

Shari'ah Standard No. (28)

Banking Services in Islamic Banks



Contents

Subject	Page
Preface	723
Statement of the Standard	724
1. Scope of the Standard	724
2. Types of Banking Services and Their Shari'ah Status	724
3. Date of Issuance of the Standard	727
Adoption of the Standard	728
Appendices	
Appendix (a): Brief History of the Preparation of the Standard.....	729
Appendix (b): The Shari'ah Basis for the Standard.....	731



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 this standard is to indicate banking services provided by Islamic financial Institutions (Institution/Institutions),⁽¹⁾ and the Shari'ah opinion on the fees charged for such services.

(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

This standard covers the most important banking services that do not involve lending and borrowing, and which the Institutions render to their customers, directly or through other parties, with the aim of facilitating internal and external operations and activities performed by these customers.

It does not cover loan and investment services, or other banking services for which separate Shari'ah standards have already been issued, such as trading in currencies, debit and credit cards, investment accounts, and investment Sukuk.

2. Types of Banking Services and Their Shari'ah Status

Institutions may provide banking services against fees payable in lump sum or as a percentage share of the value of the service in question, as indicated in the following cases:

2/1 Custodian services

Institutions may receive Shari'ah-accepted documents and financial papers from their customers as a custodian of such documents/ financial papers, and may charge fees for such services.

2/2 Contracting agency services

A customer may use the institution as an agent for concluding contracts such as sale, purchase, and lease contracts, against a fee payable to the institution.

2/3 Subscription arrangement services

2/3/1 The institution may act as an agent of the founding shareholders of a Shari'ah-accepted and technically licensed joint stock company, in performing the various steps of the public issue, or issuing new

shares to increase the capital of the company, and may receive fees for such services. However, the fees thus earned by the Institution should not comprise any remuneration for extending credit, if it happens to be part of the service.

2/3/2 The Institution may arrange, and receive fees for, engaging a third party to underwrite the subscription. The Institution may also underwrite the subscription itself, without charging any fees for the mere act of underwriting. However, the Institution may charge the actual expenses it incurs in providing other services like conducting studies or marketing the shares. [see Shari'ah Standard No. (5) on Guarantees, item 6/7]

2/4 Services of conducting studies and consultancies

2/4/1 The institution may conduct, against a fee or free of charge, feasibility studies or other studies relating to issuance of shares.

2/4/2 The institution may act as an agent of its customers, for a fee or free of charge, in performing services that relate to real estate properties (residential buildings, commercial blocks, offices, etc.) as well as movable assets.

2/5 Collection and payment services

2/5/1 The institution may accept requests of its customers to collect their dues with, or pay their commitments to other parties. For instance, it can perform collection of cheques, debt notes, and promissory notes from debtors, or vouchers of shares and Sukuk owned by the customers, and deposit the proceeds in their accounts. It can also make payments on behalf of its customers and charge their accounts. For all such services, the Institution may receive fees from the customers or their agents.

2/5/2 The institution may pay wages and salaries on behalf of its customers.

2/5/3 The institution may execute standing collection and payment orders.

2/5/4 The institution should refrain from collection when it realizes that it involves an impermissible practice, or leads to discounting of a commercial paper. [see Shari'ah Standard No. (16) on Commercial Paper, item 5]

2/6 Accounts' services

2/6/1 The institution may provide additional services to the owners of its investment or current accounts when they desire so, and charge fees for such services.

2/6/2 The institution may provide free services to the owners of its investment or current accounts, provided that the services rendered to the owners of the current accounts are not set as a precondition or constitute a traditionally observed prerequisite for opening the account. [see Shari'ah Standard No. (19) on Loan (Qard), item 10/2]

2/7 Services of safe deposit vaults

2/7/1 The institution may provide the services of leasing safe deposit vaults to its customers. This is done through signing a contract according to which the Institution allocates a safe deposit vault within its premises for the customer to use against a specific fee. The deal here is based on Ijarah (hiring) contract that entitles the customer to the vault's usufruct.

2/7/2 The institution is responsible for ensuring the safety of the vault. However, it does not guarantee the safety of items kept in vault except in case of misconduct or negligence in keeping the vault.

2/8 Services of cards and their related bodies

See Shari'ah Standard No. (2) on Debit Card, Charge Card and Credit Card.

2/9 Zakah account services

See Shari'ah Standard No. (35) on Zakah, item 2/2.

2/10 Suretyship services

See Shari'ah Standard No. (5) on Guarantees, item 6

2/11 Cheques services

See Shari'ah Standard No. (16) on Commercial Papers, item 3/3 and item 7.

3. Date of Issuance of the Standard

This Standard was issued on 12 Jumada I, 1427 A.H., corresponding to 8 June 2006 A.D.

Adoption of the Standard

The Shari'ah standard on Banking Services in Islamic Banks was adopted by the Shari'ah Board in its meeting No. (16) held in Al-Madinah Al -Munawwarah on 7-12 Jumada I, 1427 A.H., corresponding to 3-8 June 2006 A.D.

Appendix (A)

Brief History of the Preparation of the Standard

The Shari'ah Board decided in its meeting No. (10) held on 2-7 Rabi' I, 1424 A.H., corresponding to 3-8 May 2003 A.D., in Al-Madinah Al-Munawwarah to issue a Shari'ah Standard on Banking Services and Facilities in Islamic Banks.

On 29 Safar 1425 A.H., corresponding to 19 April 2004 A.D., the Shari'ah Standards Committee (2) decided to commission a Shari'ah consultant to prepare a draft standard on Banking Services and Facilities in Islamic Banks.

In the meeting of the Shari'ah Standards Committee (2) on 14-15 Safar 1426 A.H., corresponding to 24-25 March 2005 A.D., in the Kingdom of Bahrain, the committee discussed the study and advised the consultant to incorporate the necessary changes, in the light of the discussions and observations of the Committee members.

In the meeting No. (17) of the Shari'ah Standards Committee (1) held on 8-9 Sha'ban 1426 A.H., corresponding to 8-9 September 2005 A.D., in the Kingdom Of Bahrain, the Committee discussed the draft standard and introduced necessary changes therein.

The Shari'ah Board discussed, in its meeting No. (15) held on 22-26 Sha'ban 1426 A.H., corresponding to 26-30 September 2005 A.D., in Makkah Al-Mukarramah, the draft of the Standard, and decided, in the light of the discussions and observations of the members, to send it to Shari'ah Standards Committee (1) for review.

A joint committee comprising the members of Shari'ah Standards Committees (1) and (2) discussed the Standard in a meeting held on 1 Safar 1427 A.H., corresponding to 1 March 2006 A.D., in the Kingdom of Bahrain, and incorporated necessary changes.

The revised draft of the Standard was submitted to the Shari'ah Board in its meeting No. (16) held in Al-Madinah Al-Munawwarah on 7–12 Jumada I, 1427 A.H., corresponding to 3–8 June, 2006 A.D. The Shari'ah Board made further changes in the document and decided to send it to the concerned experts for review and observations before discussing it in a public hearing.

AAOIFI then held, in the Kingdom of Bahrain on 6 Rajab 1427 A.H., corresponding to 31 July, 2006, the public hearing which was attended by more than 30 participants representing central banks, Institutions, accounting firms, Shari'ah scholars, university teachers and other interested parties. Several observations were made in the session to which the members of the Shari'ah Standards Committees (1) and (2) duly responded.

The Shari'ah Board adopted, in its meeting No. (17) held in Makkah Al-Mukarramah on 26 Shawwal – 1 Dhul-Qa'dah, 1427 A.H., corresponding to 18–23 November, 2006 A.D., the Standard (unanimously for some clauses and with the majority for others), as indicated in the minutes of the Board's meetings.

Appendix (B)

The Shari'ah Basis for the Standard

- It is permissible for the Institutions to provide banking services that do not involve interest-based lending and borrowing, because such services serve a permissible interest of the clients.
- Institutions may charge fees for providing banking services, because the fees so charged constitute a remuneration which the Institutions deserve for the tasks they perform, since it is permissible in Shari'ah to get reward for performing tasks that result in permissible benefits to others.
- The fee charged by the institutions may be a lump sum amount or a percentage of the value of the service, because when the percentage remuneration is calculated it becomes like the lump sum amount.



