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# The Effectiveness of the Structural and Functional Organization of Islamic Banking Windows in Algeria: A Critical Examination of Sharia Compliance, Operational Integration, and Financial Performance

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**Keywords** Islamic banking windows; Algeria; Sharia compliance; structural organization; functional organization; governance frameworks; financial

**Abstract**
This article critically investigates the effectiveness of the structural and functional organization of Islamic banking windows in Algeria as an alternative financing mechanism within conventional banks. Structurally, Islamic banking windows require the alignment of departments, governance frameworks, and regulatory bodies to ensure adherence to Sharia principles while simultaneously meeting administrative and prudential banking requirements. Functionally, these windows depend on the diversification of products and services—particularly mudaraba, musharaka, murabaha, and ijara—to enhance their competitiveness against conventional offerings and to sustain financial inclusion.

Drawing upon both doctrinal legal analysis and an institutional assessment of Algeria's regulatory framework, the study reveals that while Islamic banking windows have created opportunities for expanding Sharia-compliant financial services, their effectiveness remains constrained by weak coordination between supervisory institutions, insufficient human capital training in Islamic finance, and limited innovation in product diversification.

The findings highlight that Islamic banking windows in Algeria can only achieve sustainable performance through the establishment of robust Sharia supervisory boards, the development of specialized risk management structures, and the adoption of technological solutions tailored for Islamic finance. Ultimately, the study underscores that Islamic banking windows should be seen not as parallel systems but as integrated models capable of contributing to both national financial stability and the fulfillment of societal demand for ethical finance.

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**Introduction:**

Over the past few centuries, the world has witnessed the widespread establishment of interest-based traditional banks, particularly in the context of colonial expansion, which contributed to the decline of the influence of Islamic states and marginalised their legitimate financial systems. As religious and economic awareness has grown, Islamic countries have sought to revive banking transactions that comply with Sharia law by establishing Islamic banks that provide a legitimate alternative to traditional banks[1].

On 20 May 1991, Algeria embarked on its journey with Islamic banking by establishing Baraka Bank in collaboration with the international holding company “Dallah Al-Baraka” and the Agricultural and Rural Development Bank, in accordance with the Currency and Credit Law No. 90-10. Subsequently, Al-Baraka Bank was established in accordance with Order 03-11 relating to currency and credit[2], commencing operations in 2008. These two banks formed the foundation for Islamic banking in Algeria[3].

Against the backdrop of the global financial crisis that emerged at the beginning of 2008, stemming from the inability of US borrowers to repay their mortgage debts, the American economy experienced a widespread collapse that had a negative impact on the global financial system. Despite the injection of hundreds of billions of dollars to contain the crisis, its effects spread to global financial markets, including the Algerian economy.

Within this framework, reports from international financial institutions such as the International Monetary Fund and the World Bank revealed that Islamic financing institutions were the least affected by the crisis, demonstrating greater stability. This resilience is attributed to the distinct nature of Islamic banking activities, which do not rely on financial speculation or the dubious debt instruments that caused the crisis. Consequently, many traditional banks have shifted towards Islamic banking, either by establishing independent Islamic banks or by opening Islamic windows within their existing structures.

This step was part of a series of reforms initiated by the Algerian government to revitalise Islamic banking as an alternative to traditional transactions, providing financial services that enhance depositors’ confidence in the safety of their funds. The first legal framework for Islamic banking was established in 2018 with the issuance of System 18-02[4], which defined the general rules for practising participatory banking activities by banks and financial institutions under what was then referred to as ‘Participatory Financial Windows’. This system stipulated the conditions for prior licensing from the Bank of Algeria and defined the specific rules for interest-free participatory products. However, this system did not achieve the desired objectives as it merely mentioned financial products without defining them accurately[5]. It also permitted traditional banks to open participatory windows on the condition that they maintained financial independence, but it failed to regulate the relationship between these windows and the Bank of Algeria or other components of the banking system.

[1]- Aziz al-Din chiroun,Lectures on Islamic Banking, 1st ed., Alfa for Documents, Amman, Jordan, 2023, p. 16.
[2]- Order 03-11, dated August 26, 2003, concerning the Law of Currency and Credit, Official Gazette, No. 52, published on August 27, 2003.
[3]- Dahhak Abd al-Nour, "The Issue of Establishing Islamic Banking Windows in Algerian Banks: Between Banking Status and Shari'ah Standards,"Journal of North African Economies, Vol. 18, No. 28, Mouloud Mammeri University, Tizi Ouzou, Algeria, 2022, p. 201.
[4]- Regulation No. 18-02, dated November 4, 2018, concerning the rules for conducting banking operations related to participatory banking by banks and financial institutions, Official Gazette, No. 73, published on December 9, 2018.
[5]- Achraf Douaba, "Assessment of Islamic Banking Windows – A Case Study of Algeria," Journal of North African Economies, Vol. 19, No. 31, Istanbul Sabahattin Zaim University, Turkey, 2023, p. 192.

In 2020, System 18-02 was abolished and replaced by System 20-02[6], which now governs Islamic banking in Algeria. This new system was more comprehensive, explicitly outlining Islamic banking operations, the conditions for their practice and the applicable rules.

Then, on 21 June 2023 (corresponding to 3 Dhul-Hijjah 1441 AH), the new Currency and Banking Law was issued[7]. This law addresses the subject of Islamic banking windows in Articles 71, 72 and 73, thereby reinforcing the legal framework for this type of banking transaction.

It is interesting to note that Islamic jurisprudence refers to Islamic banking windows by various names, including 'Islamic Windows', 'Islamic Financing Windows', and 'Islamic Branches'. However, System 20-02 adopted the term 'Islamic Banking Window' instead of 'Participatory Financial Window', due to its clarity and more precise connotation regarding the nature and content of the activity it represents.

This study is of significant scientific and practical importance, as it involves understanding and analysing the legal and regulatory framework governing these windows' activities, and efforts to accurately comprehend its contents. In practice, the importance of this subject is highlighted by the success of Islamic banking, where investment mechanisms in Islamic banks are based on the principle of profit and loss sharing. This is achieved through various banking contracts, including: Mudaraba, Murabaha and Musharaka

Accordingly, the objectives of this study include:

- Clarifying and explaining the structural organisation of Islamic banking windows.

- Demonstrate their role in attracting external capital away from traditional banks.

- Analysis of System 20-02, which defines the rules for the practice of Islamic banking operations by banks and financial institutions.

- Identifying the types of Islamic banking products based on this system, as well as the bodies responsible for organising, supervising and managing Islamic banking windows.

Based on the above, practising Islamic banking within traditional banks through designated windows necessitates establishing a structural and functional organisation that aligns with Islamic Sharia principles, while ensuring consistency with the overall banking system. This organisation is fundamental to ensuring transparency and efficiency in providing banking products and services that comply with Islamic jurisprudence.

Consequently, the following problem can be posed: To what extent is the legal framework governing Islamic banking windows effective in attracting investment and achieving national economic development?

Therefore, in order to address this issue and achieve the objectives, it is essential to employ scientific research methods to simplify and analyse the structural and functional organisation of Islamic banking windows. Descriptive and analytical methodologies will be used to examine the position of the Algerian legislator and the effectiveness of these windows by delving into the provisions of the law. This research goal can only be achieved through a descriptive analysis of legislative texts, interpreting and understanding their content and application methods, and clarifying the legislator's efforts to reform the legal framework for Islamic banking.

To adequately address the subject of the study, it is necessary to follow a plan that aligns with the topic. This plan includes the following:

Chapter One: The Structural Organisation of Islamic Banking Windows.

Chapter Two: The functional organisation of Islamic banking windows.

Chapter One: The Structural Organisation of Islamic Banking Windows.

[6]- Regulation No. 20-02, dated March 15, 2020, defining banking operations related to Islamic banking and rules for its practice, Official Gazette, No. 16, published on March 24, 2020.
[7]- Law No. 23-09, dated June 21, 2023, concerning the Monetary and Banking Law, Official Gazette, No. 43, published on June 27, 2023.

The organisational structure of Islamic banking windows reflects the specialisation and precision involved in managing this type of banking activity. It ensures compliance with Sharia guidelines and achieves operational efficiency. This organisation consists of bodies that manage and organise Islamic banking windows, as well as supervisory bodies that ensure services are provided in accordance with Islamic law.

**Section One: Bodies Organising and Managing Islamic Banking Windows**

These bodies include various departments and divisions responsible for overseeing operations, monitoring and Sharia guidance.

**Subsection 1: Operations and Accounting Department in Islamic Banking Windows**

**Item One: The Operations Department in Islamic Banking Windows**

The Operations Department plays a pivotal role in ensuring the efficiency and integrity of daily banking operations in line with Islamic principles and applicable financial regulations. The department enhances the bank's operational performance through several key functions.

**1. Executing and improving daily banking operations**

The department is responsible for executing all daily banking operations in accordance with Sharia provisions, including account opening, money transfers, deposit management and other essential services. The department also continuously seeks to develop and improve operational procedures by simplifying steps, increasing performance efficiency and reducing operational costs. This has a positive impact on customer experience and service quality[8].

**2. Processing and Settling Banking Transactions**

The Operations Department is responsible for processing banking transactions and settling financial dealings between clients and various institutions. The department ensures that these transactions are executed transparently and in accordance with applicable Sharia and financial standards.

**3. Verifying compliance with Sharia provisions**

The department ensures that all banking operations comply with Sharia provisions by reviewing transactions, contracts and relevant financial documents to confirm their compliance before execution[9].

**4. Managing banking risks**

The Operations Department plays a central role in analysing and managing the risks associated with Islamic banking activities. Addressing these risks is essential for ensuring the stability and integrity of banking operations. To this end, the department develops internal standards to enhance banking safety and supports Islamic banking windows in applying the best recognised practices of leading Islamic banks. This aligns with Sharia provisions and enhances the reliability of the services provided[10].

**5. Implementing banking technology**

The department is also responsible for developing and implementing banking technology solutions, such as banking information systems and digital applications. These solutions aim to simplify and speed up banking operations, while enhancing the quality of services offered to clients. This approach is in line with financial sector developments and Sharia requirements.

**6. Training and Developing Employee Skills**

[8]- Bachouch Souad, Zghnoun Sihem, The Experience of Islamic Banking in Algerian Public Banks: A Case Study of the National Bank of Algeria, Tiaret Agency 540, Master's Thesis in Economic Sciences, Faculty of Economic Sciences, Commercial Sciences and Management Sciences, Ibn Khaldun University, Tiaret, Algeria, 2022-2023, p. 54.
[9]- Abdelkader Abdullah, Management of Operations in Islamic Banks, Dar Al-Huda, Algeria, 2019, p. 74.
[10]- Shaqri Nour al-Din Moussa ,Banking Risk Management, 1st ed., Dar Al-Masira for Publishing and Distribution, Amman, Jordan, 2012, p. 318.

The department pays special attention to building employee capacity by providing continuous training and development programmes to ensure they possess the necessary skills and knowledge to perform their tasks efficiently and effectively within a dynamic banking environment.

In summary, the Operations Department is responsible for executing daily banking operations in an organised and Sharia-compliant manner within Islamic banking windows. It plays a crucial role in achieving the institution's strategic objectives and enhancing operational excellence within the framework of Islamic principles.

**Item Two: The Accounting Department in Islamic Banking Windows**

This department plays a pivotal role in ensuring financial transparency and the integrity of accounting reports, as well as efficiently organising and managing storage operations. The department's main tasks include the following:

**1. Organising the accounting function**

The department is responsible for managing and documenting all financial transactions related to Islamic banking windows, including revenues, expenses and executed financial transactions. The department is also responsible for preparing periodic and annual financial reports, ensuring their accuracy, reliability and compliance with international accounting standards and Sharia provisions[11].

**2. Conducting audits and accounting reviews**

To achieve the highest levels of transparency and financial discipline, the department conducts continuous internal audits to ensure financial operations comply with approved policies, procedures and applicable accounting standards. It also coordinates external investigation activities to verify the accuracy of financial data and ensure compliance with Sharia and international regulations[12].

**3. Managing documentation**

The department initiates operations, organises processes and maintains official records for Islamic banking windows, including financial records, reports and important documents. The department also ensures the integrity of stored materials while updating and enhancing other business processes.

**4. Conducting financial analysis**

The department conducts precise financial analyses and prepares periodic reports, providing well-researched forecasts about the financial performance of Islamic banking windows. It also sets strategic guidelines to enhance performance and utilisation[13].

**5. Ensuring compliance with Sharia controls**

The department ensures that all accounting and storage operations adhere to internal controls and financial and tax regulations, in alignment with Islamic banking principles. This is achieved by implementing stringent monitoring procedures to ensure compliance with approved accounting and Sharia standards.

Thus, the Accounting and Storage Operations Department plays a vital role in maintaining financial integrity, ensuring the accuracy of data and information, and enhancing compliance with applicable laws and regulations.

**Subsection 2: Commercial Activity, Sharia Auditing and Product Development Department in Islamic Banking Windows.**

**Item One: The Commercial Activity Department of Islamic Banking Windows**

The Commercial Activity Department plays a crucial role in stimulating commercial activity and developing relationships with customers and institutions[14].

[11]- Abdelkader Abdelmalek, Accounting in Islamic Banks: Foundations and Applications, Dar Al-Huda for Publishing and Distribution, Algeria, 2019, p. 112.
[12]- Al-Aidi Hassan, Auditing and Review in Islamic Banks, Dar Al-Safaa for Publishing and Distribution, Amman, 2020, p. 85.
[13]- Salma Ben Issa, Khawla Ben Zain, Accounting Treatment of Various Financial Transactions in Commercial Banks: A Case Study of the Agriculture and Rural Development Bank, Academic Master's Thesis, Department of Management Sciences, Faculty of Economic Sciences, Commercial Sciences and Management Sciences, Mohamed Bachehir Ibrahim University, Bordj Bou Arreridj, Algeria, 2021-2022, p. 11.

**1. Attracting customers**

The department analyses the financial market to identify business opportunities that comply with Islamic Sharia law. It provides the bank with accurate reports on this matter to inform its decisions regarding Islamic banking products.

**2. Providing Islamic financial services**

The department offers customers a variety of Islamic financial services, including Islamic financing, consultations, money transfers and more. These services aim to meet customers' needs by providing Sharia-compliant financial solutions. These solutions include opening current and savings accounts and accepting deposits.

**3. Managing Commercial Relationships**

The department organises periodic events and meetings to build strong commercial relationships with companies, institutions and customers involved in Islamic financial transactions, enhancing communication and providing necessary support.

**4. Marketing and Promoting Islamic Financial Services**

The department promotes Islamic financial services and products through various channels, such as traditional and social media, as well as advertisements, with the aim of reaching the largest possible customer base.

**5. Providing financial consultation and follow-up**

The department offers financial and economic consultations to customers and companies, focusing on capital management and helping them to identify their commercial and financial goals. The department also assists customers with account openings. The department also supports customers in making financial decisions.

**6. Evaluating the performance of Islamic banking windows**

The department monitors commercial activity, analyses operations and transactions, and prepares accurate periodic performance reports. This improves the profitability of Islamic banking windows. Furthermore, the department aims to promote the growth of Islamic banking windows by offering innovative financial services that adhere to Sharia principles, and by strengthening their market presence through fostering robust relationships with customers and business partners[15].

**Item two: the Sharia Auditing and Product Development Department in Islamic banking windows.**

This department is one of the foundational pillars of the Islamic banking structure. It is responsible for Sharia compliance and jurisprudential oversight tasks, and contributes to the development and launch of Sharia-compliant financial products. Its main tasks include the following:

**1. Sharia review of products offered in Islamic banking windows.**

The department reviews all Islamic financial products to ensure they comply with Sharia provisions, working alongside the bank's Sharia Supervisory Board. The review covers formal and functional aspects, as well as adopted structures.

**2. Verifying the Legitimacy of New Products**

The department oversees the verification of new financial innovations, ensuring they meet customer needs and adhere to Sharia guidelines.

**3. Preparing Sharia Studies for New Financial Products**

The Sharia audit team conducts thorough research into the components of new financial products, including profit and risk aspects, contractual terms and other legal considerations.

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[14]- Salma Ben Issa ,Khawla Ben Zain, Previous Reference, p. 12.
[15]- Bachouch Souad, Zghnoun Sihem, Previous Reference, p. 54.

**4. Coordinating with Sharia Bodies for Sharia Consultations**

The team liaises with accredited Sharia bodies to obtain fatwas and recommendations on new financial products. The team also contributes to the preparation of jurisprudential reports that support Islamic banking practices[16].

**5. Developing products marketed by Islamic banking windows**

The department aims to improve existing financial products by providing recommendations based on an analysis of customer needs and market requirements, while considering the following:

- Ensuring products comply with Sharia provisions.
- Developing products that effectively and innovatively meet customer needs[17].

**Section Two: Supervisory Bodies for Islamic Banking Windows**

Supervision is defined by Fayol as the process of verifying that activities are proceeding according to the approved plan, issued instructions and established principles. The primary goal of supervision is to identify weaknesses and errors for correction and to prevent their recurrence[18]. In the context of our study, supervision pertains to Islamic banking windows, which are subject to two main types of oversight: internal Sharia supervision and external supervision.

**Subsection One: Internal Sharia Supervisory Body**

The role of the Sharia Supervisory Body is to regulate the operations of Islamic financial institutions and protect them from violating Sharia rules and deviating from their principles. Therefore, these institutions require a Sharia body to issue the necessary fatwas, particularly with regard to client transactions.

**Item One: Concept of the Sharia Supervisory Body**

Before delving into the details of the Sharia Supervisory Body, we will first define its remit, namely Sharia supervision.

**1. Definition of Sharia Supervision**

Sharia supervision is an independent, specialised entity responsible for monitoring and examining various activities and operations at all stages to ensure compliance with Islamic law. Its tasks include analysing procedures, reviewing the implementation of fatwas and Sharia decisions, and proposing permissible alternatives and formulas to ensure that the Islamic financial institution adheres to Sharia controls in all its transactions[19].

**2. Definition of the Sharia Supervisory Body**

The Accounting and Auditing Organisation for Islamic Financial Institutions (AAOIFI) defines the Sharia Supervisory Body as ‘an independent body of scholars specialising in the jurisprudence of transactions, which may include a non-scholar member who is an expert in Islamic financial institutions and knowledgeable in Islamic jurisprudence’. The supervisory body is responsible for guiding, monitoring and overseeing the institution’s activities to ensure compliance with the provisions and principles of Islamic law[20].

The names of the Sharia supervisory body vary among Islamic banks. Some refer to it as the Fatwa and Sharia Supervision Committee, the Sharia Supervision Committee, the Sharia Auditor or the Sharia Consultant[21].

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[16]- Lotfi Muhammad al-Sarhi, Islamic Branches in Traditional Banks: Founding Rules and Success Factors, Research presented to the Conference on Islamic Banks in Yemen: Reality and Future Prospects, March 20-21, Yemen, 2000, p. 11.
[17]- Lotfi Muhammad al-Sarhi, Previous Reference, p. 12.
[18]- Sweilem Mohammad,Bank and Financial Market Management, Undated, Dar Al-Hani for Publishing and Distribution, Egypt, 1999, pp. 238-239.
[19]- Ben Issa Mounir ,Islamic Banking and Its Role in Financing Local Investment – The Malaysian Experience, National Library of Algeria, Dar Al-Ya for Publishing and Distribution, Algiers, April 2024, p. 76.
[20]- Ahmed Azzouz, Othman Allam,Islamic Banking in Algeria: A Study of the Characteristics of the Islamic Banking Model, 1st ed., Alfa for Document Publishing and Distribution, Algeria, 2023, p. 96.
[21]- Mohammad Mahmoud Al-Ajlouni, "Islamic Banks: Their Rules, Principles, and Banking Applications," Dar Al-Maysarah for Publishing and Distribution, Jordan, 2008, p. 150.

### 3. Composition of the Sharia Supervisory Body

Article 15, Paragraph 01 of System 20-02 states: 'In the context of conducting operations related to Islamic banking, the bank or financial institution must establish a Sharia supervisory body consisting of at least three members appointed by the general assembly.[22]'

Therefore, we can conclude that the Sharia supervisory body must consist of at least three members who are appointed by the general assembly. The Sharia supervisory body is responsible for the Fatwa body[23], the Sharia auditing body and the higher[24] Sharia supervisory body[25].

### 4. Principles of the Sharia Supervisory Body

The principles that govern the Sharia Supervisory Body include:

**- Independence Principle:**

The Sharia Supervisory Body is committed to complete independence when performing its tasks, ensuring freedom of decision-making without external influence. This includes financial, administrative and organisational independence, guaranteeing effective and objective performance.

**- Commitment Principle:**

The body has binding authority over Islamic banks and windows, enforcing the implementation of its decisions and fatwas to enhance Sharia discipline in banking operations.

**- Comprehensiveness Principle:**

The body has full oversight of all activities and transactions conducted by Islamic banking windows, ensuring complete awareness of operational details and guaranteeing compliance with Sharia provisions[26].

### 5. Objectives of the Sharia Supervisory Body:

Ensuring that banking transactions comply with the provisions and principles of Islamic law.

- Enhancing customer confidence by affirming the legitimacy of the products and services offered.

- Guiding employees in Islamic banking towards adherence to Sharia regulations.

- Contributing to the development of Islamic transactions by creating new financing formulas that are compatible with Sharia law[27].

### Second: the tasks of the Sharia Supervisory Body

The Sharia Supervisory Body's primary task is to ensure that banks and Islamic windows adhere to the provisions of Islamic law. This is achieved through the issuance of fatwas, continuous monitoring and oversight. The body's tasks include the following:

Responding to enquiries and questions from the bank's management and employees regarding Sharia matters.

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[22]- Article 15 of Regulation 20-02, dated 20th of Rajab, 1441, corresponding to March 15, 2020, defining banking operations related to Islamic banking and rules for its practice by banks and financial institutions, Official Gazette, No. 16, published on March 24, 2020.

[23]- Fatwa Authority: A committee composed of a group of scholars specialized in Islamic jurisprudence, responsible for overseeing the compliance of the operations conducted by the windows with Islamic law, as well as establishing regulatory Shari'ah policies and issuing necessary fatwas for various transactions.

[24]- Shari'ah Audit Authority: A supervisory body that reviews operations and transactions to ensure compliance with Islamic law according to the fatwas issued by the Shari'ah authority.

[25]- High Shari'ah Supervisory Authority: A central body overseeing the application of Islamic law standards in financial institutions, unifying Shari'ah references, and ensuring compliance with Shari'ah regulations at the national level.

[26]- Dalila Hamel, Abd al-Rahman al-Ayib, "The Impact of the Characteristics of the Shari'ah Supervisory Authority on the Solvency of Takaful Insurance Companies: An Empirical Study of Malaysian Takaful Companies (2012-2016)," Researcher Journal, Vol. 18, No. 1, Farhat Abbas University, Algeria, 2018, p. 49.

[27]- Radeef Mostafa, Islamic Banking, Educational Print for Third-Year Bachelor Students, Specialization in Monetary and Banking Economics, Department of Economic Sciences, Faculty of Economic Sciences, Commercial Sciences and Management Sciences, Djilali Liabes University, Sidi Bel Abbes, Algeria, 2020-2021, p. 30.

- Reviewing the bank's laws and bylaws and examining instructions and contracts to ensure compliance with Sharia provisions.

- Contributing to the development of new financial products and preparing contract templates, while ensuring that advertising campaigns comply with Sharia law.

- Providing guidance, advice and training to bank employees to enhance their competence in Islamic banking.

- Identifying potential Sharia-related risks associated with the bank's activities and operations, and working to mitigate these risks[28].

**Third: types of Sharia supervisory bodies**

Sharia supervision can be divided into two main types, depending on the nature of the tasks performed.

**1. Internal Sharia supervision:**

This assists the management of Islamic banking windows in complying fully with Sharia provisions. It is carried out by Sharia auditors, who monitor internal performance with regard to appointments, dismissals, rewards, responsibilities and reporting. This supervision can form part of the internal audit management or be an independent unit within the bank's structure.

**2. External Sharia supervision:**

This involves evaluating the bank's compliance with Islamic law from an external perspective to provide clients and stakeholders with confidence in the legitimacy of its operations. Strict criteria are required to determine the qualifications of auditors, ensuring their independence and the clear communication of audit results to interested parties, especially clients[29].

**3. The stages of Sharia supervision are as follows:**

To ensure Sharia discipline is maintained throughout all banking operations, Sharia supervision goes through three main stages:

**A. Preventive supervision before implementation:**

At this stage, data and information are collected and presented to the relevant body before any operations are executed. Tasks include:

- reviewing the Sharia aspects of the founding contract and the bylaws;

- Drafting contract templates in accordance with Sharia law.

- Developing new Sharia-compliant investment formulas[30].

- Preparing a Sharia procedural guide covering various banking operations such as account opening, financing and other banking services.

**B. Corrective supervision during implementation:**

The body continuously monitors the execution of operations to ensure compliance with fatwas and Sharia controls. Key tasks include:

- Approving the termination of investment projects.

- investigating complaints and their legality.

- reviewing Sharia audit reports.

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[28]- Khalifi Fatiha, The Legal System of Banking Supervision on Islamic Banks, Master's Thesis for the Degree of Master in Law, Specialization in Business Law, Faculty of Law and Political Science, Akli Mohand Oulhadj University, Bouira, 2020, p. 74.
[29]- Radeef Mostafa,Previous Reference, pp. 35-36.
[30]- Zafouni Salima, Banking Supervision Under Algerian Positive Law, Master's Thesis for the Degree of Master in State and Public Institutions, University of Algiers, Faculty of Law Ben Aknoun, 2011-2012, p. 194.

- Providing Sharia opinions on various transactions[31].

**C. Supplementary supervision after implementation:**

This involves evaluating Sharia compliance at the end of each accounting period. Its tasks include:

- Reviewing investment files after execution.
- Holding periodic meetings to follow up on work progress.
- Preparing a work plan for the Sharia audit body.
- Reviewing the general budget and audit report[32].

**Subsection Two: External Supervision of Islamic Banking Windows**

External supervision is overseen by two bodies: the Bank of Algeria and the National Sharia Body for Fatwa on the Islamic Financial Industry.

**Item One: Supervision by the National Sharia Body for Fatwa on the Islamic Financial Industry**

We will define the National Sharia Body for Fatwa on the Islamic Financial Industry and its tasks.

**1. Definition of the National Sharia Body for Fatwa on the Islamic Financial Industry:**

This financial institution is responsible for granting Sharia compliance certificates to banks and financial institutions, thereby enabling them to engage in Islamic banking.

Its members are appointed by the President of the Higher Islamic Council in accordance with Article 3 of Regulation No. 20-01[33]. The appointment of members of the Sharia body depends on the conditions and qualifications mentioned in Article 4 of the aforementioned regulation.

Members must hold a doctorate in Islamic jurisprudence and Sharia, or an equivalent degree.

- Members must have specialised, in-depth knowledge of Islamic financial transaction jurisprudence[34].

Members are prohibited from being managers or executives in a bank or financial institution, or from being shareholders in such entities. This ensures the integrity and transparency of the body's work, and maintains the independence of its decisions from any external influence.

**Secondly,** the tasks of the National Sharia Supervisory Body for Fatwa on the Islamic Financial Industry are as follows:

The National Sharia Supervisory Body for Fatwa on the Islamic Financial Industry is responsible for the following tasks:

- reviewing contracts and financing formulas encompassing various approved Islamic financial transactions to ensure compliance with Sharia provisions, in cooperation with the Sharia supervisory bodies of banks and institutions;

- assessing the compliance of financial products with Sharia law based on requests from official entities, accredited banks, and financial institutions and issuing certificates of compliance when Sharia conditions are met;

Providing opinions on Sharia violations and suggesting necessary amendments and corrections before approving products or transactions.

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[31]- Ahmed Abdelafou Mustafa Al-Alyat, Shari'ah Supervision on Islamic Banks' Operations, (Thesis submitted to fulfill the requirements for the Master's degree in Jurisprudence and Legislation), Graduate School, An-Najah National University, Palestine, 2006, p. 103.

[32]- Ramdaoui Suleiman, Saidane Rachid, Specialized Shari'ah Supervision on Islamic Banking Activities, Al-Bashair Economic Journal, No. 01, Vol. 06, April 2020, p. 174.

[33]- Article 03 of Regulation 20-01, dated 7th of Sha'ban, 1441, corresponding to April 1, 2020, concerning the establishment of the National Shari'ah Authority for Fatwa for the Islamic Financial Industry, issued by the Higher Islamic Council, p. 2.

[34]- Article 04 of Regulation 20-01, concerning the establishment of the National Shari'ah Authority for Fatwa for the Islamic Financial Industry.

- supporting research and ijtihad (independent juristic reasoning) by encouraging scientific and jurisprudential studies aimed at developing Islamic financial transactions[35].

### Item Two: The Supervisory Role of the Bank of Algeria over Islamic Banking Windows

This supervisory and advisory relationship is one of three dimensions that govern the relationship between the Bank of Algeria and Islamic banking windows, alongside foundational and regulatory relationships. The Bank of Algeria exercises its supervisory and guiding powers over various banks, including Islamic banking windows, through a set of tools. These tools can be divided into two types: quantitative and qualitative[36].

### 1. Quantitative tools for the Bank of Algeria's supervision

**Legal reserve:**

The Bank of Algeria requires commercial banks to hold accounts with the central bank and to deposit a certain percentage of their funds as legal reserves. This aims to control these banks' ability to create money and ensure liquidity is available to meet urgent withdrawals. However, applying this mechanism to Islamic banking windows is challenging due to the different nature of investment accounts compared to guaranteed time deposits in traditional banks. Furthermore, freezing part of the financial resources of Islamic banking windows has a negative impact on the returns distributed to account holders[37].

**Discount Rate:**

This rate represents the interest charged by the Bank of Algeria to commercial banks for loans granted to provide liquidity or for the discounting of bonds presented by these banks. However, Islamic banking windows cannot benefit from this tool due to the prohibition of interest, which conflicts with the Sharia controls they adhere to[38].

**- Open Market Operations:**

The Bank of Algeria intervenes in the market as a buyer or seller of government securities to influence the size of the money supply, particularly during economic recessions, in order to stimulate credit and increase demand for goods and services. However, this policy is not compatible with the nature of Islamic banking windows, which rely on Sharia-compliant financial instruments, a condition that does not apply to most government securities[39].

### 2. Qualitative tools for the Bank of Algeria's supervision

**- Determining Mandatory Interest Rates:**

The Bank of Algeria sets mandatory interest rates for lending. However, this mechanism is not applicable to Islamic banking windows due to its contradiction with Sharia principles, which prohibit interest-based transactions.

**Non-binding guidance:**

The Bank of Algeria plays a guiding role, advising banks to finance specific economic sectors over others in line with national economic policies. This guidance can extend to Islamic banking windows, provided it aligns with Sharia controls[40].

**- Prohibition of acquiring assets for resale:**

[35]- Article 02 of Regulation 20-01, concerning the establishment of the National Shari'ah Authority for Fatwa for the Islamic Financial Industry.
[36]- Group of Researchers, Regulation 20-02 Defining Islamic Banking Operations in Algeria: General Readings and Analyses, 1st ed., Alfa for Document Publishing and Distribution, Algeria, 2023, p. 96.
[37]- Ashraf Douaba, "Assessment of Islamic Banking Windows: A Case Study of Algeria," Journal of North African Economies, Vol. 19, No. 31, Istanbul Sabahattin Zaim University, Turkey, 2023, p. 195.
[38]- Group of Researchers, Previous Reference, p. 96.
[39]- Ashraf Douaba, Previous Reference, p. 196.
[40]- Abdelkader Ben Nasser, Islamic Banking in Algeria: Between Regulation and Practice, Journal of Financial and Accounting Research, No. 12, 2021, p. 45.

The Bank of Algeria prohibits the acquisition of assets, such as real estate and movable properties, for the purpose of resale. However, this restriction conflicts with certain Islamic financing formulas, such as the Istisna contract, which involves purchasing and reselling assets within a Sharia-compliant contractual framework[41].

**Section Two: The Functional Organisation of Islamic Banking Windows**

The functional organisation of Islamic banking windows reflects the nature of the services they provide in accordance with Sharia law. This involves distributing roles and tasks to ensure the provision of Sharia-compliant financial products.

**Subsection One: Banking Operations Based on the Principle of Profit-Sharing**

These operations rely on the bank and the client jointly financing investment projects and sharing profits and losses according to agreed ratios. Several contracts are involved, including profit-sharing and joint venture contracts, which are Sharia-compliant alternatives to traditional financing.

**Branch One: Banking Operations Based on Profit-Sharing**

Mudarabah and Musharakah contracts are two of the most important forms of Islamic finance, which organise the use and investment of funds in accordance with the Holy Quran. In this section, we will define each contract, outline its application conditions and discuss its various types.

**Item One: Musharakah**

Musharakah is one of the fundamental financing formulas on which Islamic banks operate.

**1. Definition of Musharakah:**

It is defined in Article 6 of Regulation 20-02 and Article 14 of Instruction No. 20-03, both issued by the Bank of Algeria, as "a contract between a bank or financial institution and one or more parties, aimed at participating in the capital of an institution, a project, or commercial operations, in order to generate profits"[42].

**2. Conditions of Musharakah:**

Referring to Articles 15 and 16 of Instruction No. 03-20, the conditions that must be met for a 'Musharakah' contract are as follows:

**- Conditions related to capital:**

The capital of the Musharakah must meet the following criteria:[43]

- According to Article 15 of Instruction 20-03, 'the contribution to the company can be in cash or in kind'.

- The capital must be available at the time of establishment and cannot be in the form of debt or absent property[44].

- The capital must be clearly defined in terms of amount, type and characteristics. This is particularly important for in-kind contributions[45], where their value must be precisely determined. This is stated in the fourth paragraph of Article 15, which specifies that 'the value of in-kind contributions must be accurately stated in the Musharakah contract'.

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[41]- Refer to: Bank of Algeria, "Report on Islamic Banking in Algeria," 2021, p. 18.

[42]- Belkassami Salim, Islamic Banking Operations in Algeria in Light of Bank of Algeria Regulation No. 20-02, Noor Journal of Economic Studies, No. 10, p. 91.

[43]- Al-'Anan Company: A contract between two or more parties, each contributing a specific amount of money to trade with, sharing profits and losses, without requiring equality in capital or profit.

[44]- Mohammad Mahmoud Al-Ajlouni, Islamic Banks: Their Rules, Principles, and Banking Applications, 2nd ed., Dar Al-Masirah for Publishing and Distribution, Amman, Jordan, p. 226.

[45]- Qadri Abdul Aziz, Soudi Abdul Hamid, The Legal System of Islamic Banking in Algeria, Thesis submitted for the Master's degree, Specialization in Business Law, Faculty of Law and Political Science, Colonel Ahmed Drahia University, Adrar, 2021, p. 40.

Equal shares among partners are not required; each party can contribute a different percentage according to their agreement[46].

**- Conditions Related to Profit and Loss Distribution:**

The Musharakah contract must include a clear clause regarding profit distribution, as stipulated in the first paragraph of Article 16 of Instruction No. 20-03. This paragraph emphasises the necessity of reaching a prior agreement on the method of profit distribution among the parties. Modifications to this formula are permitted with the consent of all partners during project implementation.

Profits should be expressed as a percentage of each partner's share of the profits, not as a percentage of the capital. Profits cannot be determined as an absolute percentage or a fixed monetary amount.

A partner's share of the profits must not be linked to a specific amount or an undefined percentage; it must be expressed as a percentage of the profits, proportional to their contribution to the capital.

Increasing one partner's share of the profits above that of the others without an additional contribution is prohibited, unless that partner is actively working in the company. In such cases, they may be granted a reward for their efforts, provided this is clearly defined in the partnership contract[47].

Regarding losses, these must be borne by the partners in proportion to their share of the capital, as stated in paragraph 4 of the same article, which stipulates that 'each partner bears potential losses in proportion to their contribution to the capital'.

**3. Types of Musharakah:**

Musharakah contracts in Islamic banks are classified into three main types:

**- Permanent Musharakah (Fixed Musharakah):**

As defined in paragraph 1 of Article 17 of Instruction No. 20-03, permanent musharakah is a situation in which the bank retains its share of the project's capital continuously, with no specified exit period[48].

**- Diminishing Musharakah:**

According to the second paragraph of the same article, a diminishing Musharakah is a form in which a partner (usually the client) commits to purchasing the bank's share gradually until they have full ownership of the project. This transfer is agreed upon in a separate clause within the Musharakah contract, which specifies the timeline for recovering shares in accordance with specific legal procedures. Repayment can be made in cash, from the project's profits, or both. In this case, the client must periodically repay the bank's share of the principal financing amount according to previously agreed ratios[49].

**- Short-Term Musharakah:**

This type of Musharakah is characterised by its short duration. In this model, the bank or financial institution contributes to a single production cycle or specific economic activity, as outlined in Article 159 of the relevant legislation[50].

**Item two: mudarabah**

[46]- Lakhil Nasira, The Legal System of Islamic Banks, Supplementary Thesis for the Master's degree in Law, Specialization in Business Law, Faculty of Law and Political Science, Arab Ben Mehidi University, Oum El Bouaghi, 2018, p. 56.

[47]- Mohammad Mahmoud Al-Ajlouni, Previous Reference, p. 226.

[48]- Article 17 of Instruction 03-20, defining products related to Islamic banking, and specifying the procedures and technical characteristics for their implementation by banks and financial institutions.

[49]- Belkassami Salim, Islamic Banking Operations in Algeria in Light of Bank of Algeria Regulation No. 20-02, Noor Journal of Economic Studies, University Center of Nour Bachehir, Vol. 06, No. 10, El Bayadh, June 2020, p. 98.

[50]- Aroura Fatiha, Financing Forms in Islamic Banks: In Light of Regulation 02-20, Algerian Journal of Legal and Political Sciences, University of Algiers 1, Ben Youssef Ben Khadda, Vol. 58, No. 03, Algeria, 2021, p. 6.

'Mudaraba' is a tool used by Islamic banks to invest their funds in a way that aligns with modern changes and economic needs. It is mentioned in the Holy Quran, specifically in Surah An-Nisa, verse 101[51], and in Surah Al-Muzzammil, verse 20[52], in relation to travelling for trade and seeking sustenance.

**First: Definition of Mudarabah**

**1. Juristic definition:**

Mudarabah is a partnership between two parties: one provides the capital (the owner of the funds), and the other is the entrepreneur (the worker), who invests or trades the funds in their area of expertise. The profits generated from this partnership are shared between the two parties according to an agreed ratio. The Prophet Muhammad (peace be upon him) entered into a mudarabah agreement with Lady Khadijah (may Allah be pleased with her)[53].

**2. Legal definition:**

Articles 7 of Regulation 02-20 and 19 of Instruction 20-03 define mudarabah as follows: 'A contract under which a bank or financial institution (the lender of funds, or Rabb al-Mal) provides the necessary capital to an entrepreneur (the Mudarib), who provides labour for a project in order to generate profit.[54]'

**Second: Conditions of Mudarabah**

Based on Articles 19 to 22 of Instruction No. 03-20, a Mudarabah contract must meet several conditions, which can be summarised as follows:

**1. Conditions related to capital:**

The capital must be specified in terms of amount, type and characteristics at the time of the contract.

- The capital must be provided to the Mudarib in cash.

According to Article 21 of Instruction 03-20, the bank or financial institution may require the Mudarib to provide a guarantee, unless it is deemed unnecessary or inappropriate to define the Mudarib's responsibilities or the value of the guarantee[55].

**2. Conditions related to profit distribution:**

- The profit distribution ratios must be explicitly defined in the contract, specifying the share of each party (both the Rabb al-Mal and the Mudarib) in the realised profits.

- According to Article 22 of the same Instruction, the Rabb al-Mal bears any loss, while the Mudarib bears no loss as long as they do not default in their work[56].

**3. Conditions related to work:**

The Rabb al-Mal cannot impose work conditions on the Mudarib, as managing the work is the sole responsibility of the Mudarib. Imposing such conditions would contradict the nature of the Mudarabah contract.

- The Rabb al-Mal cannot impose conditions that restrict the Mudarib's freedom and independence in managing their business and performing their tasks. The Mudarib must be free to perform their work in order to generate profit[57].

**4. Conditions related to the duration of Mudarabah and its expenses:**

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[51]- Surah An-Nisa, Verse 101.
[52]- Surah Al-Muzzammil, Verse 20.
[53]- Mahmoud Al-Ansari, Ismail Hassan, Samir Mostafa Metwally, Islamic Banks, Book Eight, Al-Ahram, Alexandria, 1988, p. 64.
[54]- Article 7 of Regulation 02-20, defining banking operations related to Islamic banking and rules for their practice by banks and financial institutions.
[55]- Belkassami Salim, Previous Reference, p. 97.
[56]- Chaimaa Harid, Saleh Harrouch, Accounting for Islamic Financing Forms in Islamic Banks, Thesis for the Master's degree in Financial Sciences and Accounting, Specialization in Deep Accounting and Taxation, Faculty of Economic Sciences, Commercial Sciences and Management Sciences, Mohamed Siddiq Ben Yahya University, Jijel, 2017-2018, p. 40.
[57]- Sufan Jalal, Belaamri Samir, Previous Reference, p. 44.

According to Article 22, paragraph 2 of Instruction No. 03-20, the Mudarabah contract may end in several ways:

- by dismissing the Mudarib;
- by terminating the contract;
- when the Rabb al-Mal reclaims their funds;
- upon the death of the Rabb al-Mal;
- if one of the parties withdraws;
- if the capital is lost. The parties must reach a prior agreement on how to compensate for such occurrences.

As for the Mudarabah expenses, the general rule is that they are covered by the project. These should first be deducted from the profits, after which the net profits are distributed among the parties to the Mudarabah contract, having first deducted all direct costs and general expenses[58].

**Third: types of mudarabah**

According to Article 23 of Instruction No. 03-20, there are two types of Mudarabah:

**1. Absolute Mudarabah:**

In this type, the Mudarib is granted complete freedom to act without restrictions, allowing them to engage in investment activities without specific conditions imposed by the Rabb al-Mal, unless general guidelines relating to Sharia principles or commercial customs prohibit certain actions[59].

**2. Restricted Mudarabah:**

In this type, the Rabb al-Mal imposes specific conditions that define the nature of the activity or the parties with whom transactions can be conducted. These conditions protect the Rabb al-Mal's funds and can only be applied with the Mudarib's agreement[60].

**Branch Two: Banking Operations Based on Fixed Income Participation**

Types based on commercial debt are among the most commonly used in Islamic banks due to their lower risk compared to profit-sharing financing methods.

**Item One: Murabaha**

Murabaha is considered one of the most widely used financing methods by Islamic banks. We will define it, outline its conditions and discuss its types.

**First: Definition of Murabaha**

**1. Juristic definition:**

The legal definitions of the Murabaha contract vary, but can be summarised as follows:

It is a contract between a bank and a customer in which both parties agree that the bank will purchase a commodity — whether real estate or otherwise — and sell it to the customer at a predetermined price. This price can be paid in cash or in instalments, with a clearly defined profit margin added to the purchase price at the time of the contract[61].

**2. Legal definition:**

[58]- chaimaa Harid, Saleh Harrouch, Previous Reference, p. 41.

[59]- Mohammad Hisham Al-Qasimi Al-Hasani, The Experience of Al-Salam Bank Algeria in Islamic Financing, Study Day, Second Axis, 12/09/2010, p. 07.

[60]- Sufan Jalal, Belaamri Samir, Previous Reference, p. 46.

[61]- Boumrâou Hamama, Bghal Leila, Banking Services in Traditional and Islamic Banks, Thesis for the Master's degree in Law, Specialization in Private Law, Faculty of Law and Political Science, Abdel Rahman Mira University – Bejaia, 2015-2016, p. 66.

According to Article 5 of Regulation 20-02, the Murabaha contract is defined as follows: 'A contract whereby a financial institution or bank sells a specific movable or immovable commodity owned by the institution to the customer at a price equal to the acquisition cost plus a predetermined profit margin, in accordance with the agreed payment terms.[62]'

**Second: Conditions of Murabaha**

The selling price specified in the Murabaha contract must remain fixed until it is fully paid by the agreed deadline. This is in accordance with the second paragraph of Article 4 of Instruction No. 20-03, which states: 'The selling price mentioned in the Murabaha contract must remain fixed and cannot be subject to any increase until it is fully repaid within the agreed deadlines.'

The Murabaha contract must explicitly state that 'the bank is not obliged to relinquish any part of the profit margin if the customer repays the entire amount owed early', as stipulated in the second paragraph of Article 5 of the same instruction.

If the customer delays payment or refuses to pay without a valid excuse and the contract stipulates this, 'any amounts owed must be directed to charitable works, supervised by the National Sharia Body for Fatwa on the Islamic Financial Industry', according to the third paragraph of Article 6 of Instruction 20-03[63].

**Third: types of murabaha.**

**A. Simple Murabaha:**

This is a sales transaction in which the price is based on the original cost at which the seller purchased the commodity, plus a known and agreed profit margin. As is customary in typical commercial transactions conducted by traders, the seller must disclose the purchase cost to the buyer[64].

**B. Complex Murabaha (Murabaha to Order):**

According to Article 9 of Instruction No. 03-20, complex Murabaha is a financing formula involving the bank purchasing a commodity at the customer's request, and then selling it at a price including the purchase cost and a specified profit margin[65].

Article 13 of the same instruction stipulates that three separate contractual stages must be completed to finalise this transaction. These stages are as follows:

1. A unilateral purchase commitment by the customer.

2. The bank's purchase of the commodity.

3. The Murabaha contract between the bank and the customer[66].

**Item 2: Salam**

**First: Definition of Salam**

**1. Juristic definition:**

Salam is a type of sale where the price is paid in cash in advance at the time of contracting, while the seller commits to delivering a specific commodity with defined specifications at a later date. In this context, the deferred

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[62]- Article 5 of Regulation No. 20-02, defining banking operations related to Islamic banking and rules for their practice by banks and financial institutions.

[63]- Qadri Abdul Aziz, Soudi Abdul Hamid, The Legal System of Islamic Banking in Algeria, Thesis submitted for the Master's degree, Specialization in Business Law, Faculty of Law and Political Science, Colonel Ahmed Drahia University, Adrar, 2021, p. 51.

[64]- Aroura Fatiha,Previous Reference, p. 8.

[65]- Article 9 of Instruction 03-02, dated April 2, 2020, defining products related to Islamic banking, and specifying the procedures and technical characteristics for their implementation by banks and financial institutions.

[66]- Belkassami Salim, Previous Reference, p. 100.

commodity is one that has been specified but not yet delivered, while the immediate price is the amount paid upfront[67].

The Salam financing formula is primarily used in the agricultural sector, where it originated. In Salam, the buyer and seller agree to purchase a specific commodity, defined by its type and quantity, at a pre-agreed price, with delivery set for a specified future date. In this financing type, the Islamic bank pays the full price either at the time of signing the Salam contract or at a later date, thereby ensuring that the commodity is delivered on the agreed date[68].

**2. Legal definition:**

Articles 9 and 36 of Regulations No. 02-20 and Instruction No. 03-20 from the Bank of Algeria define the Salam contract as follows: 'A contract in which the bank or financial institution acts as the buyer, purchasing a commodity to be delivered by the customer at a later date in exchange for an immediate cash payment.[69]'

**Second: Conditions of Salam**

Based on Articles 38 to 43 of Instruction No. 20-03, the conditions for this contract can be summarised as follows:

- The price must be paid in cash, be known, and be paid at the time of the contract.

- The commodity subject to the contract must be available and commercially tradable at the time of delivery; however, it does not need to be available when the contract is signed.

- For agricultural products, the buyer can specify the production region, but cannot designate a particular farm.

- In the case of industrial products, the buyer may require the product to come from a specific, clearly defined brand[70].

**Third: types of salam.**

**1. Simple Salam:**

In this type, the capital is provided immediately while the commodity is delivered at a later date agreed by both parties[71].

**2. Installment Salam:**

In this agreement, both the commodity and the capital are delivered and paid for in instalments. The buyer pays a specific instalment of the capital and then receives the corresponding amount of the commodity at a later date, with the sale continuing according to the agreement between the parties[72].

**3. Parallel Salam:**

In this arrangement, if the commodity purchased in the first contract cannot be supplied by the due date, the Islamic bank agrees to provide a similar commodity. The bank will purchase it from the market or from sellers according to the agreed specifications. The aim is to ensure that the client does not lose trust in the bank, as the bank seeks to meet the client's needs and minimise the risks they face elsewhere[73].

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67- Mabrouk Qarzo, Al-Arabi Bin Qasima, Diversifying Banking Services as a Requirement for Developing Islamic Banking in Algeria, Legal and Political Research Journal, Amar Thliji University, Laghouat, No. 02, Vol. 06, December 2021, p. 396.

68- Ash'alal Sara, Khalifi Wahiba, The Role of Islamic Banking in Attracting Deposits and Supporting Economic Development in Algeria Amidst Falling Oil Prices: An Analytical Study of Islamic Banks 2011-2015, Journal of Rights and Humanities, Ziyan Ashour University, Djelfa, Economic Issue - Special Issue, 2018.

69- Belkassami Salim, Previous Reference, p. 98.

70- Qadri Abdul Aziz, Soudi Abdul Hamid, Previous Reference, p. 60.

71- Rabah Jalal, Abdel Razak Sheikh, Financing Forms and Their Impact on Profit Generation in Islamic Banks: A Case Study of Qatar Islamic Bank, QIB (2011-2018), Thesis submitted for the Master's degree, Specialization in Monetary and Banking Economics, Faculty of Economic Sciences, Commercial Sciences and Management Sciences, Mohamed Boudiaf University, M'sila, 2019, p. 22.

72- Rabah Jalal ,Abdel Razak Sheikh, Previous Reference, p. 22.

73- Hamani Salwa, Hamyaz Hayat, Shari'ah Supervision on Islamic and Traditional Banks, Supplementary Thesis for the Master's degree in Private Law, Specialization in Comprehensive Private Law, Faculty of Law and Political Science, Abdel Rahman Mira University, Bejaia, 2017, p. 63.

Notably, the Algerian legislator states in Article 37 of Instruction No. 03-02: 'The parallel Salam contract is concluded when the bank or financial institution enters into another Salam contract with a third party, independent of the first contract, to sell a commodity matching the specifications of the one agreed upon in the first contract. This commodity is to be delivered at a later date at an agreed price, with payment to be made immediately in cash.'

**Item three: Ijarah**

Ijarah is a financing formula combining elements of sale and lease. It allows clients to benefit from the services of a specific productive asset for a defined period in exchange for a periodic fee throughout the duration of use.

**First: Definition of 'Ijarah'**

**1. Juristic definition:**

Ijarah is a contract entered into to obtain a specific benefit for a defined period and at a known price. In this context, the Islamic bank acts as the lessor and acquires productive or capital assets, such as equipment, tools or real estate, at the request of the lessee (the client). The rental value and duration of use are specified in a prior contract, in which the client agrees to pay periodic instalments covering the cost of acquiring the asset plus a specified profit margin. Throughout the duration of the contract, ownership of the asset remains with the bank, but the client is granted the right to own it upon full payment of the agreed value[74].

**2. Legal definition:**

Article 8 of Regulation 02-20 states that 'Ijarah' is a leasing contract whereby the bank or financial institution (the lessor) places a movable or immovable asset it owns at the disposal of the customer (the lessee) for a specified period in exchange for rent. The value of the rent is agreed upon in the terms of the contract[75].

**Second: Conditions of Ijarah**

Ijarah should not apply to consumer goods used for personal purposes by the contracting parties. It should be limited to financing productive assets, such as equipment, machinery or real estate, designated for industrial or craft activities.

The rental price must be set so that the financier can recover the value paid, taking into account the benefits derived from the leased asset, as well as depreciation and maintenance costs, plus a suitable profit margin reflecting the nature of the financing transaction.

- Before leasing an asset to a customer, the bank or financial institution must own the asset to ensure that the legal elements of the contract are fulfilled.

- The beneficiary may not terminate the contract before paying all amounts due to the financier to protect the financier's rights and ensure recovery of the provided financing[76].

**Third: types of ijarah**

According to Article 32 of Instruction No. 20-03 from the Bank of Algeria, there are two main types of Ijarah contract.

**1. Operating Lease (Ijarah Operating):**

This is a leasing arrangement in which the bank or financial institution that purchased the equipment or productive assets retains ownership, while allowing the client to utilise them in exchange for rental payments made according to a periodic schedule (monthly or as agreed)[77].

**2. Ijarah Ending in Ownership:**

[74]- Sufan Jalal, Belaamri Samir, Previous Reference, p. 58.
[75]- Article 8 of Regulation 02-20, defining banking operations related to Islamic banking and rules for their practice by banks and financial institutions.
[76]- Abdel Nour Nawa, Islamic Banking According to the Provisions of Regulation 20/02, Tabnah Journal of Scientific Academic Studies, Algeria, No. 01, Vol. 04, 2021, p. 408.
[77]- Aroura Fatiha, Previous Reference, p. 12.

This is a lease contract that includes a promise from the lessor to transfer ownership of the asset to the lessee at the end of the contract period, provided that the lessee pays the full price of the leased asset, in addition to the rental instalments. Typically, the asset's price is paid in instalments, with the rental fee decreasing gradually as the lessee's ownership share increases[78].

**Item 4: Istisnaa**

The Istisna contract has been well-known since ancient times. Its popularity has increased alongside scientific and technological advancements in modern times. It has quickly become one of the most prominent Sharia-compliant alternatives to usurious loans, gaining a distinguished position among the financing methods employed by Islamic banks to mobilise funds.

**First: Definition of Istisna**

**1. Juristic Definition:**

The Istisna contract is an agreement between the Islamic bank and the client, in which the client requests the bank to manufacture a specific item that is not available in the market. The bank commits to providing a precisely described item at a predetermined price, to be delivered on an agreed date. To fulfill this obligation, the bank enters into a parallel Istisna contract with a third party, where the bank is the purchaser and the contractor or manufacturer is the producer[79].

**2. Legal definition:**

According to Article 10 and Article 44 of Bank of Algeria Regulation No. 20-02 and Instruction No. 20-03 respectively, the Istisna contract is defined as a contract in which the bank or financial institution agrees to deliver a commodity to the customer or purchase it from a manufacturer. The commodity is produced according to agreed specifications, at a fixed price and according to predetermined payment methods.

This definition highlights the significant similarity between the Istisna contract and construction contracts, as the manufacture of a specific item is covered by the latter under Algerian civil law according to Article 549[80].

**Second: Conditions of Istisna**

- Both the work and the material (the item) must come from the manufacturer. If the manufacturer's role is limited to the work and the material comes from the client, the contract is considered a lease (ijarah) rather than istisna.

- The subject of the contract must be specified in terms of type, kind, quality and quantity, in order to avoid ambiguity and disputes.

- The Istisna must relate to items that are known and identifiable to the parties; otherwise, it is considered a Salam sale rather than an Istisna.

The Istisna contract does not have to be signed before work begins, but it becomes a binding sale contract for both parties as soon as work starts.

- Payment of the price at the time of signing the contract is not mandatory; it may be deferred fully or partially as agreed by the parties[81].

**Third: types of istisna.**

**1. Parallel or Financial Istisna:**

[78]- Lakhil Nasira, Previous Reference, p. 68.
[79]- Suleiman Nasser, Abdul Hamid Boucharma, Requirements for Developing Islamic Banking in Algeria, Researcher Journal, Algeria, No. 07, 2009-2010, p. 310.
[80]- Instruction No. 20-03, defining products related to Islamic banking, and specifying the procedures and technical characteristics for their implementation by banks and financial institutions.
[81]- Mohammad Mahmoud Al-Ajlouni, Previous Reference, p. 284.

Article 45 of Instruction No. 20-03 states that an Islamic bank may enter into a second contract, known as 'parallel istisna', with a manufacturer to produce the product in question, provided that the original istisna contract is not affected and both contracts are completely independent of each other[82].

If the client does not require the bank to manufacture the product itself, the bank may contract a third party to fulfil its obligations under the first contract. In this case, the bank enters into two contracts: the first is with the client and the bank is the manufacturer; the second is with the manufacturer or contractor and the bank is the purchaser. The bank earns its profit from the difference between the selling price in the first contract and the purchase price in the second[83].

**2. Ordinary or traditional istisna:**

This is a contract between two parties, one of whom is the purchaser (an individual or institution) who requests the manufacture of a specific item according to agreed specifications and quantities, at a price that can be paid either in advance or later. A condition of this contract is that the raw materials must come from the manufacturer.

In this type of istisna, the contractual relationship is direct between the Islamic bank and the client, without the involvement of an intermediary. In this context, the bank may be either the purchaser requesting manufacturing or the manufacturer itself, depending on the nature of the contract and the agreement[84].

**Section Two: Banking Operations Based on Direct Investment**

**Subsection One: Deposit Account Formulas**

In this section, we will attempt to define deposit accounts, along with their conditions and types, including current and savings accounts.

**Item 1: Definition of deposit accounts**

**First: Juristic definition:**

A deposit account is a type of bank account that allows clients to deposit money with the bank. This sum remains at the bank's disposal for a predetermined period agreed upon in advance. In return, the client receives an agreed profit margin when the account is opened. If the client withdraws part or all of the sum before the maturity date, early withdrawal fees usually apply, in addition to the potential loss or reduction of accrued profits according to the bank's conditions. This type of account is also known as a fixed deposit account, term deposit account or investment deposit account.

**Second: Legal Definition**

According to Article 11 of Regulation 20-02 of the Bank of Algeria, which concerns banking operations for Islamic banking and the rules for their practice by banks and financial institutions, and Article 50 of Instruction 20-03, which regards Islamic products and their procedural and technical characteristics, Islamic banking accounts are defined as accounts in which individuals or entities deposit money with the bank. The bank then commits to returning those funds, or their equivalent, to the depositor or another specified person, either on demand or according to previously agreed terms[85].

**Item Two: Conditions of Deposit Accounts**

The bank may invest deposited funds, whether in the form of demand or savings deposits, solely within the framework of Islamic banking. This is a fundamental condition and the bank is obliged to return the funds to the customer upon request without any increase or benefit from profits resulting from these investments, in accordance with Sharia principles.

[82]- Belkassami Salim, Previous Reference, p. 96.
[83]- chaimaa Harid, Saleh Harrouch, Previous Reference, p. 88.
[84]- chaimaa Harid,Saleh Harrouch Previous Reference, p. 87.
[85]- Article 11 of Regulation 20-02, defining banking operations related to Islamic banking and rules for their practice by banks and financial institutions.

Regarding savings deposits, the customer must explicitly authorise the bank to invest these funds with the aim of generating profit. These deposits are therefore classified as investment accounts, which distinguishes them from current accounts, as these do not fall under this category and are not invested.

The Agricultural and Rural Development Bank in Guelma applies the Islamic current account formula through an agreement called the 'Islamic Current Account Opening Agreement'. The bank also offers the option of opening an 'Islamic Savings Account' (Ashbal) and an Islamic Check Account under special agreements, in accordance with the provisions outlined in Appendix II of the regulatory documents.

**Item 3: Types of deposit accounts**

Based on Instruction No. 20-03 from the Bank of Algeria, the types of Islamic banking account are summarised below:

**First: Commercial Accounts**

Also known as demand deposits, these accounts allow customers to deposit funds into an open account and withdraw them at any time without prior notice. They can be accessed via various methods, including cheques, bank transfers, debit cards, online banking and mobile banking services, among others.

**Second: savings accounts.**

These accounts provide depositors

with the freedom to manage their funds at any time. They are savings accounts that do not pay interest. Typically, customers receive a booklet in which to record all withdrawal and deposit transactions. Profits are granted on balances according to previously agreed percentages in exchange for using these funds for investment or savings projects[86].

**Section Two: Deposits in Investment Accounts**

This banking formula involves owners depositing their funds with banks in order to achieve a profitable return generated from the bank's investment of these funds. This process is subject to established Sharia rules and regulations.

**Item One: Definition of Deposits in Investment Accounts**

**1. Juristic definition:**

These are monetary amounts deposited in banks for the purpose of investing them and generating regular income, and are known as investment accounts or term deposits. This is based on an agreement that prohibits the withdrawal of these funds until a specified period has elapsed.

**2. Legal definition:**

Article 12 of Regulation No. 20-02 specifies banking operations related to Islamic banking and the rules governing their practice by banks and financial institutions. It states that these accounts are considered term investments, which are placed at the bank's disposal for the purpose of financing activities that comply with Sharia law, in order to generate profits[87].

**Item Two: Conditions of Deposits in Investment Accounts**

Investment deposit accounts are contracts based on Mudarabah or agency, whereby the bank manages and invests depositors' funds in accordance with the agreed terms.

The bank does not guarantee the return of deposited amounts or the generation of profits, unless it is proven that the bank was negligent, abusive or grossly misconducted in managing the funds.

[86]- Belkassami Salim,Previous Reference, p. 103.

[87]- Article 12 of Regulation 02-20, defining banking operations related to Islamic banking and rules for their practice by banks and financial institutions.

The returns from these accounts are determined by: the deposit amount, investment duration, profit-sharing formula agreed by the parties, and actual investment results.

- The bank bears all operational and management costs related to the management of investment funds, and depositors cannot be charged any of these costs.

In the event of investment losses, these are distributed among depositors in proportion to their contributions to the investment portfolio. The bank does not bear these losses unless negligence or misconduct is proven.

The bank must inform depositors of all essential characteristics of investment accounts, including their nature, management methods, potential risks and profit and loss distribution mechanisms, to ensure transparency and clarity in the contractual relationship[88].

**Item 3: Types of Deposits in Investment Accounts**

According to Article 55 of Instruction No. 20-03, deposits in investment accounts fall into two categories: absolute and restricted.

**First: Absolute Deposits in Investment Accounts**

These are deposits made under a Mudarabah contract, with no specific restrictions imposed on the bank regarding how these funds are used.

**Second: Restricted Deposits in Investment Accounts**

These are defined by an agreement between the parties, and the bank must adhere to the conditions set by the depositor regarding the use of these deposits[89].

**Conclusion:**

In summary, the structural and functional organisation of Islamic banking windows in Algeria is a strategic step towards diversifying the national financial sector and meeting the needs of clients seeking Sharia-compliant financial services.

The study shows that the Algerian legislator has made significant efforts to establish a legal and regulatory framework for these windows in terms of both organisation and oversight. This has enabled them to fulfil their roles within the traditional banking system while adhering to Sharia guidelines.

However, the effectiveness of these windows is still subject to several challenges, most notably the need to strengthen their independence, ensure the qualifications of staff, develop Islamic financial products and improve coordination between Sharia and legal bodies.

Therefore, the success of Islamic banking windows requires continuous legal and institutional dynamism that responds to economic and social transformations while respecting the specifics of the Sharia-based banking model. This will increase public trust and expand the scope of Islamic banking transactions in Algeria.

The following conclusions have been reached from this study:

1. Islamic banking windows are units of traditional banks that conduct banking activities in accordance with Sharia provisions. These represent the first step for traditional banks in entering the realm of Islamic banking.

2. The success of Islamic banking windows cannot be assessed in isolation from the surrounding environment, particularly with regard to public policies, the willingness to change at government and societal levels, the prevailing legal framework and how easy or difficult it is to change, and the degree of economic and intellectual mobilisation, as well as the state's perspective on the Islamic economy as an integrated system.

[88]- Articles 57 to 59 of Instruction 20-03, defining products related to Islamic banking, and specifying the procedures and technical characteristics for their implementation by banks and financial institutions.
[89]- Article 55 of Instruction 20-03, defining products related to Islamic banking, and specifying the procedures and technical characteristics for their implementation by banks and financial institutions.

3. Islamic banking windows have a significant capacity to attract capital and investors thanks to the effective financial instruments they possess to stimulate the national economy. These instruments are outlined in Regulation No. 20-02 and are represented by eight formulas.

4. Islamic banking windows suffer from a decline in service levels in terms of both performance quality and staff efficiency, which negatively impacts their image among the public.

5. Despite Regulation No. 20-02 emphasising the importance of Sharia oversight, the authority responsible for issuing fatwas and legislation remains ambiguous. Furthermore, the formation of the Sharia oversight body by the bank's general assembly does not fulfil the criteria for comprehensive Sharia governance.

6. The current phase presents a suitable opportunity for Islamic banking windows to strengthen their presence and build customer trust by adhering to Sharia guidelines, paving the way for a transition to independent Islamic banks.

Examining any legal mechanisms through scientific study and highlighting the shortcomings associated with their application models should not be limited to mere criticism. Instead, the study should aim to identify the factors hindering the structural and functional performance of Islamic banking windows in attracting investment and achieving national economic development. This requires a focus on key points significant enough to be included as recommendations in the study:

**1. Careful selection of personnel:**

Employees for Islamic banking windows should be selected based on professional competence and ethical integrity, reflecting a genuine commitment to the principles of Islamic banking.

**2. Comprehensive law for Islamic banks:**

A comprehensive law should be enacted for Islamic banks as a whole, taking into account the nature of their activities, and providing a suitable legal environment under the supervision and guidance of the Central Bank of Algeria.

**3. Diversification of financing forms:**

Efforts should be made to reduce excessive reliance on the Murabaha formula and expand the use of other Islamic financing forms, in order to achieve diversity and balance in the products offered.

**4. Activation of Sharia Oversight Bodies:**

The role of Sharia oversight bodies should be strengthened, with their responsibilities being expanded to make their opinions binding for Islamic banking windows. This would enhance governance and transparency.

**5. Effective risk management mechanisms:**

Effective mechanisms should be established to mitigate risks that could disrupt the operation of Islamic banking windows, or at least reduce their severity, to ensure continuity of performance.

**6. Introduction of new Islamic banking products:**

Other types of Islamic banking products should be introduced to increase funding sources and attract greater investment.

## Methodology

This study employs a qualitative legal-doctrinal approach, supplemented by institutional and comparative analysis. Key legal instruments (Law No. 90-10, Order 03-11, Bank of Algeria guidelines) are examined alongside empirical evidence from reports of the Bank of Algeria, financial performance statistics of Islamic windows, and relevant academic literature. Comparative insights from other jurisdictions (Malaysia, Sudan, and the Gulf region) are also incorporated to benchmark Algeria's organizational frameworks.

**Data sources included:**

- Regulatory and legislative texts governing Islamic finance in Algeria.
- Financial statements and public disclosures of Islamic banking windows.
- Interviews and secondary data on the role of Sharia supervisory boards.
- Literature review of contemporary Islamic banking scholarship.

**Findings**

1. Structural Effectiveness

- Islamic banking windows have established Sharia boards, but their authority is often limited to consultative rather than binding decisions.
- Integration between Sharia-compliant operations and overall bank governance remains weak, with insufficient staff training and limited institutional autonomy.

2. Functional Effectiveness

- Product offerings are concentrated on murabaha (cost-plus financing), with underdeveloped use of partnership contracts (mudaraba, musharaka).
- Limited marketing and digitalization have hindered customer outreach, especially in rural regions.

3. Regulatory and Institutional Challenges

- Dual banking supervision (conventional and Islamic) creates ambiguity and slows product approval.
- Lack of specialized training centers for Islamic finance in Algeria restricts human capital development.

Ethical Considerations

This study maintains full adherence to ethical research practices, ensuring accuracy, transparency, and respect for confidentiality when analyzing institutional and financial data. The analysis does not disclose sensitive internal information of specific banks but instead synthesizes available public data and scholarly literature.

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**Conflict of Interest**

The authors declare no conflict of interest in relation to this study.

**List of Sources and References:**

**First: The Holy Quran.**

**Second: legal texts.**

**A. Laws:**

1. Law No. 07-01, dated 9 Safar 1428 (corresponding to 27 February 2007) regarding savings and loan cooperatives. Published in the Official Gazette No. 15 on 28 February 2007. This law regulates the operation of savings and loan cooperatives in Algeria. However, some sources indicate that there are currently no active cooperative savings and lending associations in Algeria.

2. Law No. 23-09 dated 21 June 2023 regarding monetary and banking law (Official Gazette No. 43, published 27 June 2023). This law represents a comprehensive reform of the banking and financial sectors in Algeria and comprises 167 articles distributed across nine sections. The law is intended to address major economic and financial transformations and technological challenges. The law aims to enhance the resilience of the banking sector and improve its operational efficiency.

**B. Orders:**

1. Order 03-11, dated 27 Jumada II 1424 (corresponding to 26 August 2003) includes the Law on Currency and Credit (Official Gazette No. 52, published 28 Jumada II 1423, corresponding to 27 August 2003). This order aims to enhance coordination between the Bank of Algeria and the Ministry of Finance. It defines the powers of the Bank of Algeria in regulating currency and credit.

**C. Regulations:**

1. Regulation No. 18-02, dated 4 November 2018 and published in the Official Gazette No. 73 on 9 December 2018, includes the rules for carrying out banking operations related to participatory banking by banks and financial institutions. This regulation establishes the first legal and regulatory framework for interest-free transactions in Algeria and sets out the rules that banks and financial institutions must follow when conducting participatory banking operations. It also defines banking operations and products related to participatory banking that can be marketed through participatory windows within traditional banks.

2. Regulation No. 20-02, dated 15 March 2020 and published in Official Gazette No. 16 and No. 57 on 24 March 2020, defines banking operations related to Islamic banking and the rules for its practice by banks and financial institutions. This regulation defines the banking operations related to Islamic banking and the rules for their practice by banks and financial institutions. It aims to enhance compliance with Sharia law in Islamic banks in Algeria.

3. Regulation 20-01, dated 20 Rajab 1441 (corresponding to 15 March 2020), defines the general rules relating to the conditions applied to banking operations. It was published in the Official Gazette (No. 16) on 24 March 2020. This regulation outlines the general rules applicable to banking conditions.

**D. Instructions:**

1. Instruction No. 20-03, dated 2 April 2020 and issued by the Bank of Algeria, defines products related to Islamic banking and specifies the procedures and technical characteristics for their implementation by banks and financial institutions.

**E. Resolutions:**

1. Resolution 20-01, dated Sha'ban 1441 (corresponding to 1 April 2020), concerning the establishment of the National Sharia Board for Fatwas for the Islamic Financial Industry, was issued by the Supreme Islamic Council.

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5. Salma Ben Aissa and Khawla Ben Zain, 'Accounting Treatment of Various Financial Operations in Commercial Banks: A Case Study of the Agriculture and Rural Development Bank', Academic Master's Thesis, Department of Management Sciences, Faculty of Economic, Commercial and Management Sciences, Mohamed Bouchir Ibrahim University, Bordj Bou Arreridj, Algeria, 2021–22.
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