue (50): Purchasing the car by the bank based on *Khiayar al-Shart***

The customer applies to the bank for auto Murabaha financing, and the bank signs a purchase contract with the car owner based on *Khiayar al-Shart*<sup>(1)</sup> for a period of month, as a hedge against the customer's revocation of the finance contract. What is the Sharia ruling regarding this issue?

**Ruling:** It is permissible to enter into auto Murabaha financing contract whereby the bank and the car owner sign a purchase contract based on *Khiayar al-Shart*, because the car ownership is to be transferred to the bank despite *Khiayar al-Shart*. In this case, the bank may offer the car to the customer while maintaining the *Khiyar al-Shart* in effect. However, *Khiayar al-Shart* expires upon selling the car to the customer.

### **Issue (51): Referring the customer to the car agent with regard to the warranty**

The customer applies to the bank for auto Murabaha financing, and the bank stipulates that he shall refer to the car agent as to the car warranty. What is the Sharia ruling regarding this issue?

**Ruling:** It is permissible to enter into auto Murabaha financing contract whereby the bank stipulates that the customer should refer to the car agent as to the car warranty, and that the bank is not responsible for any hidden defects in the car.

**(1) *Khiyar al-Shart* (Cooling-Off Option):** An option stipulated by the contracting parties giving either or both of them the right to revoke the contract within a specified period of time.

An example of this is when the bank purchases a car stipulating that it has the option whether to conclude or revoke the contract during a period of one month, for example. Accordingly, if the bank revokes the contract, the car will be returned to its owner and the price is refunded to the bank.



### Issue (52): Stipulating the liability of auto Murabaha customer for insurance and maintenance

The customer applies to the bank for auto Murabaha financing, and the bank stipulates that the customer should conclude an insurance or maintenance contract for the car mortgaged to the bank. What is the Sharia ruling regarding this issue?

**Ruling:** It is permissible to enter into auto Murabaha financing contract whereby the bank stipulates that the customer should conclude an insurance or maintenance contract for the car, because the car is mortgaged to the bank against the debt the customer owes to the bank, and the bank has the right to be sure that the *rahn* (mortgage) is safe during the period of debt repayment.

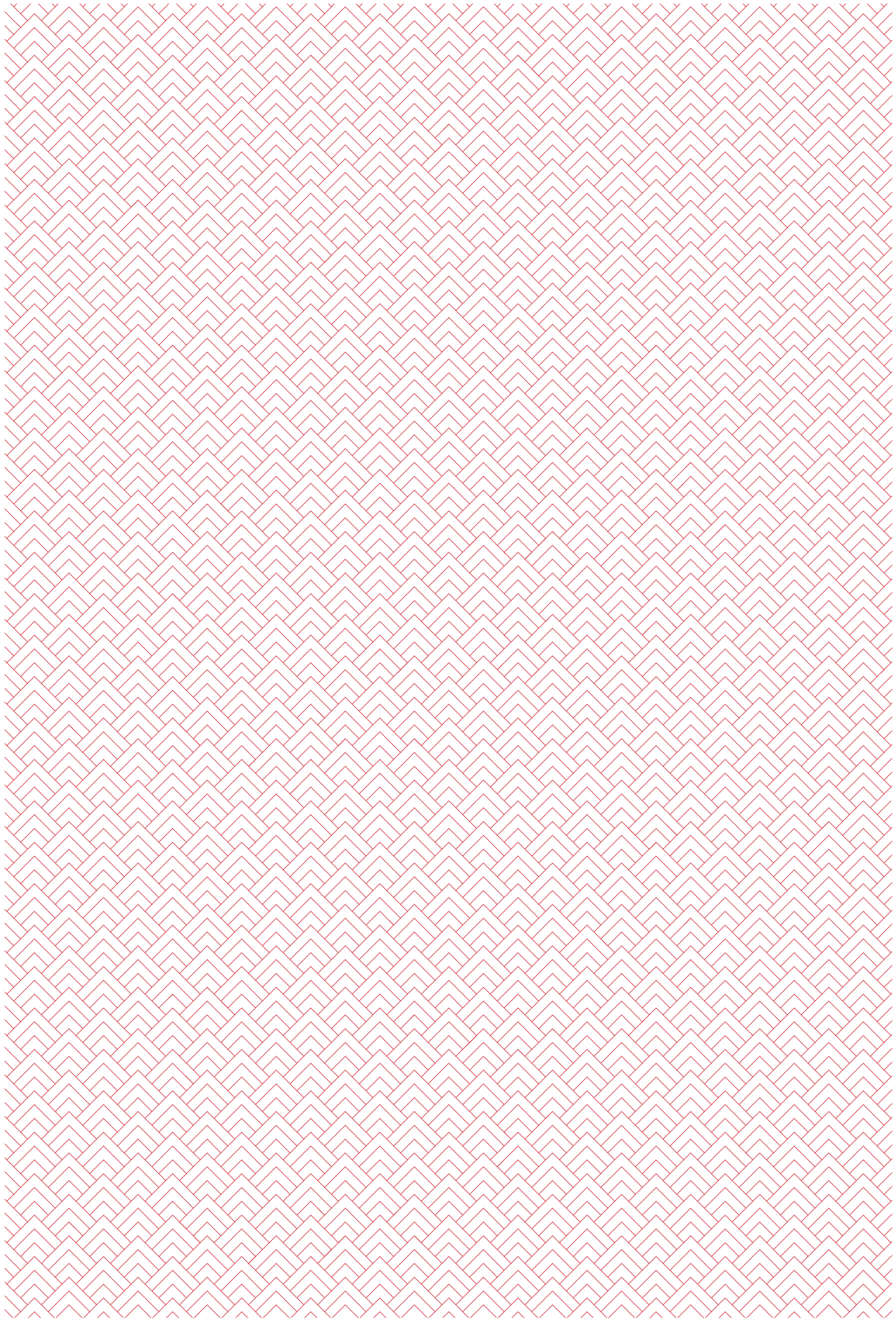
### Issue (53): Transferring the debt of auto Murabaha financing from one bank to another

The customer applies to Bank (A) for auto Murabaha financing, and a debt to be paid in installments becomes established in his liability. After a period of time, the customer found that Bank (B) is better than Bank (A) for any reason, such as taking lower profit, being more flexible, or offering better services. The customer then requests Bank (B) to transfer his debt at Bank (A). What is the Sharia ruling regarding this issue?

**Ruling:** It is permissible for the customer to request Bank (B) to pay off his debt at Bank (A) in one of the following two ways:

- 1- Bank (B) sells the customer a commodity on deferred payment basis that will result in a new debt with a new term in the value of the remaining amount of his debt at Bank (A). Then the customer pays off his debt at Bank (A) early, and the new debt at Bank (B) remains established in his liability.
- 2- Bank (B) purchases the customer's car for the remaining amount of the finance obtained from Bank (A), then the bank leases the car to the customer by means of auto lease financing, under different conditions. [See: Issue 57]





## Third Stage

### Post-Finance Implementation



#### Issue (54): Selling the mortgaged car

The customer obtains auto Murabaha financing and mortgages the car to the bank, but when the debt in the customer's liability becomes due, he fails to pay off his debt. So, the bank decides to sell the mortgaged car to collect the debt from its price. What is the Sharia ruling regarding this issue?

**Ruling:** It is permissible to sell the mortgaged car in the event of the customer's default, so that the bank may collect the debt from the price of the car. If the sale price of the mortgaged car is more than the customer's remaining debt, then the excess amount shall be refunded to the customer. Otherwise, if the sale price is less than the debt, the bank may demand the customer to pay off the remaining amount of the debt while taking the following into consideration:

- 1- The customer shall be notified before the maturity date, and shall be given a suitable period after its maturity. All possible solutions should be considered before selling the mortgaged car.
- 2- An amount should be deducted from the deferred profits against the early payment, in case only a part of the debt is deferred.
- 3- The regulatory requirements needed to dispose of the mortgaged item should be fulfilled.

#### Issue (55): Defects in a car obtained by means of auto Murabaha financing

Manufacturing defects appear in the car obtained by means of auto Murabaha financing after the bank has sold the car to the customer,

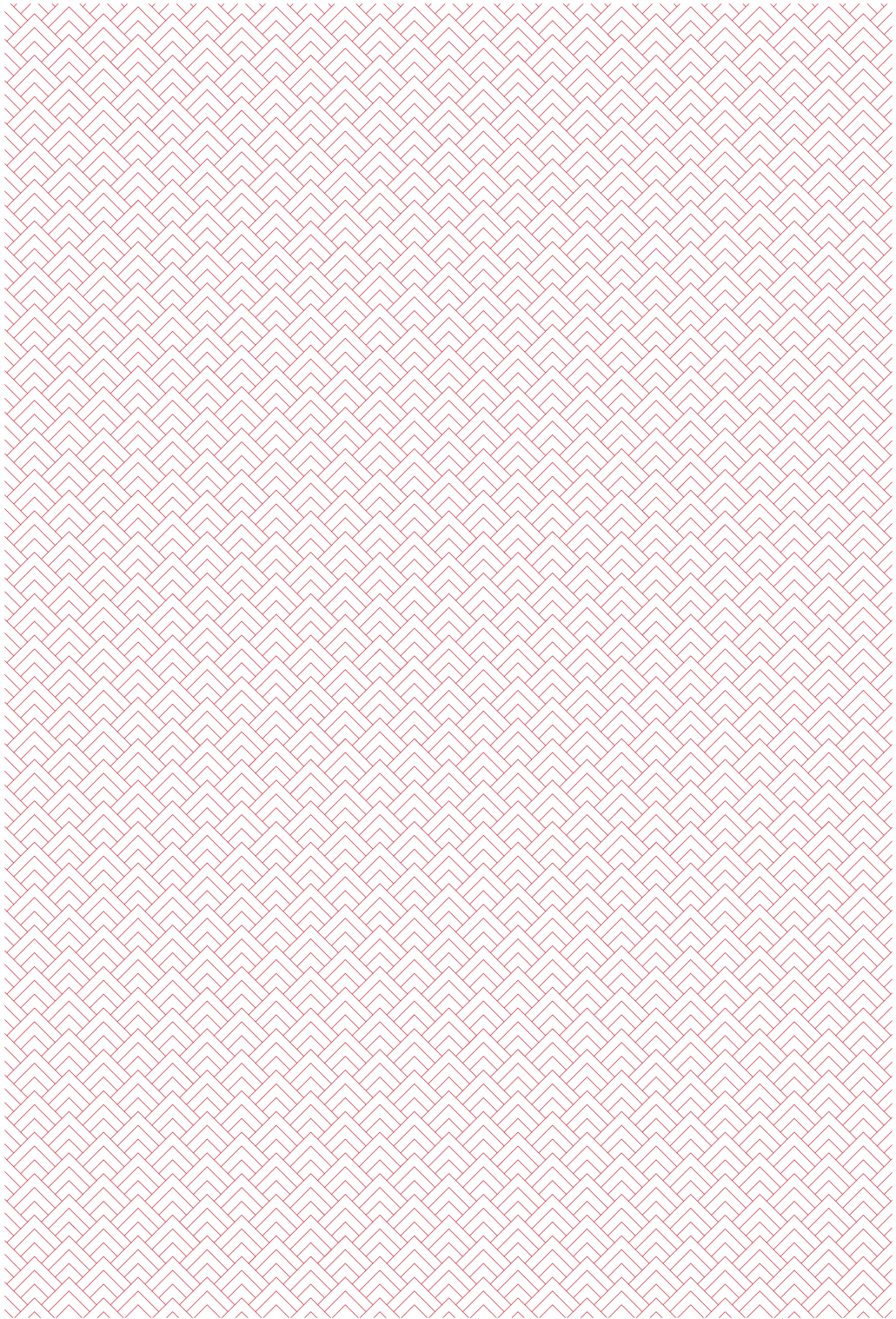
and the bank refers the customer to the car agent. What is the Sharia ruling regarding this issue?

**Ruling:** It is permissible for the bank to refer the customer to the car agent to fix these manufacturing defects. [\[See: Issue 51\]](#)



## **CHAPTER (IV)**

### **Auto Lease Financing**



# First Stage

## Promise to Finance



### Issue (56): Difference of the rental between lease financing and operating Ijarah

The customer applies to the bank for auto lease financing, so the bank offers him a rental that is different from the car rental in the operating Ijarah (lease).<sup>(1)</sup> What is the Sharia ruling regarding this issue?

**Ruling:** It is permissible that the rental in lease financing be different from the rental in operating Ijarah, because the two contracting parties have the right to determine the rental they agree upon.

### Issue (57): Lease financing on a car owned by the customer

The customer applies to the bank for auto lease financing on a car that he fully owns, so the bank purchases the car, and then leases it to the customer by means of lease financing. What is the Sharia ruling regarding this issue?

**Ruling:** It is permissible for the customer to sell his car to the bank on a spot payment basis and then lease it from the bank by means of lease financing, whenever the following conditions are met:

- 1- Ijarah (lease) should not be stipulated in the sale contract.
- 2- Transfer of ownership in auto lease financing should only take place after the elapse of a sufficient period of time during which the original state or the value of the car may change<sup>(2)</sup>, whether the transfer

(1) **Operating Ijarah** is the usual form of lease intended to own only the usufruct of the leased asset for a specific period. It does not end with transferring the ownership of the car to the lessee.

(2) Commodities vary in terms of the period during which they usually change. In real =

of ownership takes place during the period of Ijarah (lease) or after the end of the period.

3- The car shall be fit for use.

**Issue (58): Registering the car in the name of a relative/friend for the purpose of leasing it by means of auto lease financing**

The customer applies to the bank for auto lease financing on a car that he owns, but it has registered in the name of Abdullah (one of his friends or relatives), so the bank buys the car from Abdullah, as being the nominal owner, and then leases it to the customer through auto lease financing. What is the Sharia ruling regarding this issue?

**Ruling:** Nominal registration of a property to satisfy the regulatory or procedural requirements, or for any other reason, has no effect on the Sharia rulings. That is, since the customer is the actual owner of the car, then the same ruling on the issue before transferring the ownership shall apply. [See: Issue 57]

**Issue (59): Lease financing on a car that the customer purchased and paid its owner a down payment**

The customer applies to the bank for auto lease financing on a car that he has paid a down payment<sup>(1)</sup> to its owner. What is the Sharia ruling regarding this issue?

**Ruling:** It is permissible to enter into auto lease financing contract on a car that the customer has paid a down payment to its owner. So, the bank purchases the car from the customer and then leases it to him by means of lease financing. This should be executed according to certain conditions [See: Issue 57]. Also, the contract may be canceled, and the bank will then finance the car for the customer. [See: Issue 47]

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= estate, for example, this period reaches a year. However, other commodities may change in less than that.

(1) See: (P. 30).



**Issue (60): Lease financing on a car that the customer purchased and paid its owner a purchase '*Urbun*'**

The customer applies to the bank for auto lease financing on a car that he has paid a purchase '*Urbun*' (earnest money)<sup>(1)</sup> to its owner. What is the Sharia ruling regarding this issue?

**Ruling:** It is permissible to enter into auto lease financing contract on a car that the customer has paid a purchase '*Urbun*' to its owner, so the bank purchases the car from the customer and then leases it to him by means of lease financing. This should be executed according to certain conditions [See: Issue 57]. Also, the contract may be canceled, and the bank will then finance the car for the customer. [See: Issue 47]

**Issue (61): Lease financing on a car that the customer purchased and paid its owner a reservation fee**

The customer applies to the bank for auto lease financing on a car that he has paid a reservation fee<sup>(2)</sup> to its owner. What is the Sharia ruling regarding this issue?

**Ruling:** It is permissible to enter into auto lease financing contract on a car that the customer has paid a reservation fee to its owner. The fee paid does not constitute a sale transaction but rather it is meant to reserve the car for a specified period.

**Issue (62): Lease financing on a car that the customer purchased and paid its owner a *Hamish Jiddiyyah***

The customer applies to the bank for auto lease financing on a car that he has paid a *Hamish Jiddiyyah* (security deposit)<sup>(3)</sup> to its owner, so the bank purchases the car from the customer and then leases it to him by means of lease financing. What is the Sharia ruling regarding this issue?

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(1) See: (P. 30).

(2) See: (P. 30).

(3) See: (P. 30).

**Ruling:** It is permissible to enter into auto lease financing contract on a car that the customer has paid a *Hamish Jiddiyyah* (security deposit) to its owner. The amount paid here does not constitute a purchase contract, but rather it is meant to prove the customer's intent to buy.

**Issue (63): Lease financing on a car that the customer purchased and paid the broker a fee**

The customer applies to the bank for auto lease financing on a car that he has paid *Sa'y* (brokerage fee)<sup>(1)</sup> to the broker, so the bank purchases the car from the customer and then leases it to him by means of lease financing. What is the Sharia ruling regarding this issue?

**Ruling:** It is permissible to enter into auto lease financing contract on a car that the customer has paid brokerage fees to the broker. The amount paid to the broker does not constitute a purchase transaction, but rather it is paid to the car broker as fees in return for his brokerage.

**Issue (64): The bank authorizes the seller to receive the lease down payment and fees from the customer**

The customer applies to the bank for auto lease financing, and the bank authorizes the car seller to receive the lease down payment and fees from the customer. What is the Sharia ruling regarding this issue?

**Ruling:** It is permissible to enter into an auto lease financing contract where-by the bank authorizes the seller to receive the lease down payment and fees from the customer.



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(1) See: (P. 30).

## Second Stage

### Finance Implementation



#### **Issue (65): Effect of the price payment on transferring the car ownership to the bank**

The customer applies to the bank for auto lease financing, and the bank signs a purchase contract with the car owner without paying him its price, so the bank offers to sign auto lease financing contract with the customer. What is the Sharia ruling regarding this issue?

**Ruling:** It is permissible to enter into auto lease financing contract on a car for which the bank has signed a purchase contract with the owner but has not yet paid him the price, because the purchase of the car by the bank is executed under the *Ijab* (offer) and the *Qabul* (acceptance) stated in the purchase contract. Thus, paying or deferring the whole price or a part thereof does not affect the transfer of the car ownership to the bank.

#### **Issue (66): Financing the customer before completing the regulatory procedures to register the car**

The customer applies to the bank for auto lease financing, and the bank signs a purchase contract with the car owner, but has not completed the regulatory procedures necessary for registering the car in the name of the bank, so the bank offers the customer to sign an auto lease financing contract. What is the Sharia ruling regarding this issue?

**Ruling:** It is permissible to enter into auto lease financing contract on a car for which the bank has signed a purchase contract with the owner, even if the car is not registered in the name of the bank, because the purchase of the car by the bank is executed under the *Ijab* (offer) and

the *Qabul* (acceptance) stated in the purchase contract. As for the completion of the regulatory procedures, it is a mere documentation of the contract.

### **Issue (67): Purchasing the car by the bank based on *Khiayar al-Shart***

The customer applies to the bank for auto lease financing, and the bank signs a purchase contract with the car owner based on *Khiayar al-Shart*<sup>(1)</sup> for a period of month, as a hedge against the customer's revocation of the finance contract. What is the Sharia ruling regarding this issue?

**Ruling:** It is permissible to enter into auto lease financing contract whereby the bank and the car owner sign a purchase contract based on *Khiayar al-Shart*, because the car ownership is to be transferred to the bank despite *Khiayar al-Shart*. In this case, the bank may offer the car to the customer while maintaining the *Khiyar al-Shart* in effect. However, *Khiayar al-Shart* expires upon leasing the car to the customer.

### **Issue (68): Concluding auto lease financing contract on a car before the bank owns it**

The customer applies to the bank for auto lease financing, so the bank offers him to sign a lease contract on a car that the bank has not yet owned. What is the Sharia ruling regarding this issue?

**Ruling:** The ruling on this issue differs according to whether the car is specified or not (described in the liability)<sup>(2)</sup> according to the following:

1- If the leased car is specified, then it is not permissible to lease it except

(1) ***Khiyar al-Shart* (Cooling-Off Option):** An option stipulated by the contracting parties giving either or both of them the right to revoke the contract within a specified period of time.

An example of this is when the bank purchases a car stipulating that it has the option whether to conclude or revoke the contract during a period of one month, for example. Accordingly, if the bank revokes the contract, the car will be returned to its owner and the price is refunded to the bank.

(2) A car can be specified through many ways including its plate or chassis number, etc.

after the bank owns the car and takes possession of it, because Ijarah (lease) implies selling the usufructs of the leased asset. However, the bank, in this case, has not yet owned or guaranteed the usufructs of this specified car.

- 2- In case the car to be leased is unspecified but undertaken to be delivered according to agreed-upon specifications, it may be leased before the bank owns and takes possession of it, for it is a specifiable by description.

**Note:** It may stipulate that the car be specified through taking delivery of it by the customer. In this case, the provisions pertaining to the lease of specified assets shall apply.

### **Issue (69): Referring the customer to the car agent with regard to the warranty**

The customer applies to the bank for auto lease financing, and the bank stipulates that he shall refer to the car agent as to the car warranty. What is the Sharia ruling regarding this issue?

**Ruling:** It is permissible to enter into auto lease financing contract whereby the bank stipulates that the customer should refer to the car agent as to the car warranty. The bank, however, may not stipulate that it is not responsible for any hidden defects in the car, since the bank is the owner and the car lies under its warranty.

### **Issue (70): Stipulating to recover the leased car from the customer in case of his default in payment**

The customer applies to the bank for auto lease financing, and the bank stipulates that it will recover the leased car in case of the customer's default in payment of the due installments. What is the Sharia ruling regarding this issue?

**Ruling:** It is permissible to enter into auto lease financing contract whereby the bank stipulates the recovery of the leased car in case of the customer's default in payment of the due installments, taking into account the relevant regulations.

### **Issue (71): Stipulating the liability of auto lease financing customer for insurance and maintenance**

The customer applies to the bank for auto lease financing, and the bank stipulates charging the customer with the car's major maintenance and insurance cover. What is the Sharia ruling regarding this issue?

**Ruling:** It is not permissible to enter into auto lease financing contract whereby the bank stipulates charging the customer with the car's major maintenance and insurance cover, because the guarantee against damage and the major maintenance rests with the bank as being the car owner. The customer's liability, however, shall be limited to the operating maintenance or other damages caused by negligence or any violation on his part.

**Note:**

- 1- The bank may take into account the value of insurance beforehand when determining the rental in the lease contract. However, the bank may not charge the lessee, after concluding the contract, any additional amounts exceeding the costs expected when determining the rental.
- 2- The bank may authorize the customer to conclude the insurance or maintenance contract on behalf of the bank, wherein the responsibility for the car warranty and the consequences of its damage will still be borne by the bank.

### **Issue (72): Transferring the debt of auto lease financing from one bank to another**

The customer applies to Bank (A) for auto lease financing. After a period of time, the customer found that Bank (B) is better than Bank (A) for any reason, such as taking lower profit, being more flexible, or offering better services. The customer then requests Bank (B) to purchase the car from Bank (A), and transfer the customer's lease financing contract to Bank (B). What is the Sharia ruling regarding this issue?

**Ruling:** It is permissible for the customer to request Bank (B) to transfer his debt at Bank (A) in one of the following two ways:

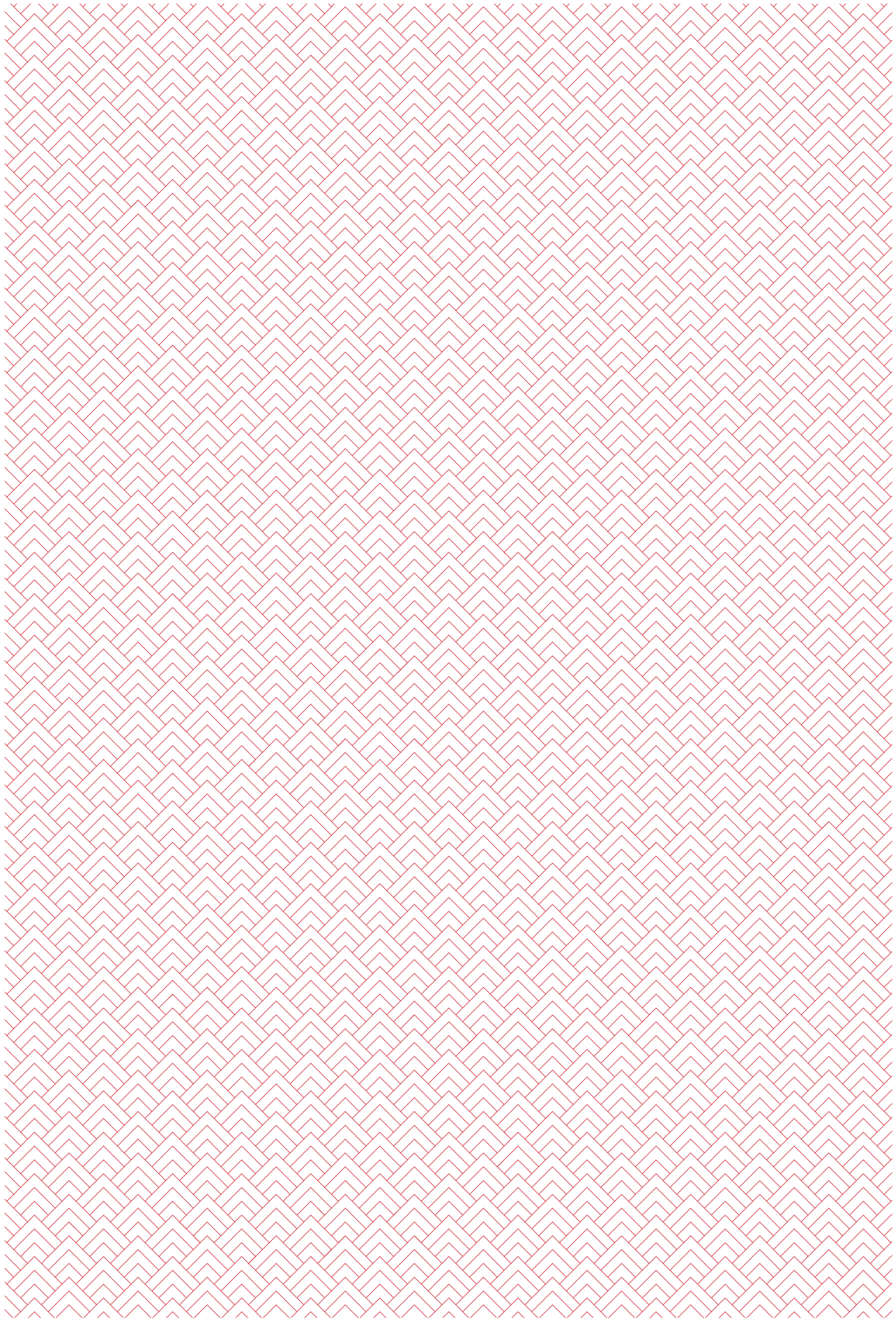


- 1- Bank (B) sells the customer a commodity on credit that will result in a new debt with a new term in the value of the remaining amount of his debt at Bank (A). Then the customer pays off his debt at Bank (A) early, and the new debt at Bank (B) remains established in his liability.
- 2- Bank (B) purchases the car leased from Bank (A) for the remaining amount of the finance obtained from Bank (A).<sup>(1)</sup> Bank (B), then, may finance the customer after purchasing the car through one of the following methods:
  - (a) Terminating the previous lease financing contract between Bank (A) and the customer by their mutual agreement, and then Bank (B) can conclude a new contract with the customer in one of the following two ways:
    - ♦ The bank leases the car to the customer through a new lease financing contract.
    - ♦ The bank sells the car to the customer through a Murabaha contract.
  - (b) Proceeding with the previous lease financing contract, where Bank (B) replaces Bank (A) in the contract, while maintaining the same rights and obligations contained in the lease financing contract.



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<sup>(1)</sup> The usual practice in banks is the purchase for the remaining amount of finance.





## Third Stage

### Post-Finance Implementation



#### **Issue (73): Defects of the car during the lease financing period**

The customer obtains auto lease financing, then hidden defects appear in the car after concluding the contract, so the customer requests the bank to fix these defects. What is the Sharia ruling regarding this issue?

**Ruling:** It is permissible for the bank to refer the customer to the agent in case of any defects, because the car is warranted by the car agent. However, if the agent does not fix these defects, the customer has the right to request the bank to fix those defects that were not a result of any negligence on the customer's part, because the bank is the car owner and is liable for any damages thereof.

#### **Issue (74): Paying the rental in case of late delivery of the car or suspension of its usufruct in lease financing**

The customer signs auto lease financing contract, and the bank is late in delivering the car, or the car needs breakdown maintenance.<sup>(1)</sup> The customer becomes unable to make use of the car during this period, so he requests the bank to drop the amount of rental for that period. What is the Sharia ruling regarding this issue?

**Ruling:** It is permissible for the customer to request the bank to drop the rental for the period during which he is unable to obtain the car usufruct, whether such inability is due to a delay in the delivery of the car or a defect thereof. This is because the bank shall not be entitled to the rental for the period during which the usufruct is suspended

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(1) Breakdown maintenance here refers to the major maintenance.

for a reason that is not attributed to the customer. Also, if the bank refers the customer to the car agent in case a defect appears, the customer has the right to request non-payment of the rental during the maintenance period unless the agent provides him with an alternative car during this period.

**Note:** For technical purposes, the customer may continue to pay the rental for the period during which he is unable to obtain the usufruct based on mutual agreement stated in the lease contract, and the amount paid is to be refunded to the customer upon the termination of the contract. In case of continuation of the contract by mutual agreement between the bank and customer, such an amount can be treated using one of the following options:

- 1- Extending the period of Ijarah (lease) for an equivalent period, for no return.
- 2- Waiving the transfer of car ownership and repaying the amount paid for the period during which the usufruct is unavailable to the customer.
- 3- Transferring the car ownership according to the terms they agree upon at the time of transferring the ownership.

### **Issue (75): Modifications made by the customer to a car leased through auto lease financing**

The customer signs auto lease financing contract, and then wants to make modifications to the car by adding or removing parts thereof. What is the Sharia ruling regarding this issue?

**Ruling:** It is permissible for the customer, after obtaining the consent of the bank, to modify the leased car by adding or removing parts thereof. However, if the customer, without the bank's permission, makes modifications to the car beyond the commonly accepted modifications, the bank may hold him liable for the consequences of such modifications.

### **Issue (76): The customer's assignment of the lease financing contract to another customer**

The customer applies to the bank for auto lease financing. After a

period of time passed since concluding the lease financing contract, the customer decided to assign the lease financing contract to another customer. What is the Sharia ruling regarding this issue?

**Ruling:** It is permissible for the customer to assign the lease financing contract to another customer, after obtaining the consent of the bank. Accordingly, the customer's connection to this contract shall end, and his rights and obligations arising from the lease financing contract are transferred to the other customer. The bank may demand the customer to pay fees for such an assignment, and the customer may receive fees from the assignee.

### **Issue (77): Amounts refunded to the customer upon the termination of auto lease financing contract**

The customer applies to the bank for auto lease financing. After a period of time the car crashes and develops a total damage, so the customer requests the bank to refund the excess rental he has paid in exchange for the ownership right. What is the Sharia ruling regarding this issue?

**Ruling:** In the event of terminating the auto lease financing contract due to total damage not attributable to the customer, the customer shall have the right to recover the value against the ownership right in lease installments in addition to any amount due from the lease down payment or the ownership right, if any. This shall be calculated in a way that achieves justice between the two parties.



