

Shari'ah Standard No. (40)

**Distribution of Profit
in Mudarabah-Based
Investment Accounts**



Contents

Subject	Page
Preface	993
Statement of the Standard.....	994
1. Scope of the Standard	994
2. Investment Accounts (Demand Deposits).....	994
3. Realization of Profit	998
4. Entitlement to Profit.....	1000
5. Distribution of Profit.....	1002
6. Other Rulings on Investment Accounts	1003
7. Date of Issuance of the Standard	1004
Adoption of the Standard.....	1005
Appendices	
Appendix (a): Brief History of the Preparation of the Standard.....	1006
Appendix (b): The Shari'ah Basis for the Standard.....	1008
Appendix (c): Definitions.....	1012



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

This Standard aims to indicate the controls and rulings on distribution of profits of investment accounts in Islamic financial institutions (Institution/Institutions).⁽¹⁾ In this regard the standard covers three major aspects including: realization of profit, entitlement to profit and profit distribution.

(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 investment accounts managed on the basis of Mudarabah and the principles and conditions of realization and entitlement to profit. The Standard also covers how profits are to be distributed between the institution as a Mudarib and the holders of investment accounts as Arbab al-Mal, and to discuss the procedural aspects of profit realization such as determination of the expenses to be charged to investment accounts and the allocations and reserves to be deducted from the profits. The standard does not cover the accounts managed on the basis of investment agency because such accounts require a separate standard.

2. Investment Accounts (Demand Deposits)

2/1 Definition and types of investment accounts

These are the amounts which the institution receives from investors on the basis of participatory Mudarabah (al-Mudarabah al-Mushtarakah). The holders of such accounts delegate the institution to invest their funds through Mudarabah. Investment accounts can be divided into two types. The first type is investment accounts that are managed on the basis of unrestricted Mudarabah where the Mudarib is delegated to invest the Mudarabah funds in any field of investment he deems suitable. The second type is investment accounts which are managed on the basis of restricted Mudarabah, where the Mudarib has to invest the Mudarabah funds in a specific type of investment to be determined by Rab al-Mal (owner of the capital). The relationship between the holders of these accounts and the institution is the typical relationship between the Mudarib (the work provider) and Rab al-Mal.

2/1/1 Unrestricted investment accounts

These are the amounts received from investors who authorize the institution to invest their funds on the basis of Mudarabah without restricting the investment of such funds to a specific project or investment program. The holders of the accounts and the institution share the profit, if any, according to the ratio specified for each of them either in the Mudarabah contract or in the application for opening the account. The holders of the accounts bear all the losses in proportion to their respective shares in the capital, except losses arising from transgression, negligence or breach of the contract, which have to be borne by the institution.

2/1/2 Restricted investment accounts

These are the amounts whose owners authorize the institution to invest them on the basis of Mudarabah in a specific project or investment program⁽²⁾. The holder of the account and the institution share the profit, if any, according to the ratio specified for each of them either in the Mudarabah contract or in the application for opening the account. The holder of the account bears all the losses in proportion to his share in the capital, except losses arising from transgression, negligence or breach of contract, which have to be borne by the institution.

2/1/3 Equality in investment opportunities

In principle, equality in investment opportunities should be ensured between shareholders' funds and the funds of the holders of the investment accounts in participatory Mudarabah. In case a different policy is to be adopted, the institution should disclose that before disposition, with due consideration to the relevant regulatory restrictions and the conditions of opening the accounts.

(2) Restricted investment accounts can be managed on the basis of investment agency.

2/2 The difference between an investment account and a current account and its likes

2/2/1 The current accounts are the amounts which the institution receives from clients who are not seeking investment. Such amounts represent loans which the institution has to guarantee their repayment on demand without any increment. The institution has the right to dispose of such amounts and invest them for its own benefit and under its own responsibility, preferably after indicating this in the application for opening the account.⁽³⁾ As regards investment accounts, these are the amounts deposited with the institution on trust basis, and hence the institution is not committed to guarantee their repayment, except in case of transgression, negligence or breach of the contract.

2/2/2 The institution should guarantee full repayment of the amounts of the current accounts to their holders, whereas it should not assume the commitment to pay any fixed or variable increment on the principal amounts of such accounts, because such payment constitutes usurious interest. The institution is not committed to guarantee investment accounts. It is only committed to distribute their profit or loss among their holders as per the ratios agreed upon.

2/2/3 Saving accounts which carry no authorization for investing them to the benefit of their holders shall become subject to the rulings on current accounts, whereas those which carry such authorization shall become subject to the rulings on investment accounts.

2/2/4 The institution may charge fees (commissions) for the services of opening investment accounts. Such fee has to be a lump

(3) For more rulings on current accounts as regards, for instance, charging fees for keeping such accounts or distribution of prizes to them see Shari'ah Standard No. (19) on Loan (Qard).

sum amount which should preferably not exceed the average actual cost, and should be charged once at the time of opening the account.

2/2/5 In case of depositing coins or paper money by handing them over to the cashier the institution may charge a fee for transportation, storage and counting of the deposited amounts. This, however, does not include amounts transferred to the account of the institution.

2/2/6 In transference of money between accounts constructive possession is sufficient, whether for the same currency or different currencies, because the process involves exchange and transference. [see Shari'ah Standard No. (1) on Trading in Currencies]

2/2/7 The funds which the institution fails to transfer to owners because of change of address shall be kept in a suspended account for the specified period before being added to the charity account. If the addresses of the owners of such funds came to be known later on the funds should be paid out to them from the charity account. In this regard, a clause should be added to the conditions for opening the accounts indicating that the holders of the accounts agree to donate for charitable purposes any amounts which could not be transferred to them within a specific period due to change of address.

2/2/8 In principle, the institution should resort, through exchange of correspondence, to holders of the accounts when there is any change in the conditions or profit sharing ratios. However, due to the difficulty and cost involved in such process the institution may send notifications, or advertise the new changes in its website so that the implicit acceptance of the concerned parties is obtained if no protest is received from them within a specific period. The changes in question, which shall become effective starting from the beginning of the next period, should be incorporated in the conditions of the

accounts, with due reference to the procedure followed for their adoption.

2/2/9 It is permissible to stipulate the authoritative status of the documents and financial statements of the institution, unless such documents and statements are proved to be wrong by the accountholder. If dispute arises the two parties should resort to experts, arbitration or law.

2/2/10 The cost of proving the accusation shall be borne by the accountholder when he files the claim against the institution.

3. Realization of Profit

Realization of distributable profits should be subject to the following:

3/1 Safety of the capital

3/1/1 Realization of profit in investment accounts does not take place before protecting the capital. Any amount of profit distributed before ensuring such protection is considered as an advance payment, rather than realized profit [see item 5/3]. The profit authorized for investment at the end of the investment period is considered as part of the capital in the next period.

3/1/2 Actual and constructive liquidation

Realization of profit in investment accounts does not take place before the following steps:

3/1/2/1 Liquidation of Mudarabah assets, which can be either actual liquidation where all the assets are converted into cash and all debts are collected, or it can be constructive liquidation where, in addition to cash amounts, noncash assets are valued by experts, along with valuation of all debts with regard to possibilities of collection and appropriate allocations for bad debts.

3/1/2/2 Covering of the following expenses:

- a) Expenses relating to utilization of the balances of the investment accounts by charging each operation with the direct expenses incurred in its execution.

- b) The share of the balances of the investment accounts from shared expenses, excluding expenses relating to the institution's own activities.

Investment accounts should also not be charged with the expenses of the tasks which have to be performed by the Mudarib. Such expenses include the expenses of the investment departments and the bodies which endorse their decisions as well as the expenses of the follow-up and accounting departments. It is also permissible to specify a ceiling for the expenses above which all the expenses are to be borne by the Mudarib.

- 3/1/2/3 Deduction of the allocations and reserves relating to the investment, from investment income so as to arrive at distributable profit. In this case, allocations for bad debts and reserve for rate of returns have to be deducted from gross profit, whereas reserve for investment risks has to be deducted after deduction of the Mudarib's share.

3/2 In realization of the profit the following should be observed

- 3/2/1 When loss is incurred in one Mudarabah operation it can be covered from the profits of other operations, and if it exceeds the profits it should be covered from capital. What should really matter is the final result of liquidation at the end of the financial period specified by the institution. The loss of a certain financial period should not be covered from the profits of another period, except in the case of covering losses from reserves.
- 3/2/2 Due to the fact that unrestricted investment accounts of continuous participatory Mudarabah lack coincidence in the beginning and end of the process of depositing funds in the accounts, the profit from the operations which extend to succeeding periods has to be distributed over the whole period of such operations in proportion to the duration of each operation.

4. Entitlement to Profit

- 4/1 The method of profit distribution should be well known so that no room is left for uncertainty and dispute. Distribution of profits should also be in terms of ratios, and not at all by specifying a lump sum amount or a percentage of the capital for any party, or any other method that could lead to avoidance of sharing of the profit between the two parties.
- 4/2 Specification of profit ratios for the two parties should not be postponed beyond the time of signing the contract. When the two parties do not specify such ratios at the time of signing the contract normal practice can be sought - if any - as when, for instance, profit is normally shared on equal basis. If there is no normal practice to resort to the Mudarabah contract becomes null and void, the Mudarib is entitled to the wage normally paid for similar work, and the whole profit goes to Rab al-Mal.
- 4/3 The institution can specify different ratios for distribution of profits between itself and different categories of holders of investment accounts, or it can specify a unified ratio for all. The ratios for distribution of profits among the holders of the investment accounts can also be unified or varying on the basis of certain weights.
- 4/4 When one of the two parties stipulates a lump sum amount for himself the Mudarabah contract becomes null and void. This restriction, however, does not include the case when the two parties agree that if the profit exceeds certain limit or index the excess amount should be taken by one of them. If the profit is at that limit/index or below it shall be shared as agreed upon between the two parties.
- 4/5 It is impermissible to earmark the profit of a specific type or portion of the capital or the assets into which capital is converted, for one of the two parties. It is also impermissible to allocate the profit of a certain financial period or a specific transaction for one party, and the profit of another financial period or a specific transaction for the other.

- 4/6 The method agreed upon for distribution of profit can be fixed for the whole period, or variable according to specific sub-periods of partial liquidation.
- 4/7 When the Mudarib mixes the Mudarabah funds with his own funds, he becomes a partner by subscribing his funds and a Mudarib for the Mudarabah funds of the other party. In this case the profit has to be divided between the two amounts of capital, so that the Mudarib can get the profit of his work as well as the profit of his funds as a partner. The profit share of the Mudarib as a partner shall become subject to the same treatment of the shares of the holders of investment accounts. [see item 4/3]
- 4/8 In principle, the profit belongs to the institution and the holder of the account, yet the two parties can agree on allocation of a certain part of the profit to the benefit of a third party. [see Shari'ah Standard No. (13) on Mudarabah, item 8]
- 4/9 It is permissible for the accountholder to exit from the Mudarabah with all his funds or part of them. Such exit represents the desire of the accountholder to redeem his share in the Mudarabah assets without withdrawing the total amount deposited in his account or part of it. It is permissible for the institution in this case to specify the amount relating to the exit so that it can earn no profit, or less than the profit it would have earned in the absence of exit. Such arrangement constitutes exit on the basis of supply and demand, rather than deprivation from profit.
- 4/10 The ratios of the amounts deposited in the investment accounts which the institution retains for liquidity purposes – may be stated in the conditions of the accounts - has to be treated as follows:
- 4/10/1 The case could be that the bank never invests such amounts because they are withheld in the accounts of the central bank or the bank's treasury for the sake of meeting requests for withdrawal from investment accounts, hence there is no return for which a ruling can be indicated here.

4/10/2 Or the case may be that the bank utilizes such funds in short term or easy-to-liquidate investments so as to cater for applications for withdrawal from investment accounts - although the bank sometimes stipulates in the conditions of the accounts that such funds are allocated for liquidity purposes. In this case it is permissible for the bank to invest such funds without obtaining the consent of the holders of the accounts, because the bank is authorized for any disposition that serves the interest of the two parties of the unrestricted Mudarabah contract. When a return is earned from such investment it should be added to the investment base. The holders of the account will be entitled to a share in this profit in their capacity as Arbab al-Mal, and the bank is entitled to its share as a Mudarib, subject to the ratios agreed upon. If, instead, a loss is incurred from investment of the amounts, without any transgression or negligence from the side of the bank, it should be borne by the holders of the accounts in their capacity as Arbab al-Mal.

5. Distribution of Profit

5/1 Application of scoring method of profit distribution:

With due consideration to items 4/3 and 4/4, the scoring method for distribution of profit among the participants of general investment accounts can be used. Such method takes into account the amount contributed by each investor and the period of its stay in the investment (currency unit x time unit). Each account is given a certain number of scores depending on its amount and the period of stay of that amount in the investment even if depositing and withdrawal have repeatedly been done and the amount varied from time to time. The holders of the accounts are considered to have implicitly exchanged mutual relief from commitment (Mubara'ah) for any aspects that practically cannot be catered for.

5/2 There is no prohibition against setting an expected rate of return which is not considered to be binding if not achieved, even if it is

reached through a feasibility study. However, final distribution of profits should be based on realization of profit after actual or constructive liquidation, rather than on such expected rate of return.

- 5/3 It is permissible to pay advance amounts to the holders of the accounts before actual or constructive liquidations so that final settlement can be made later on. After actual or constructive liquidation the institution is committed to make necessary additions to, or deductions from, the advanced amounts so that each holder of an investment account receives his exact share of the profit.
- 5/4 Mutual relief from commitments (Mubara`ah) in case of exit should be stipulated in the contracts of the Mudarabah-based investment accounts. The stipulation should indicate that the exiting party relieves the holders of the accounts (the depositors) from commitment towards his rights in any undistributed or non-apparent profit, as well as his rights in the remaining part of the reserves for investment risks and rate of return, and the remaining part of allocations for debts. Similarly, the stipulation should state that the holders of the accounts relieve the exiting party from commitment towards any losses that have not yet become apparent. The stipulation should also indicate that on liquidation of the investment base the remaining parts of the above mentioned reserves and allocations shall be devoted to charitable purposes.
- 5/5 Institutions should liquidate Mudarabah and distribute the realized profit between the Mudarib and the holders of the investment accounts according to the conditions of the Mudarabah contract.
- 5/6 When the shareholders in their capacity as the Mudarib, decide - after liquidation of the Mudarabah and preparation of the profit and loss account - to relinquish part of their profit share to the benefit of the accountholders, the institution should disclose that.

6. Other Rulings on Investment Accounts

The rulings which have not been stipulated in this Standard can be seen in Shari'ah Standard No. (13) on Mudarabah.

7. Date of Issuance of the Standard

This Standard was issued on 26 Jumada II, 1430 A.H., corresponding to 19 June 2009 A.D.

Adoption of the Standard

The Shari'ah Board adopted the Standard on Investment accounts and Profit Distribution on its meeting No. (24), held in Al-Madinah Al-Munawwarah, on 25–26 Jumada II, 1430 A.H., corresponding to 18-19 June 2009 A.D.

Appendix (A)

Brief History of the Preparation of the Standard

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, Kingdom of Saudi Arabia, the Shari'ah Board decided to issue a Shari'ah Standard on bank deposits and distribution of profits .

On 7 Dhul-Hajjah 1424 A.H., corresponding to 29 January 2004 A.D., the Shari'ah Standards Committee (1) decided to commission a Shari'ah consultant to prepare a study on bank deposits and distribution of profits.

In its meeting No. (16) held on 8–9 Jumada I, 1426 A.H., corresponding to 15–16 June 2005 A.D., in the Kingdom Of Bahrain, the Shari'ah Standards Committee (1) discussed the draft of the Standard and introduced necessary changes.

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

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

In a meeting held in the Kingdom of Bahrain, on 1 Safar 1427 A.H., corresponding to 1 March 2006 A.D., the Shari'ah Standards Committees (1) and (2) discussed the draft of the Standard and introduced necessary changes in the light of the observations of the meeting.

Shari'ah Standard No. (40): Distribution of Profit in Mudarabah-Based Investment Accounts

In its meeting No. (17) held in Makkah Al-Mukarramah, on 26 Shawwal 1427 A.H., corresponding to 18 November 2006 A.D., the Shari'ah Board discussed the amendments suggested by the Shari'ah Standards Committees (1) and (2) and introduced necessary changes.

In its meeting No. (22) held in the Kingdom of Bahrain, on 28–30 Dhul-Qa'dah 1430 A.H., corresponding to 26–28 November 2008 A.D., the Shari'ah Board discussed the draft of the Standard and introduced necessary changes.

The Secretarial General of AAOIFI held a public hearing in the Kingdom of Bahrain on 6 Rabi' II, 1430 A.H., corresponding to 2 April 2009 A.D. More than 30 participants attended the public hearing as representatives of central banks, institutions, and accounting firms. The public hearing was also attended by Shari'ah scholars, university teachers and other interested parties. Several observations were made in the public hearing, and duly responded to by the members of the Shari'ah Standards Committees (1) and (2).

In its meeting No. (23) held in the Kingdom of Bahrain, on 15–17 Rabi' I, 1430 A.H., corresponding to 12–15 March 2009 A.D., the Shari'ah Board discussed the draft of the Standard and introduced necessary changes.

In its meeting No. (24) held in Al-Madinah Al-Munawwarah, on 25–26 Jumada II, 1430 A.H., corresponding to 18–19 June 2009 A.D., the Shari'ah Board discussed the draft of the Standard, introduced necessary changes and adopted the Standard.

Appendix (B)

The Shari'ah Basis for the Standard

- The current account is considered as a loan because the bank has to guarantee its repayment on demand. In this regard the International Islamic Fiqh Academy issued its resolution No. 86 (9/3) which stipulates that “Demand deposits (current accounts) whether in Islamic or traditional banks are loans in the strict Shari’ah sense. The receiving bank holds such deposits under guarantee and is committed by Shari’ah to repay them on demand. The fact that the receiving bank is solvent does not affect this ruling”

Rulings and Conditions relating to Profit

- Profit has to be known because it constitutes the object of contracting, and therefore ignorance about it nullifies the contract.
- It is impermissible in Mudarabah to specify the return for any of the two parties in terms of a lump sum amount or a certain percentage of the capital, because such specification eliminates profit sharing which constitutes a fundamental aspect of the Mudarabah contract. By such specification, the very essence of partnership will be lost when, for instance, the profit earned is just equal to the lump sum amount or percentage of the capital earmarked for one party.
- Permissibility of applying the scoring method of profit distribution is based on the fact that the funds of the participants in the same investment base have all contributed to achievement of the return as per their respective amounts and periods of stay in the accounts. The scoring method is the most equitable method of accounting in hand that can be used for assigning profit shares commensurate to the amounts and their periods of stay in the accounts. However, entering into investment on such basis necessitates mutual relief from commitments (Mubara’ah) among investors with regard to any part of entitlement that could not be catered

for through this method. It is a well established principle in Fiqh literature that much more exemptions can be allowed in partnership-based dealings (*Musharakat*) than in exchange-based dealings (*Mu'awadah*) and that division (*Qismah*) through approximation of shares is based on mutual consent.

- Charging the Mudarabah expenses in the way shown in the Standard takes into consideration what should be done by the Mudarib for the sake of carrying out his investment decisions on receipt of the funds, and his commitment to do the work which entails having the bodies required for that purpose. A resolution to this effect has also been issued by the Al Baraka Seminar (4/1).
- Impermissibility of charging interest for loans is based on the fact that such charge constitutes Riba. In this regard the international Islamic Fiqh Academy issued its resolution No. (10/2) stipulating that "whether such increment is charged for postponement of a defaulted debt, or as an interest on the loan stipulated since the time of signing the contract, both increments are forms of Shari'ah-prohibited Riba".
- Impermissibility of postponing specification of profit ratios for the two Mudarabah parties until the profit is earned is based on the fact that such postponement leads to *Jahalah* (ignorance) which could lead to dispute. On the contrary, agreement between the two parties - at time of distribution - on changing the ratios agreed upon or donating part of the profit is a right that the two parties may permissibly exercise.
- Impermissibility of final distribution of the profit between the stakeholders of the company before deduction of expenses, allocations and reserves is the Shari'ah principle that no profit is to be sought before preservation of the capital.
- Permissibility of distributing the profit on the basis of constructive liquidation and after ensuring the safety of the capital is based on acceptance of valuation in Shari'ah⁽⁴⁾ in several applications including Zakah

(4) See the Forth Resolution of the Muslim World League in its 15th Session, held in Makkah Al-Mukarramah, on 21-26/10/1422 A.H.; Resolution No. 30(5/4) of the International Islamic Fiqh Academy; and Fatwa No. (2/8) of the 8th Seminar of the Al Baraka, Fatawa Al Baraka, (P. 134).

as well as theft incidents. In this context, the Prophet (peace be upon him) is reported to have said: *"When someone liberates a slave he owns with other parties, he should pay partners from his money, and if he has no money, the slave has to be equitably valued for him"*.⁽⁵⁾

- The Shari'ah basis for the ruling that no profit has to be sought in Mudarabah before preservation of the capital is the Hadith of the Prophet (peace be upon him) who said: *"A prayer performer is just like a merchant who obtains profit only after preserving his capital. Similarly a prayer performer cannot get his Nafilah (voluntary prayer) accepted before he performs Faridah (obligatory prayer)"*.⁽⁶⁾ This Hadith indicates that profit sharing is unacceptable before preservation of the capital. This is so because profit is an increment which cannot be obtained before obtaining the principal.
- The Mudarabah contract becomes null and void when the two parties refrain from specifying profit sharing ratios and fail to find any established normal practice of profit sharing applicable to their case. This ruling is based on the fact that ignorance about profit, which constitutes the contracting object, must nullify the contract.
- Profit sharing ratios can be commensurate to shareholding ratios or not, because profit is deserved for contribution of funds, work or guarantee. When any of these three aspects is fulfilled there is no Shari'ah prohibition for the partners to specify profit sharing ratios on mutual consent. This viewpoint is adopted in the Hanbali School.⁽⁷⁾
- The Shari'ah basis for impermissibility of agreement between the two parties on charging the whole loss to one of them or using disproportionate ratios for loss distribution is the statement of Ali Ibn Abu Talib who is reported to have said: "Profit is to be distributed as per the agreement of

(5) "Sahih Muslim" [2: 1140].

(6) Related by Al-Bayhaqi in "Al-Sunan" quoting Ali Ibn Abu Talib. Al-Bayhaqi mentioned that the chain of transmission of this Hadith includes a weak narrator: "Al-Mawsu'ah Al-Fiqhiyyah" [38: 74].

(7) "Al-Hidayah Sharh Al-Bidayah" by Al-Mirghinani, [3: 3-8], Al-Maktabah Al-Islamiyyah; "Bada'i' Al-Sana'i" by Al-Kasani, [6: 62-63]; and "Al-Mubdi" by Ibn Muslih [5: 4], Al-Maktab Al-Islami, Beirut, 1400 A.H.

the two parties, whereas loss should be borne according to the ratios of contribution to the capital”⁽⁸⁾ A condition which stipulates that the loss of one party should be borne by the other party is invalid because it is oppressive and would lead to reaping of unlawful gain by one party at the expense of the other.

- It is permissible for the two parties to stipulate a condition that when profit exceeds certain limit or index the whole additional amount should be taken by one of them, because such condition is permissible according to Shari'ah if it happens to be stipulated.
- It is impermissible to agree on earmarking the profit of a specific portion of the capital for one party and the profit of the remaining portion for the other, because such arrangement could jeopardize the process of profit sharing and lead to oppression.
- Permissibility of agreement between the two parties to change profit sharing ratios at any time, stems from the fact that the two parties are the sole owners of the profit, and agreement between them to change its distribution ratios does not entail a Shari'ah-prohibited act, such as discarding away the principle of profit sharing.⁽⁹⁾
- Permissibility of agreement on fixed or variable ratios of profit distribution is based on the validity of such agreement since it has been the result of mutual consent. The only restriction is that such agreement should observe the Shari'ah ruling that neither of the two parties should be deprived from his share in the profit.
- Regarding constructive liquidation a resolution has been issued by the Islamic Fiqh Academy of Makkah Al-Mukarramah.⁽¹⁰⁾

(8) Related by Ibn Abu Shaybah in his “*Musannaf*” [4: 268], Maktabat Al-Rushd Press, Riyadh.

(9) See the proceedings of the 10th Al Baraka Seminar – Fatwa No. (8) and the 4th Al Baraka Seminar - Fatwa No. (5). This viewpoint is also supported by a Fatwa issued by the Shari'ah Board of the Faisal Islamic bank of Sudan (P. 107) and published in the Manual of Shari'ah Fatawa of the Center of Islamic Economic of the International Islamic Bank , (P. 53).

(10) The 4th Resolution of the 16th Session, held by the Islamic Fiqh Academy of the Muslim World League. This viewpoint has also been adopted by the 8th Al Baraka Seminar (Fatwa No. 2).

Appendix (C)

Definitions

Deposit (Wadi'ah)

Funds given to someone for safekeeping

Bank Deposit

Funds which individuals and institutions entrust the bank to keep, provided that the bank assumes the commitment to repay such funds or their equivalent to depositors or any other specific person, on demand or subject to the conditions agreed upon.

Demand Deposit (Current Deposit)

Demand deposit is the means whereby a current account is established. The current account can be defined as: The funds deposited by their owners with the bank so as to be ready for withdrawal on need. The bank assumes the responsibility of immediate repayment of such funds on demand, and without any type of prior notification.

Savings Deposit (Savings Account)

Small cash deposits which individuals cut from their incomes and pay to the bank so as to open saving accounts for them. The owners of such accounts have the right to withdraw the whole or part of the balances of their accounts at any time.

