

4- CONTROLS FOR FINANCE CONCENTRATION

- A) Maximum limit for anyone single customer's liabilities towards an Islamic bank.
- B) Circular No. (2/BS/173/2005) concerning the guidelines applied by the Central Bank in considering banks applications for exempting any customer from the maximum limit established for finance concentration.

**Instructions No.(2/IBS/147/2003) Concerning
the Maximum Limit for Anyone Single
Customer's Liabilities Towards an Islamic Bank**

Based on the rules of Article (98) of Law No. 32 of the year 1968 Concerning Currency, The Central Bank of Kuwait and The Organization of Banking Business, the Central Bank of Kuwait Board of Directors decided at its meeting of 3.11.2003 to issue the following regulations concerning the maximum limit for anyone single customer's liabilities to a bank, and which Islamic banks have to comply with.

These regulations aim at distributing finance risks in their broad concept on a wide customers base, so as to mitigate the risks that Islamic banks may encounter as a result of investment and finance concentration with a limited number of customers

These regulations rely on determining a ratio for anyone customer's total financing liabilities of all forms to the capital base of the bank. The capital base means the capital of the bank in its comprehensive concept as explained in the instructions issued in regard to capital adequacy ratio for Islamic banks.

First: Definition of total Finance Liabilities :

Total Finance liabilities, on which basis finance concentration ratio is calculated, mean all customer's liabilities towards a bank including the bank's head office, local and foreign branches and subsidiaries of a similar activity.

These liabilities include:

A- Investment and Finance Transactions :

1) Cash investment and finance transactions :

These mean the transactions through which the bank extends funds for the execution of such transactions, either directly to the customer (such as Musharaka and Mudaraba, which are some forms of investment with customers), or in the form of assets (such as Murabaha or Ijara (lease financing)). They comprise the following:

a) Utilized cash limits

These represent the balances of investment transactions with and finance extended to the customer according to the Islamic finance formulas, in the manner set out in the financial position statement designed by the Central Bank (Musharaka – Mudaraba-Murabaha – Musawama – Ijara – Istisna'a – Other), whether these transactions are secured or unsecured.

b) Unutilized cash limits:

Unutilized limits of granted cash finance.

2) Non-cash finance liabilities:

These are the transactions which create contingent liabilities on the part of bank, including :

- Documentary Letters of credit
- Letters of guarantee.
- Bank acceptances.
- Other liabilities of a similar nature.

B- Financial Investment Instruments :

Finance Sukuk and other financial investment instruments issued by the customer and reported within the bank's assets.

Second: Definition of anyone customer:

For the purpose of calculating finance concentration ratio, debtors who are economically or legally interrelated shall be considered as one customer, whether such interrelation is by way of common ownership or common director. Such debtor parties include :

1. Customer in his personal capacity, and as the natural guardian of his minor children.
2. Joint accounts in which the customer is a party,
3. Sole proprietorships of the customer.
4. Joint companies in which the customer is a joint partner .
5. Simple partnerships in commendam, in which the customer is a joint partner.

4- CONTROLS FOR FINANCE CONCENTRATION

A) Maximum limit for anyone single customer's liabilities towards an Islamic bank.

6. Financial companies (Shareholding companies, companies with limited liabilities, companies limited by shares, etc....), in which the customer owns more than 50% of the capital, or has control thereof. Control means the power to control the financial and operating policies of the company invested in, for the purpose of making benefits out of its activities.
7. Customers of any legal constitution, personally guaranteed by the customer toward the bank.
8. Any other parties indebted to the bank and having economic or legal relationships with the customer, in the sense that if any of them faces financial difficulties, the customer's ability to repay its debts to the bank or shall be affected.

Third: Maximum Limit for Anyone Single Customer's Liabilities:

Anyone single customer's total liabilities to a bank, whether in the form of investment and finance deals, or financial investment instruments issued by the customer, may not exceed 15% of such bank's capital base.

The collaterals excluded from such liabilities are confined to the following :

- Cash deposits and securities.
- Sukuk and financial instruments issued by the Kuwaiti Government maturing during a period not exceeding one year.

The excluded collaterals must meet the following conditions :

1. The cash deposits, sukuk and financial instruments should be pledged in favour of the bank.
2. The bank must reserve all its legal rights enabling it, under any circumstances whatsoever, to make a setoff between financing obligations and the deposits accounts, and the Sukuk and financial instruments pledged against them.
3. Deposits accounts, Sukuk and financial instruments pledged against the finance liabilities, must be kept with the bank providing the investment or the finance.

4. CONTROLS FOR FINANCE CONCENTRATION

A) Maximum limit for anyone single customer's liabilities towards an Islamic bank.

4. Risks arising from exchange rates fluctuations should be taken into consideration, in the event the deposits accounts currency is not the same as currency of the granted finance liability. Deposits accounts in foreign currencies are to be confined to the main convertible currencies . Only 80% of the Fixed Deposit's value shall be excluded from the finance liabilities when calculating the maximum limit for anyone single customer's liabilities towards an Islamic bank. Such deposits must be revaluated on a weekly basis.

Government and semi-Government agencies, departments and institutions operating on a non-commercial or non-profit basis in GCC countries, shall be exempted from these limits.

Fourth: Related Parties:

Parties shall be considered related if one of them has the power to control the other party or to exercise significant influence thereon when making financial and operating decisions.

Within the scope of these instructions, the following parties are considered related:

- a) Board members of a bank.
- b) Major owners and shareholders in a bank .i.e. those who individually own 5% or more of the capital.
- c) Holders of key managerial positions in a bank, namely, the Chief Executive Officer, his deputies and assistants, executive officers and other staff members whose positions influence the finance extension decisions.
- d) Subsidiaries in which the bank owns more than 50% of the capital, or has control thereof.
- e) Sister companies, which are meant to be those companies in which the bank holds 20% or more of the capital, and exercises a significant influence thereon. Significant influence is meant to be the power enabling participation in making the decisions related to the financial or operating policies of the company invested in, but does not represent a control over those policies.
- f) External auditors of the bank .

4- CONTROLS FOR FINANCE CONCENTRATION

A) Maximum limit for anyone single customer's liabilities towards an Islamic bank.

The following rules apply to the maximum limit for anyone single customer's liabilities towards an Islamic Bank in respect of related parties:

1. Maximum limit for financing liabilities, whether in the form of investment and finance transactions or financial investment instruments, for related parties referred to under (a,b, and c above), shall not jointly exceed 50% of the capital base of the bank, without prejudice to the maximum lending limit for anyone single customer. The maximum limit for financing liabilities to key officers referred to under item (c) above jointly, shall not exceed 15%, excluding consumer financing transactions accorded in accordance with the bank's bylaws.
2. Deposits with and investment and financing deals to subsidiaries or sister companies, referred to under item (d) and (e) above, shall not exceed for each company apart 20% of the capital base of the bank, or 60% for all such companies jointly. Deposits made and investment with and finance extended by subsidiaries or sister companies to other subsidiaries or sister companies of the same bank, shall be added to the Numerator of the ratio.
3. The Bank may not conduct investment with or extend finance to its external auditors.

Fifth: Total Limits for Large Finance Concentrations

Total large finance concentrations (defined as those which exceed 10% of the capital base), inclusive of the cases which exemption from the maximum limits has been approved by the Central Bank according to Item Sixth – paragraph 3 below, may not exceed four times the capital base.

Sixth: Other Rules :

1. Finance liabilities granted to banks are exempted from these regulations. The bank should be precise and careful in this connection, particularly while determining maximum finance concentration limit for each bank apart.⁽¹⁾
2. The bank shall develop accounting and control systems that ensure strict compliance with maximum finance concentration limit for each customer apart or for related parties, in accordance with the regulations of these instructions.

(1) Article (Sixth /1) was amended by the resolution of the Central Bank of Kuwait Board of Directors at its meeting of 11/1/2004.

4. CONTROLS FOR FINANCE CONCENTRATION

A) Maximum limit for anyone single customer's liabilities towards an Islamic bank.

3. The Central Bank Board of Directors may, whenever deemed necessary, exempt⁽²⁾ any customer from the established maximum limit upon the respective bank's request prior to conducting the investment or extending the finance. Such a request should be accompanied by a feasibility study of the subject investment or finance and the reasons justifying the request for exemption. Such cases, however, should be strictly limited to the narrowest limits and to instances of absolute need. It is understood that the bank bears all risks associated with the investment made with or the finance extended to customers, including those exempted by Central Bank of Kuwait prior approval from maximum finance concentration limit.

Seventh: Periodic Data

The bank must provide the Central Bank with quarterly data using the attached forms, including the following :

- 1- Statement of finance liabilities representing 5% or more of the capital base.
- 2- Statement of finance liabilities of interrelated parties.
- 3- Statement of total finance liabilities including financial investment instruments issued by the customer and his interrelated parties and which represent 5% or more of the capital base.

Eighth: These instructions shall be in effect from the date of notification.

April 1995.

(2) Amending circular issued on 17/11/2008, categorized Item (L) in section(9) of this guide, and implementation of the investment companies remedial program, banks should follow the procedures prescribed under the instructions which stipulated that it is essential to obtain the prior approval of Central Bank of Kuwait of the excess cases, as these will be considered on a case-by-case basis.

**Central Bank of Kuwait
Supervision Sector
Off-Site Supervision Dept.
Credit Section**

1) Capital Base: _____
2) Finance Concentration Ratio : _____ %

**Statement of Existing Finance Liabilities representing 5%
or more of the Capital Base according to the position as on / /
Form No. AM. (18)**

Name of the Bank (Islamic Banks)										KD .000's						
No.	Secret No. of The Debtor & Related parties	(1) Cash Finance Liabilities**			(2) Non-Cash Finance Liabilities					(3) Total Existing Liabilities (1+2)	(4) Collaterals submitted against Finance Liabilities			(5) Net Liabilities of the customer toward subsidiaries ***	(6) Total Liabilities of the customer (3-4) +5 ****	(7) Remarks
		utilized	Unutilized	Total	L/Cs	L/Gs	Acceptances	others	total		Cash deposits and securities	Kuwaiti Government Sukuk & Financial instruments with up to one year maturity	Total			
	I: Debtor (A)															
	II: Related parties (B)															
1																
2																
3																
4																
5																
6																
7																
8																
9																
10																
	Total (B)															
	Grand Total (A+B)															

* This statement is prepared quarterly.
 ** Including financial investment instruments issued by the customer according to the concept explained in these transactions.
 *** Net Liabilities of the customer toward subsidiaries, are computed in the same manner in which the customer's net liabilities toward the bank is computed.
 **** Total Finance Facilities extended to one single customer should not exceed 15% of the capital & total large concentrations (which exceed 10% of the capital) should not exceed four times the capital base.

Signature :

**Central Bank of Kuwait
Supervision Sector
Off-Site Supervision Dept.
Credit Section**

**1) Capital Base: _____
2) Total Concentrations of the related parties: _____
3) Concentration Ratio (2:1) : _____ %**

**Statement of the Finance Liabilities of the Related Parties, *
according to the position as on / /
Form No. A.M. (19)**

Name of the Bank (Islamic Banks)

KD .000's

Secret No.	Debtor's Capacity **	(1) Cash Finance Liabilities			(2) Non-Cash Finance Liabilities					(3) Total Existing Liabilities (1+2)	(4) Collaterals ****	(5) Net Finance Liabilities Toward subsidiaries *****	(6) Customer's total Liabilities (3-4) + 5
		Utilized ***	Unutilized	Total	L/Cs	L/Gs	Acceptances	Others	Total				
I : Debtor (A)													
II : Related Parties(B)													
Total (B)													
Grand Total (A+B)													

* Quarterly Statement: Please refer to Item Fourth of these instructions in respect of definition of the related parties and the maximum finance concentration limits which the said parties may obtain jointly or severally .
 ** This shows whether the debtor is a board member, a major shareholder or a key officer of the bank, or a subsidiary or sister company.
 *** Includes the investment in financial Investment instruments issued by the customer according to the concept explained in these instructions. In the event the debtor is a subsidiary or a sister company, the amounts deposited therewith by the bank , should be added.
 **** Collaterals that may be excluded according to the instructions.
 ***** Net liabilities of the customer toward the subsidiaries, should be computed in the same manner in which the customer's liabilities toward the bank are computed.

Signature :

**Central Bank of Kuwait
 Supervision Sector
 Off-Site Supervision Dept.
 Offsite Surveillance Section**

**Statement of Total Financing Liabilities, Including
 the Financial Investment Instruments Issued by the Customer,
 Which Are 5% or More of the Capital Base***

Capital Base: KD thousands

Name of the Bank (Islamic Banks)				KD .000's	
No	Name of the customer and Related Parties	Total Financing Liabilities ** (1)	Book Value of Financial Investment Instruments (2)	Total (3) (2+1)	Concentration Ratio (3 ÷ Capital Base)
	First: Customer (A)				
	Second: Related Parties(B)				
	Total (B)				
	Total (A+B)				_____ %

* Quarterly Statement.
 ** Equivalence to the total of column (6) in the Form No. (18).

GOVERNOR

*Thul-Qei'da 30., 1425 H.
January 11, 2005*

THE CHAIRMAN,

**Circular to All Local Banks
No. (2/BS/173/2005)**

Please note that within the context of the Central Bank of Kuwait instructions issued on 19/4/1995⁽¹⁾ regarding the maximum limit for credit concentration aimed on distributing the credit risks, in their board definition, over a large base of customers, and Article (Eighth/Item 4)⁽²⁾ of these instructions allowing the exemption⁽³⁾ of any customer from the maximum limit set for credit concentrations, pursuant to a request to be submitted from the concerned bank before granting the credit, along with a detailed study displaying the feasibility of the request and reasons underlying such exemption taking in consideration that these cases shall be limited and only in the event of extreme of necessity.

Please note that the Central bank of Kuwait will take in consideration, in studying banks requests fro exemption of any customer from the maximum limit set for credit concentrations, Central Bank of Kuwait following set of guidelines:

- 1) The Bank compliance will regulatory instruction.
- 2) Central Bank of Kuwait remarks concerning the Bank's performance, e.g. capital adequacy, liquidity position, etc.
- 3) The regularity of the credit position of the customer for which exemption is requested, whether to the requesting Bank or to the other banking for system units.

(1) Instructions Islamic Banks No. (2/IBS/147/2003) issued on 3/11/2003 concerning the maximum limit for one single customer's liabilities towards an Islamic Bank.

(2) Article (Sixth/3) in the instruction issued to the Islamic Banks.

(3) Amending circular issued on 17/11/2008, categorized Item (L) in section(9) of this guide, and implementation of the investment companies remedial program, banks should follow the procedures prescribed under the instructions which stipulated that it is essential to obtain the prior approval of Central Bank of Kuwait of the excess cases, as these will be considered on a case-by-case basis.

4- CONTROLS FOR FINANCE CONCENTRATION

- B) Circular No. (2/BS/173/2005) concerning the guidelines applied by the Central Bank in considering banks applications for exempting any customer from the maximum limit established for finance concentration.

- 4) Whether the credit to be extended is intended to finance a projects of national or strategic importance, such as industrial projects, power generation and water supply plants, and infrastructure projects.
- 5) Whether the credit to be extended is intended to finance a housing or public service projects according to the following priorities:
 - a- Real-Estate housing projects, in line with the country's directions regarding the housing facilitation..
 - b- Health projects
 - c- Public entertainment projects.
- 6) Any other considerations other than detailed above which may arise on where studying requests for exemption.

If granting the customer the requested facility would results a significant percentage concentration of the bank's capital in it's broad definition, the concerned Bank shall market that facility to other banks.

With my best wishes,

SALEM ABDUL AZIZ AL SABAHI

4- CONTROLS FOR FINANCE CONCENTRATION

- B) Circular No. (2/BS/173/2005) concerning the guidelines applied by the Central Bank in considering banks applications for exempting any customer from the maximum limit established for finance concentration.