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CONCEPTUAL FOUNDATIONS OF ISLAMIC BANKING

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Abstract. This article discusses the financial operations performed by Islamic banks, the processes of working with customers, and their differences from traditional banks. Today, financial transactions in Islamic banks: deposit, credit, letter of credit, settlement, payment transactions are analyzed and scientific conclusions are formed.

Keywords. Shariah principles, Islamic banking system, financial intermediation, Muzoraba, Mudarib, Dual banking system

Introduction

Since the second half of the last century, after gaining independence, the countries where the majority of the population is Muslim began to extract oil and gas resources on a large scale and export them. The increase in the price of oil will be a great impetus for the formation of savings in these countries[1]. In the effective use of funds, problematic issues such as the fact that the existing traditional financial market does not meet the needs of society in countries where the majority of the population is Muslim, and that some elements of the financial market cannot be used. This led to the demand for the formation of a financial system based on Islamic principles.

Literature review

Islamic banking is based on Islamic principles as it deals with commercial transactions. The basic principle of Islamic banking is the prohibition of usury (Riba), which is derived from the following quote from the Holy Quran:

"Those who eat riba (from their graves) will only be struck by Satan and bewildered like a madman. This is because they say that commerce is similar to riba. And yet, God made commerce lawful and riba forbidden. Whoever stops when a message comes to him from his Lord, what happened before is on him and his work is on God. And whoever turns back (to riba), those are the owners of hell. They will stay in it forever"[2].

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[1] V.V Antropov. Islamic finance and global economics: contemporary trends and perspectives. Prichiny poyavleniya islamskikh finansov // Economic magazine. 2017. #48 . S.57.

[2] Holy Quran, Surah Baqarah, verse 275.

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"Islamic banking is a concept based on Sharia, and its structure is fundamentally different from traditional banking in essence, nature and meaning." In Islamic banking, any transaction or agreement must be in accordance with the principles of Shariah. The principles of Sharia consist of rules and guidance derived from the primary sources of Islam, the Holy Qur'an and Hadith, and the secondary sources of Islam, Ijma and Qiyas. The three most important principles of Sharia are:

1) Haram of riba (interest). Riba is a premium paid by the borrower to the lender along with the principal amount of the loan as a condition of the loan agreement. Riba is not allowed to be used in any transaction because of its serious consequences in one's life and hereafter, and it is strongly condemned in Islam.

2) Haram of Ghorar (unspecified dealings). A caveat means taking too much risk or having unnecessary uncertainty in a transaction. In Islam, all aspects of the transaction should be transparent and known to all parties, which will significantly reduce conflicts between them.

3) Haram of maysir (speculative behavior). Maisir includes all kinds of gambling games and deals where you can win significantly or lose everything depending on which way the deal goes. *Maisir* is forbidden in Islam because it leads to victory at the expense of others' defeat, and therefore, it is considered socially unacceptable.

Islamic banks are financial institutions based on Shariah principles in their objectives, principles, practices and operations. As such, they differ from traditional banks that do not have such religious concerns. Islamic banks provide commercial services to their customers without interest or riba in accordance with Islamic injunctions. Islamic banking prohibits the use of interest in all transactions. This prohibition distinguishes the Islamic banking system from the conventional banking system.

Islamic banking different literary in sources differently defined. Including:

1. “Islamic banking, as well as Islam finance or According to Sharia finance, that too It is called Shariat finance or banking activity. The two main principles of Islamic banking are the sharing of profits and losses and the prohibition of charging and paying interest by creditors and investors”.[3]

2. “Islamic banking is an alternative to traditional banking based on Sharia law that prohibits interest and is developed on the basis of profits and losses”.[4]

3. *Organization of Islamic Cooperation (OIC):* “Islamic banking is a financial institution that explicitly declares its commitment to the principles of

[3]https://www.investopedia.com/terms/i/islamicbanking.asp
[4]Syeda Fahmida Habib. *Fundamentals of Islamic Finance and Banking*, John Wiley & Sons Ltd., 2018, page 73
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Islamic Shari'a and the prohibition of charging and paying interest on any of its transactions in its charter, rules and procedures. The main feature of Islamic banking is profit-loss sharing (PLS), which means that the bank's role is not to lend money to customers, but to participate as a financier in business with customers in various financial positions.[5]

4. "Islamic banks are defined as a) that adhere to Sharia principles in all their activities through their role as financial intermediaries between depositors and investors; b) provides all commercial banking services within the framework of legal contracts; c) can be defined as a financial institution that achieves a balance between economic and social income".[6]

5. "Islamic bank is a financial institution that manifests itself in the spirit of Sharia prescribed in the Holy Qur'an and Sunnah in terms of its goals, principles, practices and activities".[7]

In our opinion, after studying the above definitions comprehensively, we can define Islamic banking as follows:

Islamic banking is a Shariah-based system of financial intermediation, in which all banking transactions and transactions use a profit and loss sharing (PLS) mechanism, instead of interest, which is essential to ensure fairness and equity in society. In this case, the bank is not considered as a creditor, but as a business partner.

The main principles followed by Islamic banks are:

Prohibition of advance payments. Any payment in excess of the principal amount, whether predetermined or guaranteed, regardless of the outcome of the investment, is considered ribo and is prohibited.

Allocation of profits and losses. The parties to the project must fairly share the risks and rewards associated with business financing. In the case of profit, it is divided between the two parties in pre-agreed proportions, and in case of loss, all financial losses are covered by the Islamic bank, and the manager does not receive any income (salary or salary) for his actions. Considering that the Islamic bank can benefit only if the project is successful and profitable, the bank should pay more attention to the credibility and stability of the project, as well as the skill and competence of the management.

Prohibition of making money from money. Since money in Islam is viewed only as a medium of exchange with no intrinsic value, earning more money using fixed interest payments is not allowed. Furthermore, in Islam, money is

[5]Ibrahim Fares, *Islamic Banking Industry: Concept, Transactions and Supervision, 2015.*
[6]Ahmad Alharbi . *Development of Islamic Banking System*, Journal of Islamic Banking and Finance, June 2015, Vol.3, No. 1, pp. 12-25.
[7]Audil Khaki and Mohiuddin Sangmi .*Islamic Banking: Concept and Methodology,* SSRN Electronic Journal, January 2011.

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considered potential capital and becomes capital only when invested in a business.

Prohibition of speculative actions. Transactions that are characterized by excessive uncertainty, risk, speculation or Ghorar are prohibited in Islam and any transaction must be free of these elements. The parties must have perfect knowledge of the results of their transactions.

Only Shariah compliant contractsis acceptable. Islamic banks must only accept Sharia-compliant projects for financing;

Contracts are sacred. In Islam, contractual obligations and disclosure of information is a sacred duty. "This characteristic of Islam supports the [8]reduction of asymmetric information and moral hazard, which are potentially serious problems for Islamic banks. "

The main objective of introducing Islamic banking worldwide is to promote, accelerate and develop the application of Shariah principles in the business sector. "The main tasks of Islamic banks are as follows:

- Providing financial products and services approved by the Sharia Council;
- Entering into transactions that are in accordance with the principles of Shariah;
- Ensuring proper and efficient allocation of resources and fair distribution of income;
- avoiding evil deeds and engaging only in honest deeds;
- abandoning the use of money as a commodity and making money from money, providing every transaction with real assets;
- valuing human effort more than money alone in business;
- pursue economic development by focusing on the identification of productive opportunities and potential productivity rather than on the borrower's creditworthiness;
- encourage people to invest money rather than leave it idle;
- to act with moral, social and environmental responsibility" [9].

Main discussions

The main source of risk in Islamic banking is information known only to one party in the transaction, which is called asymmetric information. Asymmetric information affects the financing of projects by Islamic banks, because the borrower or entrepreneur-manager has more information about the

[8]Baydaulet E.A. Osnov y eticheskikh (islamskikh) finansov: Uchebnoe posobie – Pavlodar, 2014.
[9]Syeda Fahmida Habib. *Fundamentals of Islamic Finance and Banking*, John Wiley & Sons Ltd., 2018, page 48.

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potential returns and risks associated with projects than the bank. The two main risks faced by an Islamic bank due to asymmetric information are:

Adverse selection risk. This risk occurs before the transaction is executed. An Islamic bank may make mistakes in selecting projects because it has less information about the project than the borrowers. Therefore, Islamic banks should be very careful in selecting borrowers, focusing more on the profitability of the project and the management skills of the borrower rather than their creditworthiness.

Risk of moral damage. This risk arises after the transaction is executed. A manager may engage in activities that are inappropriate from the bank's point of view, “which may adversely affect the efficiency or profitability of the business because he has complete knowledge of the conduct of the business. As the Islamic bank participates in the profit or loss, high profitability of the business is beneficial for the bank, while low profitability is harmful for the bank [10]. Therefore, Islamic banks need to make more conservative decisions and monitor the business closely to ensure that all transactions are in the best interests of the business. In addition, depositors should also gather information about the safety, reliability, risk and profitability of an Islamic bank.

Financial intermediation in Islamic banks is fundamentally different from conventional banks. Since making money from money is haram in Shariah, the traditional financial intermediation process of lending from deposits and earning interest on them is prohibited. In Islamic financial intermediation, interest is replaced by profit and loss sharing. Table 1 below lists the differences between conventional and Islamic banks.

Table 1

Differences between conventional and Islamic banks[11]

No.	Factors	Traditional banking	Islamic banking
1.	Risk takingacceptanc e	It is based on the transfer of risks to depositors and borrowers or entrepreneurs.	It is based on the distribution of risks between depositors, banks and borrowers or entrepreneurs.
2.	Economic or social orientation	Emphasis is placed on the principles of economic welfare and profit maximization.	It is socially oriented, encourages entrepreneurship, promotes justice and fairness in society, and is based on moral, social and spiritual principles.
3.	Value for money	Money time value (percentas) of money is the price.	Money is not a commodity and has no value.
4.	Defined revenue and profit and loss sharing	Depositors defined interest loans,deposits being an obligation is considered	Investment of accounts depositors of the bank partners is a benefit and they share the damage; this balance sheets too both debt and equityfeatures to e.

[10]Baydaulet E.A. Osnov y eticheskikh (islamskikh) finansov: Uchebnoe posobie – Pavlodar, 2014.
[11]Syeda Fahmida Habib. *Fundamentals of Islamic Finance and Banking.*John Wiley & Sons Ltd., 2018, page 49.

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5.	Deposit guarantee	All deposits are guaranteed.	Only deposits made to current accounts are guaranteed.
6.	Income	A bank's primary income consists of fixed interest earned on debt financing that it provides, separated from the real economy.	Financing is related to the real sector and income from financial transactions originates from the real economy.
7.	Dependence on the asset	Transactions can be purely financial, in which connection with real assets is not mandatory.	All financial transactions should be asset-based or asset-backed by the exchange of goods and services, which would make the system more stable.
8.	Bank-client relations	It consists of the relationship between the creditor and the debtor.	Agreement type looking, partners, principle and agent, investor and manager, buyer and seller, lessor and lessee to be can
9.	(non- payment)	Non-repayment of the loan is penalized by calculating compound interest.	No fines will be charged, except for the cost of refunds, and any additional fines, if any, must be donated to charity.
1 0.	Restrictions	There are no restrictions on the investment of funds and the projects to be financed.	Only Shariah-compliant investments and projects can be financed.

In Islamic financial intermediation based on profit and loss sharing (PLS) (Figure 1), Islamic banks use a two-stage *Muzoraba*concept instead of the traditional debit-credit system.

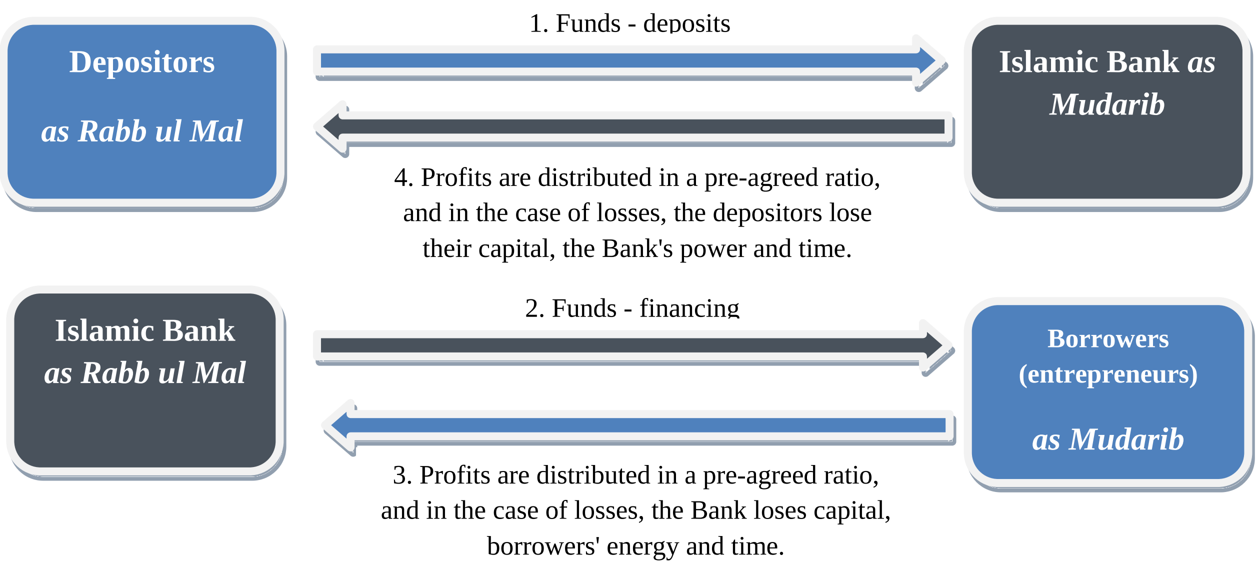

Figure 1. Islamic financial intermediation[12]

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According to this model of Islamic financial intermediation, the capital is fully provided by one party - *Rabbul Mol,* and the business enterprise is managed by another party - *Mudarib.* In the first step, the Islamic bank enters into a *Muzorabah* contract with the depositors, in which the depositors participate as *Rabbul Mol and the* bank participates as *Mudarib.* "In the second stage, the Islamic bank concludes the second *Muzorabah* contract with the users of the funds (borrowers or entrepreneurs), in which the bank participates as *Rabbul Mol,* and the users of the funds act as [13]*Mudarib.* "*At* each stage of the negotiation, in the event of a profit, the profit from the business is shared in a pre-agreed ratio, and in the event of a loss, the financial loss is covered only from the account of *Rabbul Mol, and the Mudarib* can only lose his time and energy in this business venture. In calculating the profit, net profit is obtained by first deducting the operating expenses related to the management of funds from the bank's income. Then, the Mudarib's or the bank's share of the profit is deducted from the net profit and the remaining amount is distributed proportionately among the depositors according to the predetermined profit ratio. This process is done using sophisticated banking software.

Islamic banks provide financing in two ways:

1) Asset-backed financing. In this case, all transactions are based on existing assets. These may include sales, trade, lease, investment or fee-based contracts.

2) Funding based on equity participation. In this case, the Islamic bank becomes a partner under the contract and shares the income and risk with the entrepreneur. This can be done as a Tender Agreement, where one party provides all the capital and the other commits energy and skill to the project. It can also be made as a Mushoraka contract, where "all parties contribute to the capital of the business enterprise and all or some of them participate in the management of the business with their own strength and skill" [14]. In both contracts, profits are shared in a pre-agreed proportion and losses are shared according to the capital contribution. "Islamic banking focuses on the borrower's reliability and ability rather than on the borrower's creditworthiness or financial wealth and the collateral provided [15]. " Islamic banks have to be careful in selecting projects for financing and they have to monitor and control

[12]Syeda Fahmida Habib. *Fundamentals of Islamic Finance and Banking.*JohnWiley &SonsLtd. , 2018, page 57.
[13]Baydaulet E.A. Osnov y eticheskikh (islamskikh) finansov: Uchebnoe posobie – Pavlodar, 2014.
[14]Baydaulet E.A. Osnov y eticheskikh (islamskikh) finansov: Uchebnoe posobie – Pavlodar, 2014.
[15]That source.

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more closely since they are not charged a fixed interest but instead have a share in the profits and losses of these projects.

The concept of negotiation applies to both demand deposits and time deposits. Demand deposits are available on demand and interest is calculated on a regular basis, often quarterly, based on the balance held in the account. In Islamic banks, term deposits, called investment accounts, require a deposit commitment for fixed periods. If the deposit is withdrawn before the term, the principal is returned, but no profit or only a part of the profit is paid. There are two types of investment accounts: a general investment account, in which the depositor gives the bank full responsibility for investing his funds as the bank sees fit and agrees to a standard ratio of profit sharing; a special investment account in which the client sets certain conditions as to where his deposit can be invested and accepts an agreed profit sharing ratio. The amount deposited in the investment account is not guaranteed by the bank, and in theory, in the event of a loss, depositors can lose their savings. Customer deposits in Islamic banks are not risk-free and therefore have equity-like characteristics.

The concept, *Rabbul Mol* has no capital guarantee and in the event of a loss, depositors may lose their capital. "Although Islamic banks cannot directly provide any guarantee to investment account holders like *Rabbul Mol, in practice guarantees for investment accounts are usually* provided indirectly by the government through the central bank or through the deposit insurance scheme[16](*Takoful scheme)".*

The main feature and advantage of this Islamic financial intermediation model described above is that it replaces interest with profit sharing on both sides of the bank's balance sheet, which positively affects the efficiency, fairness and stability of the banking system. Moreover, it does not require any special provisioning on either side of the bank balance sheet.

Three typical approaches to the introduction of Islamic finance can be distinguished in the OIC group of countries.

1. Full Islamization" of banking and finance. In doing so, the entire banking and financial system will be Sharia-compliant (like Iran and Sudan).

This process took place practically simultaneously in Iran, and in Sudan, through a multi-stage evolution that took almost 15 years. Here, in the first case, this reform is, more precisely, a revolution imposed by the authorities, and in the second case, it is an initiative from below, which was later accepted by the government. Both countries have introduced new core banking legislation, although most of the previous regulations unrelated to the specifics of Islamic finance remain in place. Among them, the Law "On Interest-Free Banking" was

[16]SyedaFahmidaHabib _*Fundamentals of Islamic Finance and Banking.*JohnWiley &SonsLtd. , 2018, p56 .

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adopted in Iran in 1983, and the Law "On Organization of Banking Activities" was adopted in Sudan in 1991 (amended in 2004).

2. Dual banking system. In countries where such systems are in place, fully Islamic banks and conventional banks offering Islamic financial products and services operate side by side. Two main laws on banking activities, as well as two sets of regulations of the banking regulatory body, one for traditional banking and one for Islamic banking, apply. Also, a special chapter in the main law on banking activities can be considered as an option (for example, as in Kazakhstan). This model is used in many countries where Islamic finance is developing, including Bahrain, Indonesia, Malaysia, UAE, Pakistan, Turkey, Kazakhstan and others.

Another type of this approach is the case where the Islamic segment of the market is not common to all entities, but exists based on a legal document adopted specifically for one participant. For example, until 2003, the only Islamic financial institution - "Kuwait Finance House" - operated without a license from the central bank.

Some countries, such as Kuwait and Lebanon, do not allow conventional banks to offer Islamic products.

3. Unified regulatory system. Conventional banks and other Islamic financial institutions operate in parallel in a single regulatory environment. For example, Islamic banking and finance is developing in this way in countries such as Azerbaijan, Egypt, Saudi Arabia and Senegal.

In most non-Muslim countries, only a "parallel format" is used to institutionalize Islamic financing methods, with or without "fine-tuning" of the tax system (e.g., England) while maintaining a uniform regulatory system. Here, Islamic banks may be allowed to operate under certain conditions, but they will not have specific rules set by the central bank.

"Islamic financial products and services offered by Islamic and conventional banks must be Shariah-compliant and regulated by the Shariah Supervisory Board or other similar body, and Shariah-compliant approval must be obtained from them[17]. "The size, advanced banking experience and specialized knowledge of conventional banks come in handy when they engage in Islamic banking.

Conventional banks offer Islamic financial services in the following organizational structures:

- *Windows.* Islamic products are often offered through separate outlets with separate operations and accounting as part of an existing distribution channel;

[17]Baydaulet E.A. Osnov y eticheskikh (islamskikh) finansov: Uchebnoe posobie – Pavlodar, 2014.

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- *Branches.* Islamic banking activities are carried out through specialized branches;

- *Subsidiaries.* Islamic banking services are provided through a specially established legal entity. A subsidiary will have independent management policies and strategies and may have its own specialized distribution channel or use the parent company's channel.

Today, Citigroup, HSBC, Barclays, UBS, BNP Paribasetc. major international banks are deviating from traditional practices to establish Islamic branches or wholly Islamic subsidiaries.

Advantages of Islamic windows for conventional commercial banks include:

- The resource base of banks will be strengthened due to the attraction of Sharia-compliant financial funds from internal and external sources;

- Assets of banks and the level of risk concentration is reduced by diversifying the composition of obligations ;

- "Income from the activities of Islamic branches contributes to the increase of the total income of banks;

- Muslims who cannot use the products and services of traditional banks due to their beliefs are expected to use the financial products and services of Islamic windows, as a result of which the total number of customers of the banks will increase significantly [18].

Conclusion

The advantages of Islamic windows for the development of the country's economy are as follows:

- free funds available to the population and economic entities will be attracted to the economy and additional conditions will be created for the further development of the country's financial and capital markets;

- contributes to the increase of the production and export potential of private sector enterprises in the country and the creation of many new jobs due to the financing of business projects;

- the financial awareness and economic activity of the population will increase, and the level of poverty in the country will decrease significantly;

- due to increased competition between banks, the types and quality of banking services will increase;

- Offering Islamic banking services will increase the inclusiveness of banking services to customers, as a result of which their needs for banking services and financial resources will be more fully met.

[18] Baydaulet E.A. Osnov y eticheskikh (islamskikh) finansov: Uchebnoe posobie – Pavlodar, 2014.

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