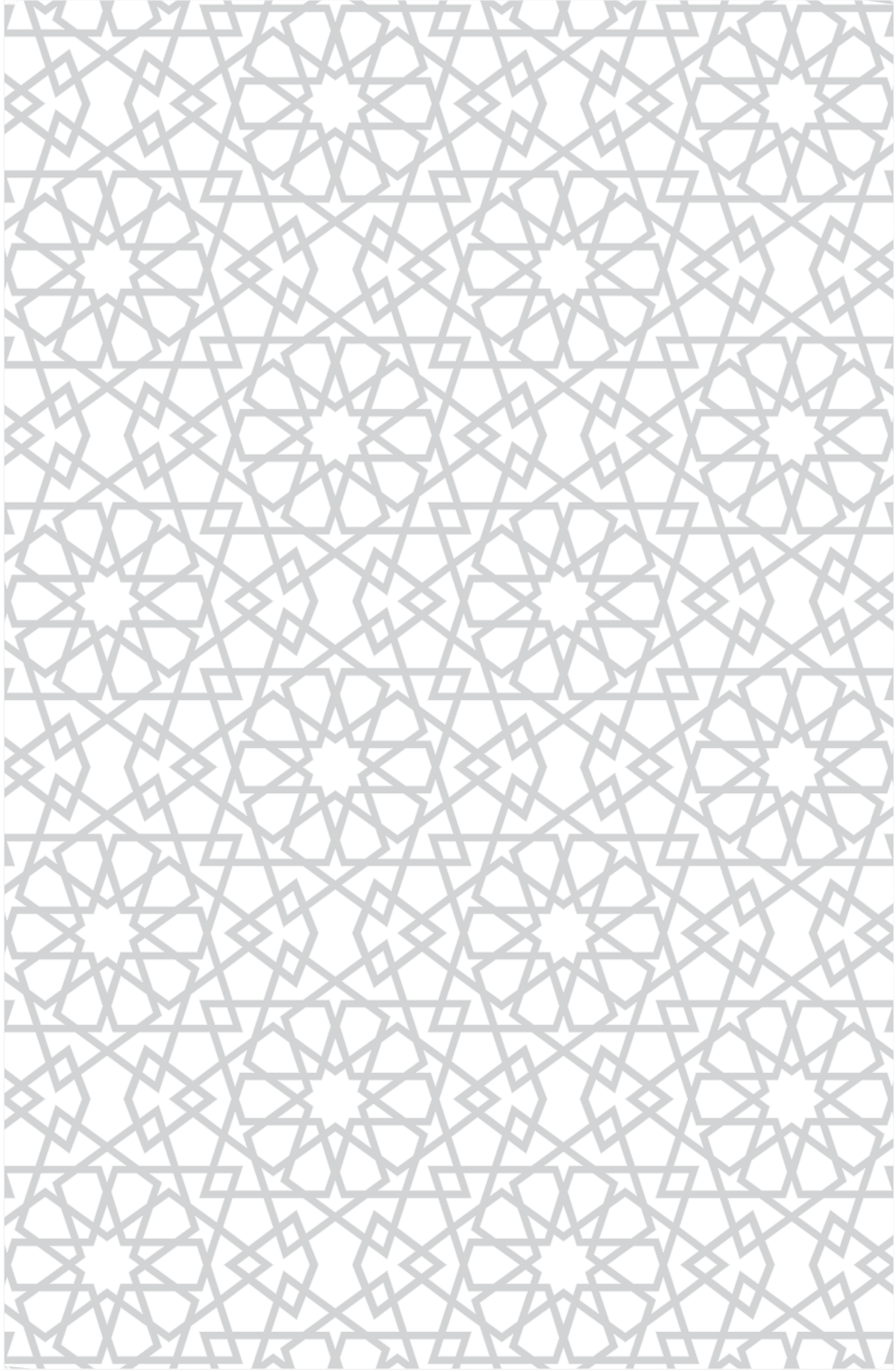


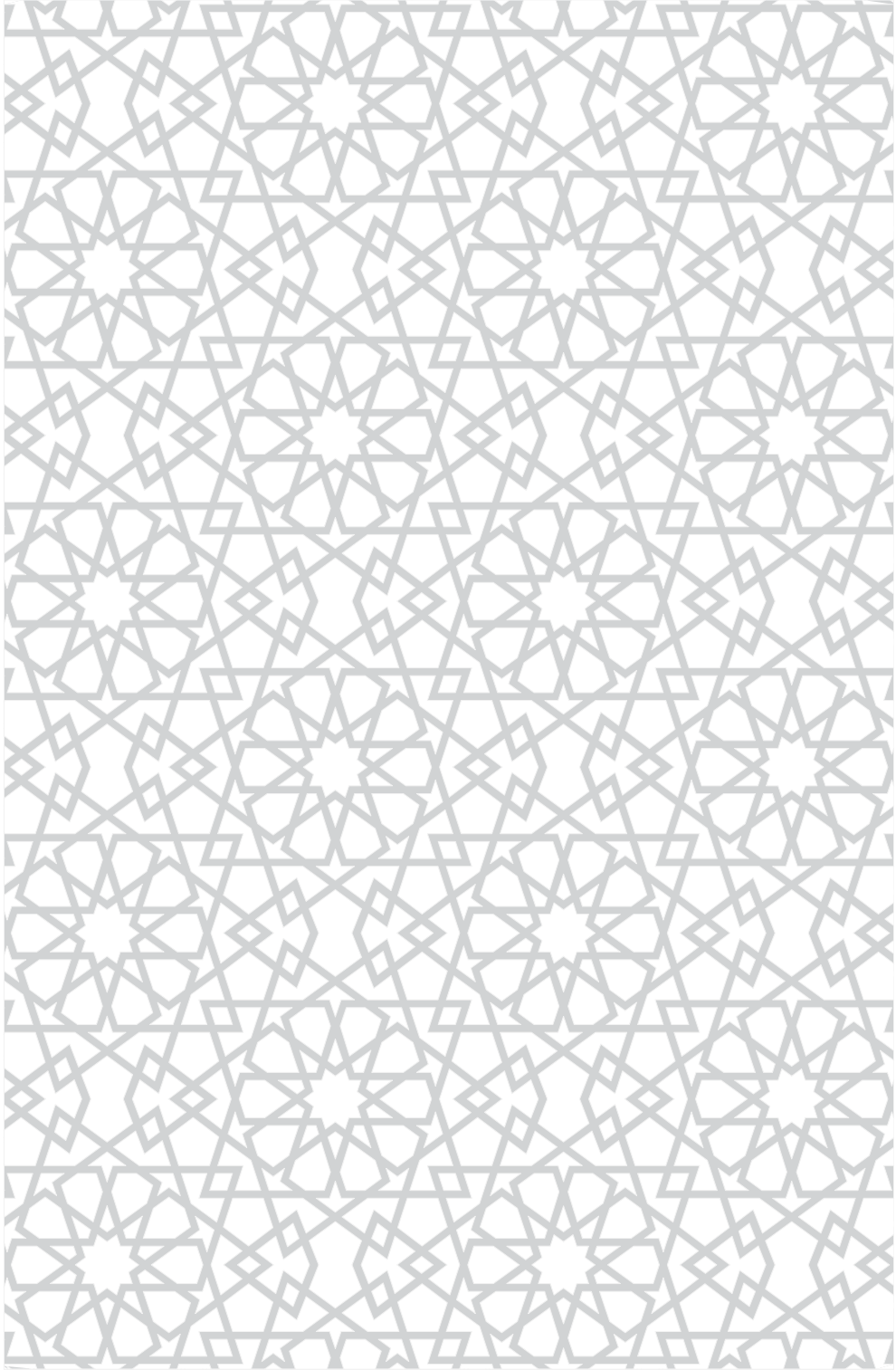
Shari'ah Standard No. (2)

**Debit Card, Charge Card
and Credit Card**



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IN THE NAME OF ALLAH, THE ALL-MERCIFUL, THE MOST MERCIFUL

All praise be to Allah, the Lord of all the worlds, and blessings and peace be upon our master, Muhammad, and his household and all his companions

Preface

The purpose of the standard on debit card, charge card and credit card is to explain their types and characteristics, and to lay down the Shari'ah principles for dealing with the three types of card by both Islamic financial Institutions⁽¹⁾ and their customers who hold their cards and use them. The standard also explains the Shari'ah rulings on the use of the cards in various circumstances.

(1) The word (Institution/Institutions) is used here to refer, in short, to Islamic financial institutions including Islamic Banks.

Statement of the Standard

1. Scope of the Standard

The standard covers debit cards, charge cards and credit cards that are issued by Institutions to their customers to enable the latter, by using the cards, either to withdraw cash from their accounts or to obtain credit or to pay for goods or services purchased. These cards include the following types:

- Debit card
- Charge card
- Credit card

2. Characteristics of Different Types of Card

While some of the characteristics are common to more than one type of card, some are specific to a particular type of card.

2/1 Characteristics of the debit card

2/1/1 The Institution issues the card to a customer with available funds in his account.

2/1/2 The card confers on its holder the right to withdraw cash from his account or to pay for goods or services purchased up to the limit of the available funds (credit balance) on his account. The debit to the customer's account will be immediate, and the card does not provide him with any credit.

2/1/3 The customer will not normally pay any charges for using this card, except when it is used to withdraw cash or to purchase another currency through another Institution different from the Institution that has issued the card.

2/1/4 The issuing Institution may charge a fee for issuing the card, or may make no charge for issuing it.

2/1/5 Some Institutions charge the party accepting payment by means of the card a commission calculated as a percentage of such payments.

2/2 Characteristics of the charge card

2/2/1 The card provides a credit facility up to certain ceiling for a specified period of time, as well as providing a means of repayment.

2/2/2 The card is used to pay for goods and services and to obtain cash.

2/2/3 This card does not provide revolving credit facilities to the cardholder, insofar as the cardholder is obliged to make payment for the purchased goods or services by the end of a prescribed credit period following receipt of a statement sent by the Institution issuing the card.

2/2/4 If the cardholder delays payment of the amount due beyond the period of free credit, an interest charge is imposed on the cardholder but none is imposed by the Institutions.

2/2/5 The Institution issuing the card does not charge the cardholder any percentage commission on purchases, but receives a percentage commission from the party accepting the card on purchases made by using the card.

2/2/6 The Institution issuing the card is obliged to pay the party accepting the card for purchases made by the cardholder, within a specified transaction credit limit (or the agreed increase thereon). This obligation on the card issuer to pay for the cardholder's purchases is direct, and is independent of the relationship between the party accepting the card and the cardholder.

2/2/7 The Institution issuing the card has a personal and direct right against the cardholder to be reimbursed for any payments made on his behalf. The issuer's right is absolute and independent of

the relationship between the cardholder and the party accepting the card in accordance with the contract between them.

2/3 Characteristics of the credit card

- 2/3/1 This card provides a revolving credit facility within the credit limit and credit period determined by the issuer of the card. It is also a means of payment.
- 2/3/2 The holder of a credit card is able to pay for purchases of goods and services and to withdraw cash, within the approved credit limit.
- 2/3/3 When purchasing goods or services, the cardholder is given a free credit period during which the amount due should be paid and no interest is chargeable. The cardholder is also allowed to defer paying the amount due and is charged interest for the duration of the credit. In the case of a cash withdrawal, there is no free credit period.
- 2/3/4 The conditions set out in items 2/2 (e), (f) and (g) above are equally applicable to this type of card.

3. Shari'ah Rulings for Different Types of Card

3/1 Debit card

It is permissible for Institutions to issue debit cards, as long as the cardholder does not exceed the balance available on his account and no interest charge arises out of the transaction.

3/2 Charge card

It is permissible for Institutions to issue charge cards on the following conditions:

- 3/2/1 The cardholder is not obliged to pay interest in the case of delay in paying the amount due.
- 3/2/2 If the Institution obliges the cardholder to deposit a sum of money as a guarantee and this amount is not available for the use of the card holder, then it must be made clear that the In-

stitution will invest the money for the benefit of the cardholder on the basis of Mudarabah and that any profit accruing on this amount will be shared between the cardholder and the Institution according to a specified percentage.

3/2/3 The Institution must stipulate that the cardholder may not use the card for purposes prohibited by the Shari'ah and that the Institution has the right to withdraw the card in case such a condition is violated.

3/3 Credit card

It is not permissible for an Institution to issue credit cards that provide an interest-bearing revolving credit facility, whereby the cardholder pays interest for being allowed to pay off the debt in instalments.

4. General Provisions

4/1 The affiliation of the Institution to membership of international card regulatory organizations

4/1/1 It is permissible for Institutions to join the membership of international card regulatory organizations, provided the Institutions avoid any infringements of Shari'ah that may be prescribed by those organizations.

4/1/2 It is permissible for the Institutions to pay membership fees, service charges and other fees to international card regulatory organizations, so long as these do not include interest payments, even in an indirect way, such as in the case of increasing the service charge to cater for the granted credit.

4/2 Commission to the card issuer payable by merchants accepting the card

It is permissible for the Institution issuing the card to charge a commission to the party accepting the card, at a percentage of the purchase price of the items and services purchased using the card.

4/3 Fees charged by the Institution to the cardholder

It is permissible for the Institution issuing the card to charge the cardholder membership fees, renewal fees and replacement fees.

4/4 Purchasing gold, silver and currency with cards

It is permissible to purchase gold, silver or currency with a debit card or a charge card, in cases where the issuing Institution is able to settle the amount due to the party accepting the card without any delay.

4/5 Cash withdrawal using a card

4/5/1 It is permissible for the cardholder to withdraw an amount of cash within the limit of his available funds, or more with the agreement of the Institution issuing the card, provided no interest is charged.

4/5/2 It is permissible for the Institution issuing the card to charge a flat service fee for cash withdrawal, proportionate to the service offered, but not a fee that varies with the amount withdrawn.

4/6 Privileges granted by card issuing parties

4/6/1 It is not permissible for Institutions to grant the cardholder privileges prohibited by the Shari'ah, such as conventional life insurance, entrance to prohibited places or prohibited gifts.

4/6/2 It is permissible to grant privileges to the cardholder that are not prohibited by the Shari'ah, such as a priority right to services or discounts on hotel, airline or restaurant reservations and the like.

5. Date of Issuance of the Standard

The Standard was issued on 27 Safar 1421 A.H., corresponding to 31 May 2000 A.D.

Adoption of the Standard

The Shari'ah Standard on Debit Card, Charge Card and Credit Card was adopted by the Shari'ah Board in its meeting No. (4) held on 25-27 Safar 1421 A.H., corresponding to 29-31 May 2000 A.D.

Appendix (A)

Brief History of the Preparation of the Standard

In its meeting No. (1) held in Bahrain on Saturday 11 Dhul-Qāḍah 1419 A.H., corresponding to 27 February 1998 A.D., the Shari'ah Board decided to give priority to the preparation of a Shari'ah standard on debit card, charge card and credit card.

On Saturday 11 Dhul-Qāḍah 1419 A.H., corresponding to 27 February 1999 A.D., a Shari'ah consultant was commissioned to prepare a juristic study and an exposure draft.

In its meeting held in Bahrain on 13-16 Rabi' I, 1420 A.H., corresponding to 27-30 June 1999 A.D., the Shari'ah Studies Committee discussed the juristic study and inserted certain amendments to it. The committee also discussed the exposure draft of the standard in its meeting No. (3) held in Bahrain on 9-11 Rajab 1420 A.H., corresponding to 18-20 October 1999 A.D. and, asked the consultant to make the necessary amendments in light of the comments made by the members.

The revised exposure draft of the standard was presented to the Shari'ah Board in its meeting No. (2) held in Mecca on 10-15 Ramadan 1420 A.H., corresponding to 18-22 December 1999 A.D. The Shari'ah Board made further amendments to the exposure draft of the standard and decided that it should be distributed to specialists and interested parties to obtain their comments in order to discuss them in a public hearing.

A public hearing was held in Bahrain on 29-30 Dhul-Hajjah 1421 A.H., corresponding to 4-5 April 2000 A.D. The public hearing was attended by more than 30 participants representing central banks, Institutions, accounting firms, Shari'ah scholars, academics and others who are interested in this field. Members of the Shari'ah Studies Committee responded in the

public hearing to the written comments as well as to the oral comments that were expressed in the public hearing.

The Shari'ah Studies Committee held its meeting No. (5) on 22-24 Muharram 1421 A.H., corresponding to 26-28 April 2000 A.D., to discuss the comments made about the exposure draft. The committee made the necessary amendments, which it deemed necessary in light of both the discussions that took place in the public hearing, and the written comments that were received.

The Shari'ah Board in its meeting No. (4) held on 25-27 Safar 1421 A.H., corresponding to 29-31 May 2000 A.D., in Al-Madinah Al-Munawwarah discussed the amendments made by the Shari'ah Studies Committee, and made the necessary amendments, which it deemed necessary. Some paragraphs of the standard were adopted by the unanimous vote of the members of the Shari'ah Board, while the other paragraphs were adopted by the majority vote of the members, as recorded in the minutes of the Shari'ah Board.

Appendix (B)

The Shari'ah Basis for the Standard

1. Debit Cards

It is permissible to issue debit cards subject to the conditions mentioned in the standard, because such issuance does not incur any Shari'ah prohibition.

2. Charge card

It is permissible to issue charge cards subject to the conditions mentioned in the standard, because such issuance does not incur Shari'ah prohibition and because the contract involved does not grant credit facilities to the cardholder in exchange for interest. Prohibition might be caused by conditions incorporated in the contract, or by dealings of the cardholder, which contravene the Shari'ah.

3. Credit card

It is prohibited to issue credit cards, as mentioned in the standard, where such issuance is based on a contract granting the cardholder the right to a revolving credit on terms that involve interest, because Riba is prohibited in terms of either taking or giving. The prohibition of Riba is established through Quranic Texts, direct and certain Hadiths of the Prophet (peace be upon him) and the consensus of Muslim scholars, rendering its prohibition well known in the Muslim community as self-evident. However, the issuance of credit cards free from Riba, or from any other legal prohibition, is permissible.

4. Institution's affiliation to membership of international card regulatory organizations is permissible because the contracts of the Institutions with those organizations are free from Shari'ah infringements. The fees that the companies pay are the charges for the services rendered by the international organizations, by granting a license, carrying out set-

off in transactions and other services. The transactions do not relate to the advance of loans interest, since the dealings of the Institutions are confined to debit and charge cards that are free from any requirement to pay interest. These dealings do not involve credit cards of the type that are not permissible for the reason given above.

5. It is permissible for Institutions to charge the party accepting a card commission based on the prices of purchases or services made with the card, as this can be considered as partly a brokerage and marketing fee as well as a service charge for the collection of the debt.
6. It is permissible for Institutions to charge the cardholder membership or renewal or replacement fees, because these fees are in exchange for the right given to the customer to carry the card and to benefit from its services.
7. Purchasing with a debit card constitutes constructive possession as endorsed by the Shari'ah. When the purchaser receives gold or silver or currencies which he is buying, uses the card and signs the payment coupon for the account of the party accepting the card, then constructive possession takes place. This ruling is extracted from the decision of the International Islamic Fiqh Academy⁽²⁾ which states that an accounting entry is considered to be constructive possession. Thus, the legal condition of taking possession is satisfied when using cards to purchase gold or silver or currencies.
8. It is permissible for the cardholder to withdraw cash from his available funds at the bank using the card, because this is to withdraw his own money. Likewise, it is permissible for him to withdraw more than his available funds from the Institution, if the latter has agreed that he may do so and has not stipulated that interest is payable on the such amounts. This is a permissible loan.
9. In the case of the Institution stipulating that the cardholder must deposit a sum of money prior to receiving approval to use the card, then it is not

(2) International Islamic Fiqh Academy Resolution No. 53 (4/6).

permitted for the Institution to prevent the cardholder from investing the amount deposited in his account, as this would be tantamount to a loan that draws extra benefit. For that reason, the appropriate alternative is for amounts so deposited to be invested for the benefit of the cardholder on the basis of profit and loss sharing.

