

Adoption of AAOIFI Shariah Standard No. 12 pertaining to Sharika (Musharaka) and Modern Corporations

In order to standardize and harmonize Shariah practices in IBIs, AAOIFI Shariah Standard No. 12 related to Sharika (Musharaka) is adopted. The Standard is applicable subject to clarifications/amendments as mentioned hereunder:

Scope of the Standard: The following is added as footnote to this para: The Standard would not be applicable on Sharikat-ul-Milk as separate Standard is issued on the same. Further, the Standard would not be applicable on Sukuk al Musharakah as the same has been covered under AAOIFI Shariah Standard No. 17 related to 'Investment Sukuk Standard'.

Clause 3/1/1/3: The following is added as a footnote to the clause: "The conventional bank, not having duly licensed Islamic Banking Division shall not act as lead arranger in a syndicated Islamic financing; it may however participate in the syndicate as partner"

Clause 3/1/4/1: The following is added as footnote to the clause: "*All partners of Sharika shall be deemed to be trustees in respect of Sharika assets; however, as trustees they shall be jointly and severally liable for misconduct, negligence or breach of contract.*"

Clause 3/1/5/6: The following is added as footnote to this clause: "*IBIs may share/distribute profits on gross or net basis while ensuring equity, justice and transparency.*"

Clause 3/1/5/9: The first sentence of the clause is modified as follows: "*Taking into account the provision of item 3/1/5/3, it is permissible to agree that if the profit realized is above a certain ceiling, the profit in excess of such ceiling may, at the discretion of other party, be given to a particular partner.*"

Further, the word "may" appearing in the second sentence of the clause is replaced with the word "shall". The revised sentence shall be read as: "*The parties shall also agree that if the profit is not over the ceiling or is below the ceiling the distribution will be in accordance with their agreement.*"

Clause 3/1/6/2: The following is added as footnote to the clause: "*Being Sharikat ul Aqd, it is not permissible, however, to promise to buy the assets of the Sharika on the basis of face value or pre-agreed value.*"

Clause 3/2/1: The following is added as footnote to the clause: "*A Credit Partnership is an agreement between two or more parties to buy assets on credit and bear liability for the price of purchase of goods and share profit according to the ratio determined by the parties.*"

Clause 3/3/1: The following is added as footnote to the clause to cater to the treatment of loss: "In case of loss to service partnership due to negligence of either of the partners or otherwise, the same shall be borne by all the partners as per their agreed profit sharing ratio".

Clause 4/1/1/1: The word 'partitioned' used in the clause is changed to 'divided'.

Clause 4/1/2/3: The following is added as footnote to the clause: "*The right shares can also be issued at lower than the market value as per the market norms and practices and the legal framework.*"

Clause 4/2 to 4/5: Since these clauses are not applicable in Pakistan, hence not adopted.

Clause 5: The following is added as a footnote to the clause: A self-contained Shariah Standard on 'Sharikat ul Milk and Diminishing Musharakah' is notified vide IBD Circular No. 2 of 2013.