

## **13- SHAREEA'A SUPERVISORY BOARD**

**A) The Rules and Conditions for the Appointment and Responsibilities of the Shareea'a Supervisory Board in Islamic Banks.**

**Instructions No. (2/IBS/100/2003)  
Concerning the Rules and Conditions for the Appointment and  
Responsibilities of the Shareea'a Supervisory Board in Islamic Banks**

Based on the rules of articles (93 and 97) of Law No. 32 of the year 1968 and its amendments, and given the prime importance of the supervisory role of shareea'a supervisory Board in Islamic Banks, particularly in relation to preserving the reputation of those banks and the confidence of their customers, as well as with regard to compliance of Islamic banks with their articles of association through observing the rules and principles of Islamic shareea'a in their business and operations, the Central Bank Board of Directors resolved, at its meeting of 15/6/2003, to set-up the following rules and conditions that regulate the appointment and responsibilities of the Shareea'a Supervisory Boards in Islamic banks. These rules and conditions are intended to ensure the efficiency required for the members of the Shareea'a Supervisory Board in order to discharge their functions in the appropriate manner. The instructions establish the framework for performing those duties, while providing independence for the members of the Shareea'a Supervisory Board in expressing their opinions, and defining the role of the external auditor in relation to the bank's compliance with the rules and principles of the Islamic shareea'a.

**First:** The board of directors of each bank shall nominate the members of the Shareea'a Supervisory Board for the approval of their appointment by the bank shareholders general meeting. Those members should be Islamic shareea'a scholars of recognized efficiency and experience, especially in the area of transactions jurisprudence.

**Second<sup>(\*)</sup>:** The number of the Shareea'a Supervisory Board members should not be less than three. This board may not have among its members any of the members of the board of directors or the executive management of the bank, nor any shareholder of effective influence, where a shareholder of effective influence shall mean a shareholder who owns 5% or more of the capital of the bank.

For the Shareea'a Supervisory Board meetings to be duly held, all of its members must be present in the meeting, if the number of its members does not exceed three.

(\*) The Second Instruction was modified by the board of directors of the Central Bank of Kuwait on 19/6/2003.

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The Shareea'a Supervisory Board may ask the bank management to establish a secretariat for this board to be provided with the appropriate staff for facilitating the work of this board .

**Third:** The services of the Shareea'a Supervisory Board member shall end with his resignation or by a justified recommendation from the bank board of directors to be approved by the general meeting, or by the resolution of the general meeting

**Fourth:** The Shareea'a Supervisory Board shall be responsible for providing opinion on the bank's compliance with the shareea'a rules in all of its operations. To do so, the Shareea'a Supervisory Board shall inspect all contracts, agreements, policies and transactions of the bank with the other parties. This board has the right to unconditionally review all the records and transactions of the bank to ascertain its compliance with the rules of the Islamic shareea'a. The bank management must provide this board with all data and information requested for performing its functions.

**Fifth:** Taking into account the fact that the responsibility of complying with the Islamic shareea'a rules rests with the management of the bank, the management must present all the contracts, operations and transactions to the Shareea'a Supervisory Board for providing its shar'ee opinion in their regard, and must comply with the implementation of all Fatwa (shar'ee legal opinion), resolutions and guidelines issued by the Shareea'a Supervisory Board in this connection.

**Sixth:** The annual report of the Shareea'a Supervisory Board required under the rule of Article (93) of the said law, must include the following dements:

- The title of the report and the addressee (the shareholders).
- The scope of the Shareea'a Supervisory Board work, which includes: A description of the nature of work performed, including the assurance that this board has performed the appropriate examinations and procedures, and has monitored the work in the proper manner, such as inspecting the documentation and the procedures adopted in the bank through testing each type of transactions. The report show the extent to which the board was provided with all the information and explanations deemed necessary for passing its opinion as to the consistency of the bank's transaction with the rules of Islamic shareea'a.

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- The Shareea'a Supervisory Board's opinion whether the contracts, documents and transactions executed by the bank are compliant with the rules and principles of the Islamic shareea'a. In the event this board finds that the management of the bank has breached the rules and principles of the Islamic shareea'a, or the Fatwa, resolutions and directives passed by this board, it must be so stated in its report.

**Seventh:** Within the framework of verifying the compliance of the bank management with its responsibilities in relation to implementing the rules and principles of the Islamic shareea'a, the task of the external auditor must include the necessary examinations to ascertain the following:

- All the procedures followed by the bank in launching its new financial products or in modifying its existing products, include the proper steps for ensuring complete compliance with the rules and principles of the Islamic shareea'a, including the review of such procedures by the bank management and the Shareea'a Supervisory Board.
- All the products of the bank have been examined by the Shareea'a Supervisory Board who has confirmed that these products are compliant with the rules and principles of the Islamic shareea'a.

In its report, the external auditor must indicate the extent of the bank management's compliance with the Fatwa (shar'ee legal opinion), resolutions and directives of the Shareea'a Supervisory Board in the transactions executed.

**Eighth:** The Islamic bank shall publish the Fatawa (Shar'ee legal opinion) and resolutions passed by the Shareea'a Supervisory Board through printing booklets or bulletins including those Fatawa and resolutions and making them available to those who desire to read.

**Ninth:** These instructions shall be implemented from the date of notification.