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Evaluating the Compliance of Algerian Commercial Banks with the Requirements of the Murabaha to the Purchase Orderer Standard Issued by the Accounting and Auditing Organization for Islamic Financial Institutions (AAOIFI): A Study on a Sample of Banks

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Abstract

This study aims to assess and analyse the extent to which Algerian banks comply with the practical application of the murabaha formula for purchase orders, as stipulated in Sharia Standard No. 08 of the Accounting and Auditing Organisation for Islamic Financial Institutions (AAOIFI), which is considered the most widely accepted form of Islamic financing.

The study found that the degree of compliance by the Algerian commercial banks under review with the provisions issued by the Accounting and Auditing Organisation for Islamic Financial Institutions (AAOIFI) regarding murabaha for the purchaser varied in relation to all the requirements of Sharia Standard No. 08; Al-Baraka and Al-Salam banks achieved the highest compliance rate, exceeding 72 per cent, However, in general, the procedures for implementing this transaction in Algerian banks fall short of the required Islamic Sharia standards.

Keywords: Islamic financial products, murabaha for the purchaser, Islamic banks.

1. Introduction:

In recent decades, the banking sector has undergone fundamental transformations driven by global economic and financial changes, giving rise to the need to develop banking models capable of meeting the requirements of development and achieving financial stability. In this context, Islamic banks have emerged as financial institutions based on the principles of Islamic Sharia, seeking to provide banking services and products that combine economic efficiency with Sharia compliance. These banks have experienced rapid growth and significant expansion across various markets, which has strengthened their position within the international financial system and made them a focus of attention for researchers and decision-makers due to the role they play in economic activity and in providing financing alternatives that are consistent with the requirements of sustainable development.

Islamic financial methods and instruments have diversified and now constitute an important aspect of banking operations; as a result, Islamic banks have adopted several financing structures, perhaps the most prominent of which is the murabaha (cost-plus) financing arrangement, which has become the predominant form of Islamic banking financing, despite the debates and controversies surrounding its application in accordance with Sharia principles, particularly in Algerian banks that have begun to adopt Islamic banking practices, where experts have noted serious violations in Algerian banks regarding the implementation of this structure's procedures. This is despite the existence of the Accounting and Auditing Board for Islamic Financial Institutions, which works to develop the application of Islamic products in accordance with Sharia principles and has produced a number of standards in Sharia Standard No. 08, which addresses the murabaha structure for the buyer.

Based on the above, the research problem of our study becomes clear and is encapsulated in the following question:

To what extent do Algerian commercial banks adhere to the application of murabaha for the purchaser in accordance with Standard No. 08 of the Accounting and Auditing Organisation for Islamic Financial Institutions?

To gain a better understanding of the subject and to simplify the research question, we pose the following sub-questions:

1- What is meant by murabaha for the purchaser?

2-What are the procedures for applying murabaha for the purchaser in certain Algerian banks?

3- To what extent is Sharia Standard No. (08), issued by the Accounting and Auditing Organisation for Islamic Financial Institutions, applied in Algerian commercial banks?

With the aim of answering the main question and the sub-questions arising from it, the following hypotheses have been formulated:

Objectives of the study: This study aims to explore the general concepts of Islamic financial products and their importance in keeping pace with changes and developments in the banking sector, and to shed light on the current state of Islamic banks worldwide, as well as to examine the procedures for implementing and applying the murabaha for the purchaser model at Al-Baraka Bank and Al-Khaleej Bank, and to evaluate them based on Sharia Standard No. 08 of the Accounting and Auditing Organisation for Islamic Financial Institutions.

Methodology: A descriptive and analytical approach was adopted by presenting various concepts related to Islamic financial products, followed by an examination of the concepts of murabaha for the purchaser, as well as the definition provided by the Accounting and Auditing Organisation for Islamic Financial Institutions (AAOIFI), and a study of the extent to which the murabaha for the purchaser model is applied in a sample of Algerian commercial banks and its compliance with AAOIFI Standard No. 08.

Structure of the study: This research paper is divided into three main sections:

Section One: A conceptual introduction to murabaha for the buyer.

Axis 2: The Accounting and Auditing Organisation for Islamic Financial Institutions (AAOIFI).

Axis 3: The extent to which certain Algerian commercial banks comply with the application of murabaha for the buyer in accordance with AAOIFI Standard No. 8

2 . Conceptual Framework of Murabaha to the Purchase Orderer

2.1 Definition of Murabaha to the Purchase Orderer

Murabaha to the Purchase Orderer is a financing arrangement whereby a customer requests an Islamic bank to purchase a commodity with specified characteristics on the customer's behalf. Based on the customer's promise to purchase, the bank acquires the commodity and subsequently sells it to the customer at the acquisition cost plus an agreed profit margin. The customer settles the agreed sale price either through a single lump-sum payment, deferred payment, or installments with specified amounts and due dates (Bseisso, 2010).

Murabaha to the Purchase Orderer involves three parties (Al-Maknawi, 2011):

- **The Purchase Orderer:** The final buyer (the customer) who wishes to acquire the commodity.
- **The Murabaha Seller:** The first purchaser and the second seller (the bank).

- **The Original Seller:** The owner of the commodity who sells it to the bank.

2.2 Characteristics of Murabaha to the Purchase Orderer

- The following are the main characteristics that distinguish Murabaha to the Purchase Orderer: It is considered an innovative and developed financing formula of the simple Murabaha, and a form of trust-based sales (*Buyu al-Amanah*) executed by Islamic banks and windows.
- The parties to the Murabaha to the Purchase Orderer (*Murabaha li-al-Amir bi-al-Shira'*) are three: the orderer (or client), the bank, and the seller (vendor).
- The transaction is executed pursuant to a contract whereby the bank receives the price of the commodity plus its costs and the agreed-upon profit margin, whether the payment is immediate (spot) or deferred, in exchange for purchasing a specific commodity based on the client's request.
- The underlying asset (subject matter) of the Murabaha to the Purchase Orderer does not enter into the ownership of the seller (the bank) except after the request is made by the orderer and prior to the conclusion of the contract.
- The Murabaha to the Purchase Orderer involves two promises (*Wa'dan*): the first is a promise from the customer to the bank to purchase the commodity from it according to the agreed specifications, and the second is a promise from the bank to the customer to acquire it in accordance with the specifications and sell it to him.

3.2. Sharia Rules (Jurisprudential Controls) for Murabaha to the Purchase Orderer:

Contemporary jurisprudence (*Al-Fiqh al-Hadith*) stipulates controls deemed necessary for the permissibility of Murabaha to the Purchase Orderer, which can be summarized in the following points: (Al-Sharqawi Al-Malqi, 2000)

- A person who desires a specific commodity but lacks the funds to purchase it requests someone who can purchase it on their behalf after specifying its characteristics.
- The requester (orderer) and the requested party (purchaser) agree on the latter's entitlement to a specific profit.
- The mandatory (the bank/agent) actually purchases the agreed-upon item.
- When the mandatory delivers the commodity to the requester, the latter shall have the right of option (*Khiyar*) either to conclude the sale or to recede from their promise to purchase. If they choose to proceed with the sale, they may do so through either immediate (spot) or deferred payment, provided that the mandatory, in this case, has no right to prevent the orderer from executing their promise.

3. Accounting and Auditing Organization for Islamic Financial Institutions (AAOIFI):

3.1. Establishment of the Accounting and Auditing Organization for Islamic Financial Institutions (AAOIFI):

The Accounting and Auditing Organization for Islamic Financial Institutions was established pursuant to the Articles of Association signed by Islamic financial institutions on 1 Safar 1410 AH, corresponding to February 26, 1990, in Algeria. The Organization was subsequently registered on 11 Ramadan 1411 AH, corresponding to March 27, 1991, in the Kingdom of Bahrain as an independent, non-profit international legal entity. (Taha & Boufelih،2019)

3**.2. Definition of the Accounting and Auditing Organization for Islamic Financial Institutions (AAOIFI):**

It is one of the most prominent international non-profit organizations supporting Islamic financial institutions. Established in 1991 with its headquarters in the Kingdom of Bahrain, it has achieved impactful professional milestones, most notably issuing 100 standards to date spanning the fields of accounting, auditing, ethics, and governance, in addition to Sharia standards. These standards have been adopted by central banks and financial authorities in several countries as either mandatory or regulatory guidelines.

The Organization enjoys the backing of numerous institutional members, including central banks, regulatory authorities, financial institutions, accounting and auditing firms, and legal practices from over 45 countries. Currently, AAOIFI standards are implemented by leading Islamic financial institutions worldwide, introducing an advanced degree of harmonization to

Islamic financial practices. (Accounting and Auditing Organization for Islamic Financial Institutions)

AAOIFI issues five categories of standards, with a total of 98 standards published so far, broken down as follows: 02 Ethics Standards; 58 Sharia Standards; 07 Governance Standards; 26 Accounting Standards; 05 Auditing Standards. (AAOIFI, 2017)

4. A Study on the Compliance of Certain Algerian Commercial Banks with the Application of Murabaha to the Purchase Orderer in Accordance with AAOIFI Standard No. 8

In an endeavor to assess the practical application of the Murabaha to the Purchase Orderer standard, a set of questions concerning the implementation of the standard's provisions was prepared for the following institutions: the Bank of Agriculture and Rural Development (BADR) - Oran branch, the Bank of Agriculture and Rural Development (BADR) - Jijel branch, the National Bank of Algeria (BNA), Banque d'Albaraka Algérie, Al Salam Bank Algeria, the External Bank of Algeria (BEA), and the Local Development Bank (BDL).

Bank personnel responded to these inquiries as detailed below. The format presents the question first, followed by the relevant clause from the standard, and concludes with the specific response obtained from each respective bank.

4.1. Pre-Murabaha Contract Procedures:

- We note that the surveyed banks do not grant the client's request to purchase the commodity from a specific vendor unless the required purchases are unavailable through the contracted institution. This indicates the banks' compliance with Clause No. 2/1/2 of Standard No. 8, which states: "The client may request the institution to purchase the commodity from a specific vendor and no other. The institution reserves the right to decline proceeding with the transaction if the client rejects other offers that are more suitable for the institution."
- **Does the price quotation in a Murabaha transaction come in the name of the bank, and is this a mandatory condition, or can it be issued without specific addressing?**
  - **Standard Clause 2/1/4:** "It is preferable that such quotations be issued in the name of the institution so as to be considered an offer from the seller." (Accounting and Auditing Organization for Islamic Financial Institutions, 2017, p. 204)

  - **Table (01) : Murabaha Transaction in the Name of the Bank**

Bank	Response
Bank of Agriculture and Rural Development (**BADR**) Oran	It comes in the bank's name.
Bank of Agriculture and Rural Development (**BADR**) Jijel	It comes in the bank's name.
National Bank of Algeria (**BNA**) Jijel	Yes, it must be in the bank's name.
External Bank of Algeria (**BEA**) Jijel	It comes in the client's name.
Al Baraka Bank Algeria - Constantine	It comes in the bank's name.
Al Salam Bank Algeria (**ASBA**) Oran	In the bank's name for the benefit of the client.
Local Development Bank (**BDL**)	In the bank's name.

  - **Note:** The surveyed banks apply the provision of the standard except for the External Bank of Algeria (BEA). Although the standard utilizes a recommendation formulation ("it is preferable") and does not decisively mandate that offers be in the name of the bank, issuing the quotation in the bank's name is deemed a superior jurisprudential (Sharia) and legal

precaution to eliminate any ambiguity that might transform the transaction into a purely monetary financing (a disguised usurious loan).

- 4.2. The Bank's Position on the Client's Request to Conduct Murabaha:A legal and jurisprudential issue is raised in banking practice regarding the scope of authorities granted to the client when communicating with the supplier. While the standards of the Accounting and Auditing Organization for Islamic Financial Institutions (AAOIFI)—specifically Clause No. 2/2/1 of Standard No. 8—do not prohibit the client from conducting research and technical negotiation with the supplier to determine the commodity's specifications and prices, they strictly stipulate that such negotiation must not result in a "contractual acceptance" issued by the client that binds their own liability to purchase directly.
- The standard explicitly states: "If a response of acceptance is issued by the client to the seller's offer addressed specifically to him or free of any direction, then the sale has been concluded with the client, and the institution is not permitted to conduct a Murabaha transaction for that commodity." Consequently, banks are required to draft preliminary procedure documents with utmost precision to ensure that the client's role is strictly confined to negotiation and exploration, without concluding any prior contractual commitment before the bank's intervention and actual ownership of the commodity.

- **Is the Murabaha contract executed between first-degree relatives?**
  - **Standard Clause 2/2/4:** "If the supplying party (the owner of the commodity) has a kinship or marital relationship with the client, the institution must verify, before entering into the Murabaha, that the sale is not nominal (fictitious) or a subterfuge for Inah (buyback sale)." (Accounting and Auditing Organization for Islamic Financial Institutions, 2017, p. 205)

Table (02) : Murabaha Contract Between First-Degree Relatives

Bank	Response
Bank of Agriculture and Rural Development (**BADR**) Oran	▪ In consumer Murabaha only.
Bank of Agriculture and Rural Development (**BADR**) Jijel	▪ In automotive Murabaha only.
National Bank of Algeria (**BNA**) Jijel	▪ The bank does not accept it.
External Bank of Algeria (**BEA**) Jijel	▪ No.
Al Baraka Bank Algeria – Constantine	▪ The bank prefers to avoid it.
Al Salam Bank Algeria (**ASBA**) Oran	▪ No.
Local Development Bank (**BDL**)	▪ No.

Note: The banks' caution appeared significantly, as it is not an easy matter to detect manipulation in this issue. The matter relies heavily on the honesty of the seller and the ordering client with the banks; therefore, the banks preferred to avoid the matter.

3.4. The Promise from the Client:

We note that the surveyed commercial banks, by signing a Murabaha financing contract, include a promise to sell (the commodity), which on the other hand also serves as the client's commitment to purchase (the commodity). This contradicts Clause No. 2/3/1 of Standard No. 8, which states in its substance: "A promise document or its equivalent may not include a bilateral binding promise (for both the bank and the client)."

- **Standard Clause 2/3/2:** "A promise, or a general agreement (framework), is not an integral requirement of Murabaha; rather, it is to provide assurance of the client's determination to execute the transaction after the institution owns the commodity. If the

institution has alternative opportunities to market the commodity, it can dispense with the promise or framework." (Accounting and Auditing Organization for Islamic Financial Institutions, 2017, p. 206)

Table (03) : The Promise from the Client

Bank	Response
Bank of Agriculture and Rural Development (**BADR**) Oran	The promise is binding on the client..
Bank of Agriculture and Rural Development (**BADR**) Jijel	Binding.
National Bank of Algeria (**BNA**) Jijel	The promise is non-binding, but upon paying the seriousness margin, it becomes binding.
External Bank of Algeria (**BEA**) Jijel	Binding.
Al Baraka Bank Algeria - Constantine	Binding.
Al Salam Bank Algeria (**ASBA**) Oran	Binding.
Local Development Bank (**BDL**)	Binding.

Note: The issue of the binding nature of the promise is a subject of disagreement among contemporary jurists. The dispute among jurists regarding the binding nature of the promise has arisen across several opinions (Fathi Ahmed Younis, 2018), and several collective fatwas have been issued in this regard. Among them is the fatwa of the First Islamic Banking Conference held in Dubai in 1399 AH, which states that "the bank client's promise to purchase the commodity after it is bought, and the bank's promise to finalize this sale, are binding on both parties."

Among them is the fatwa of the Second Islamic Banking Conference in 1403 AH, which resolved that adopting the binding nature of the promise is safer for the interest of dealing and the stability of transactions, as well as taking into account the interest of both parties, while leaving the choice of adopting it to each bank according to its Sharia Supervisory Board *(Al-Ghariani, 2024)*.

The Malikis deemed the binding nature of the promise obligatory based on the principle of public interest (*Maslahah Mursalah*) and to prevent harm to the bank (which might purchase an expensive commodity and find no market for it if the client backs out). **The Shafi'is** addressed Murabaha to the Purchase Orderer in detail and went to the non-binding nature of the promise (as it is not considered a contract); thus, a new sale contract must be renewed after the seller acquires ownership of the commodity. On the other hand, **the Hanafis and Hanbalis** did not elaborate on "Murabaha to the Purchase Orderer" in its modern sense, yet their texts indicate the impermissibility of a binding promise to purchase prior to acquiring ownership of the commodity.

Regarding the fulfillment of the promise and Murabaha to the Purchase Orderer, the Council of the International Islamic Fiqh Academy, holding its Fifth Session in Kuwait from 1 Jumada al-Awwal 1409 AH to December 15, 1988 AD, resolved:

- **Permissibility of Murabaha:** It is permissible if the commodity enters into the ownership of the mandatory (the bank) and the Sharia-required possession (*Qabd*) takes place, provided that the bank bears the liability for damage (*Dhaman*) and the right of return due to hidden defects.
- **Unilateral Promise (From One Party):** It is binding religiously (*Diyanatan*) except for a valid excuse, and binding judicially (*Qada'an*) if it is made contingent upon a cause and the promisee incurs expenses as a result of the promise (with compensation limited to actual direct damage).
- **Bilateral Promising (*Muw'adah* - From Both Parties):** It is impermissible unless the option (*Khiyar*) is stipulated for both mutual promisors or one of them; because a binding bilateral promise for both parties resembles the sale contract itself prior to acquiring ownership of the object of sale (*Mabi'*), thereby falling under the Prophet's (peace be upon

him) prohibition against "a person selling what he does not possess" *(The Website's Fatwa Committee, 2017)*.

After addressing the various opinions that are split between the binding and non-binding nature of the promise, as well as regarding the fulfillment of the promise, and according to Clause 2/3/2 issued by the Accounting and Auditing Organization for Islamic Financial Institutions (AAOIFI), which states that *"a promise is not an integral requirement of Murabaha"*, the banks do not comply with the text of the standard.

4.4. Commissions and Expenses :

The commercial banks oblige the client upon opening an account to pay a personal contribution, which is originally called a commitment fee. This contradicts Clause No. 2/4/1 of Standard No. 8, which states in its substance: "The bank is not permitted to obtain a commitment fee from the client."

- **Standard Clause 2/4/2:** "The institution is not permitted to obtain a facility fee." (Accounting and Auditing Organization for Islamic Financial Institutions, 2017, p. 206)
- **Question:** Does the institution obtain a facility fee or a commitment fee?
  - **Standard Clause 2/4/1:** "The institution is not permitted to obtain a commitment fee from the client." (Accounting and Auditing Organization for Islamic Financial Institutions, 2017, p. 206)
  - **Standard Clause 2/4/2:** "The institution is not permitted to obtain a facility fee." (Accounting and Auditing Organization for Islamic Financial Institutions, 2017, p. 208)

Table (04) : Commissions and Expenses

Bank	Response
Bank of Agriculture and Rural Development (**BADR**) Oran	**No**
Bank of Agriculture and Rural Development (**BADR**) Jijel	No
National Bank of Algeria (**BNA**) Jijel	No
External Bank of Algeria (**BEA**) Jijel	No
Al Baraka Bank Algeria – Constantine	No
Al Salam Bank Algeria (**ASBA**) Oran	No
Local Development Bank (**BDL**)	▪ No

Standard Clause 2/5/2: "It is impermissible to hold the client (the purchase orderer) liable for the risk of damage or loss occurring to the commodity during the shipping or storage period. This cannot be considered akin to the seller's performance guarantee, which is strictly confined to the proper execution of obligations and does not extend to covering transit risks, which must be borne by the owner of the commodity." *(Accounting and Auditing Organization for Islamic Financial Institutions, 2017, p. 208)*

Table (05) :Guarantee against Damages and Loss Incurred to the Commodity

Bank	Response
Bank of Agriculture and Rural Development (**BADR**) Oran	Borne by the client.
Bank of Agriculture and Rural Development (**BADR**) Jijel	Borne by the bank.
National Bank of Algeria (**BNA**) Jijel	Borne by the bank
External Bank of Algeria (**BEA**) Jijel	The bank.
Al Baraka Bank Algeria – Constantine	Borne by the bank.
Al Salam Bank Algeria (**ASBA**) Oran	No response.
Local Development Bank (BDL)	Borne by the National Insurance Company (*SAA*).

Note: We note the non-compliance of the Bank of Agriculture and Rural Development (BADR) - Oran branch - with the text of the standard, as it is impermissible to hold the

client (the purchase orderer) liable for what occurs to the commodity during the shipping and storage period. By doing so, it has entered into the "profit without bearing liability" (*Ribh ma lam ydhaman*), which was prohibited by the Prophet (ﷺ). As for the Local Development Bank (BDL), it does not bear any form of risk; the damage is borne by the supplier before the sale and by the insurance company after it. Thus, it contradicts the saying of the Prophet (ﷺ): "Revenue is contingent upon liability" (*Al-Kharaj bi-al-Dhaman*). For instance: "Supposing the institution purchased a car, then during the period of its ownership, its liability and damage are the responsibility of the institution, and its revenue is what it benefits from the client." Meanwhile, the other banks complied with the text of the standard, with the exception of Al Salam Bank Algeria, from which we did not receive an answer to the question.

- **Standard Clause 2/5/3:** "In the case of a binding promise, the institution is permitted to take a monetary amount called the seriousness margin (Hamish al-Jiddiyah). The client pays it upon the institution's request to verify the client's financial capacity, as well as to ensure the possibility of compensating the institution for the damage incurred by it in the event that the client backs out (recedes) from their binding promise. Thereby, the institution does not need to demand payment for damage compensation, but rather deducts that from the seriousness margin amount. The seriousness margin is not considered an earnest money (Arbun). This amount provided to guarantee seriousness is either a trust for investment, whereby the client authorizes the institution to invest it on the basis of Sharia-compliant Mudarabah between the client and the institution, or it is deposited into a current account by the client's choice." (*Al-Ruhaili, 2024*)

Table (06) : Seriousness Margin (Hamish al-Jiddiyah)

Bank	Response
Bank of Agriculture and Rural Development (**BADR**) Oran	Yes, the seriousness margin is taken, ranging between 20% and 30%. It is not returned to the client, but is applied as a discount on the selling price. Yes, the seriousness margin is considered an earnest money (*Arbun*).
Bank of Agriculture and Rural Development (**BADR**) Jijel	Yes, the seriousness margin is taken at a rate of 10%; the institution considers it part of the price. Yes, the seriousness margin is considered an earnest money (*Arbun*).
National Bank of Algeria (**BNA**) Jijel	• Yes, the bank takes a seriousness margin, which varies from one product to another starting from 3%. It is placed in a special account until it is used or returned to the client. • The seriousness margin is not considered an earnest money (Arbun).
External Bank of Algeria (**BEA**) Jijel	• Yes, the bank takes a seriousness margin starting from 10%, determined according to the client's salary and the price of the financed product, and is considered part of the price. • The seriousness margin is considered an earnest money (Arbun).
Banque d'Albaraka Algérie Constantine	• Yes, the bank takes a seriousness margin, its percentage depending on the type of commodity, starting from 5%. • The seriousness margin is not considered an earnest money (*Arbun*).

	Al Salam Bank Algeria (**ASBA**) Oran	It is taken according to the credit evaluation of the application, and is considered a guarantee for the bank's rights and a commitment by the client to purchase the financed commodity. • The seriousness margin is not considered an earnest money (*Arbun*).
	Local Development Bank (**BDL**)	▪ Yes, the bank takes a seriousness margin ranging between 10% and 30%, which is considered part of the price. •Yes, it is considered an earnest money (*Arbun*).

Note: We note the non-compliance of the Bank of Agriculture and Rural Development (BADR) - Oran branch, the External Bank of Algeria (BEA) - Jijel branch, and the Bank of Agriculture and Rural Development (BADR) - Jijel branch, with the text of the standard. It is impermissible to withhold the seriousness margin (*Hamish al-Jiddiyah*) or consider it part of the price except if done with the client's consent, according to the text of Clause 2/4/5; this consent was not clarified by the response. Furthermore, the seriousness margin is not considered an earnest money (*Arbun*). On the other hand, the National Bank of Algeria (BNA) and Banque d'Albaraka Algérie are more compliant with the text of this standard.

- **Standard Clause 2/5/6:** "The institution is permitted to take earnest money (Arbun) after concluding the Murabaha to the Purchase Orderer sale contract with the client, and it is impermissible to do so during the promise stage. It is preferable that the institution waives any excess of the earnest money over the amount of actual damage, which represents the difference between the cost of the commodity and the price at which it is sold to a third party." *(Accounting and Auditing Organization for Islamic Financial Institutions, 2017, p. 209)*

Table (07): Taking Earnest Money (Arbun) After Concluding the Murabaha to the Purchase Orderer Sale Contract

Bank	**Response**
Bank of Agriculture and Rural Development (**BADR**) Oran	Takes the earnest money (*Arbun*) before the contract.
Bank of Agriculture and Rural Development (**BADR**) Jijel	Takes the earnest money (*Arbun*) before the contract.
National Bank of Algeria (**BNA**) Jijel	The institution does not take the earnest money (*Arbun*), neither before nor after the contract.
External Bank of Algeria (**BEA**) Jijel	Takes the earnest money (*Arbun*) before the contract..
Al Baraka Bank Algeria – Constantine	No response.
Al Salam Bank Algeria (**ASBA**) Oran	Takes the earnest money (*Arbun*) after the contract.
Local Development Bank (**BDL**)	Before the contract.

Note: Non-compliance of the Bank of Agriculture and Rural Development (BADR) - Oran branch, the External Bank of Algeria (BEA) - Jijel branch, the Bank of Agriculture and Rural Development (BADR) - Jijel branch, and the Local Development Bank (BDL) with the text of the standard, which stipulates the permissibility of taking earnest money (*Arbun*) after the contract and not before it. Meanwhile, Al Salam Bank Algeria complied with the text of the standard, whereas we note a reservation on the part of the National Bank of Algeria (BNA) and its total non-acceptance of earnest money.

5.4. The Bank's Ownership and Possession of the Commodity and Agency (Authorization) Therein:

The banks' ownership of the commodity prior to executing the Murabaha contract is mandatory, and this can be manifested through the following question:

- **Question:** Does the bank appoint the client (the purchase orderer) himself as an agent (*Wakil*) to purchase the underlying commodity of the contract? And are there specific procedures for that (in the case of appointing the client as an agent)?
- **Standard Clause 3/1/3:** "The general principle (Al-Asl) is that the institution purchases the commodity itself directly from the seller, and it is permissible for it to execute that through an agent other than the purchase orderer. The institution shall not resort to appointing the client (the purchase orderer) as an agent except in cases of dire necessity. The agent shall not undertake the sale to himself; rather, the institution sells it to him after acquiring ownership of the asset, and in such case, the provisions of Clause 3/1/5 shall be observed." (Accounting and Auditing Organization for Islamic Financial Institutions, 2017, p. 210)
- **Standard Clause 3/1/4:** "Procedures must be established through which the institution verifies the fulfillment of specific conditions in the case of appointing the client as an agent to purchase the commodity, including:
  - (a) The institution shall directly pay the price to the seller itself and refrain from depositing the commodity's price into the client agent's account whenever possible.
  - (b) The institution shall obtain documents from the seller to ensure the reality of the sale.″ *(Accounting and Auditing Organization for Islamic Financial Institutions, 2017, p. 212)*

The Bank's Possession of the Commodity Prior to Selling It via Murabaha:

- **Standard Clause 3/2/5:** "The general principle (Al-Asl) is that the institution takes delivery of the commodity itself from the seller's warehouses or from the place specified in the delivery terms. The liability for damage (Dhaman) of the object of sale is transferred to the institution upon realizing its possession of the commodity. The institution is permitted to appoint a third party as an agent to perform this on its behalf.″ *(Accounting and Auditing Organization for Islamic Financial Institutions, 2017, p. 212)*

At the level of Banque d'Albaraka Algérie, the Murabaha transaction and the receipt of the commodity are executed by the client without its prior possession by the bank. This contradicts Clause No. 3/2/1 of Standard No. 08, which states in its substance: "It must be verified that the institution has taken possession of the commodity—whether physical or constructive possession—prior to selling it to its client via Murabaha."

The client is obliged to provide insurance on the commodity to Banque d'Albaraka Algérie, which completely contradicts Clause No. 3/2/6 of Standard No. 08, which stipulates the following: "Insurance on the Murabaha commodity is the responsibility of the institution before selling it."

Table (08) : The Institution Taking Delivery of the Commodity Itself

Bank	Response
Bank of Agriculture and Rural Development (**BADR**) Oran	Yes, we appoint the client as an agent (*Wakil*). The client is appointed as an agent to receive the commodity.
Bank of Agriculture and Rural Development (**BADR**) Jijel	Currently, the institution buys and receives the commodity itself, with the possibility in the future of appointing clients as agents to purchase or receive commodities.
National Bank of Algeria (**BNA**) Jijel	Yes, the client is appointed as an agent. The customer receives the commodity from the supplier in the bank's name.
External Bank of Algeria (**BEA**) Jijel	The client selects the commodity, and the institution handles taking delivery of it.

Al Baraka Bank Algeria – Constantine	The client is appointed as an agent. The customer receives it in the institution's name.
Al Salam Bank Algeria (**ASBA**) Oran	In case the supplier is located in a area far from the bank, the client may be appointed as an agent to purchase the commodity in the bank's name.
Local Development Bank (**BDL**)	The bank along with the ordering client hand over to the customer. Yes, we appoint the client as an agent. The customer receives it accompanied by a representative of the bank.

Note: We did not receive an explanation from the banks regarding the cases of necessity in which the client is appointed as an agent to purchase the commodity himself, except for Al Salam Bank Algeria. Furthermore, the banks' compliance with the procedures stipulated by the standard when appointing the purchase orderer as an agent did not manifest.

Additionally, some banks did not comply with the text of the standard regarding taking delivery of the commodity from the supplier, as noted in the Bank of Agriculture and Rural Development (BADR) - Oran branch, the National Bank of Algeria (BNA), and Banque d'Albaraka Algérie. The general principle (Al-Asl) is that the bank takes delivery of the commodity itself and does not appoint the client as an agent except in cases of necessity; no explanation was provided to us regarding this point.

6. Concluding the Contract:

- **Standard Clause 4/3:** "If the institution purchases the commodity on a deferred payment basis with the intention of selling it via Murabaha, it must disclose this to the client. The institution must declare, upon concluding the sale contract, the details of the expenses that it will include in the price. It is permitted to include any expenses related to the commodity if the client accepts them. However, if those expenses are not itemized, the institution may only include what is customarily considered part of the cost, such as transportation expenses, storage, documentary credit fees, and insurance premiums." *(Accounting and Auditing Organization for Islamic Financial Institutions, 2017, p. 213)*
- **Standard Clause 4/4:** "The institution is not entitled to add to the cost of the commodity except direct financial expenses paid to third parties; for instance, it is not permitted to add to the price a consideration for the work of the institution's employees or the like." *(Accounting and Auditing Organization for Islamic Financial Institutions, 2017, p. 213)*
- **Standard Clause 2/4/3:** "The expenses for preparing the contracts concluded between the institution and the client shall be split between them." (Accounting and Auditing Organization for Islamic Financial Institutions, 2017, p. 206)

Table (09): Concluding the Contract

Bank	Response
Bank of Agriculture and Rural Development (**BADR**) Oran	All expenses, fees related to granting and utilizing the financing are placed on the client, in addition to other taxes that may be added later, and they are disclosed accurately to the client.
Bank of Agriculture and Rural Development (**BADR**) Jijel	No expenses are included.
National Bank of Algeria (**BNA**) Jijel	All expenses related to the commodity—such as shipping, storage, transport, etc.—are included and can be disclosed to the client; they may also be included in the price without informing the client, as there

	are cases where the exact expenses cannot be known.
External Bank of Algeria (**BEA**) Jijel	Expenses such as transport, storage, and notary fees are calculated, and they are disclosed accurately to the client.
Al Baraka Bank Algeria – Constantine	All expenses related to the commodity—such as shipping fees, customs duties, etc.—are included, and the customer is informed of them accurately.
Al Salam Bank Algeria (**ASBA**) Oran	The price of the commodity and the agreed profit margin, in addition to all expenses related to the commodity, are disclosed accurately to the client upon signing the contract.
Local Development Bank (**BDL**)	The profit margin and the price of the commodity are disclosed accurately to the client.

Note: Although the responses of the Bank of Agriculture and Rural Development (BADR - Oran branch), Banque d'Albaraka Algérie, the Local Development Bank (BDL), Al Salam Bank Algeria, and the External Bank of Algeria (BEA) were more precise compared to the remaining banks, they did not clarify whether the banking institution obtains the client's consent to hold them liable for all expenses or share them with them, in accordance with what is stipulated in Clause (2/4/3) of the Sharia Standard. Furthermore, the method adopted in allocating these expenses between the bank and the client was not evident from their responses. Regarding the National Bank of Algeria (BNA), its response indicates a non-compliance with the requirements of the standard, as the standard obliges the institution to disclose to the client the details of the expenses borne by them, which did not clearly appear in the provided response.

On the other hand, the response of the Bank of Agriculture and Rural Development (BADR - Jijel branch) was characterized by a degree of ambiguity, as it did not include sufficient clarification regarding how these expenses are treated, nor was it clear whether they are included in the price of the commodity without disclosure to the client, or if the institution bears them in full, which precluded the assessment of the extent to which its practice complies with the provisions of the Sharia Standard.

- **Does the bank stipulate disclaimer (exemption) from all or some defects of the commodity?**
  - **Standard Clause 4/10:** "The institution is permitted to stipulate in the Murabaha to the Purchase Orderer contract that it is disclaimed (free) from all or some of the commodity's defects, excluding damage or a deficiency in the quantity of the object of sale prior to possession; this is termed 'sale of disclaimer' (Bai' al-Bara'ah). In the presence of this condition, it is preferable for the institution to authorize the client to recourse directly to the first seller regarding compensation for defects for which the institution's right to compensation is established against the seller." *(Accounting and Auditing Organization for Islamic Financial Institutions, 2017, p. 214)*

Table (10) : "The Bank Stipulating Exemption (Bara'ah) from All or Some Commodity Defects

Bank	**Response**
Bank of Agriculture and Rural Development (**BADR**) Oran	Stipulates exemption from all defects, obligates the client not to hold the bank liable regarding any defect or fault in the commodities/equipment, and considers the client solely responsible for the quality and specifications of the commodities/equipment subject to the contract

Bank of Agriculture and Rural Development (**BADR**) Jijel	No response.
National Bank of Algeria (**BNA**) Jijel	Does not stipulate exemption from defects; all defects are borne by the bank.
External Bank of Algeria (**BEA**) Jijel	Does not stipulate exemption; all defects are borne by the institution before the customer takes possession of the commodity.
Al Baraka Bank Algeria – Constantine	Does not stipulate exemption.
Al Salam Bank Algeria (**ASBA**) Oran	No response.
Local Development Bank (**BDL**)	Does not stipulate exemption.

Note: The issue of "sale subject to a disclaimer of defects" (*Bai' bi-Shart al-Bara'ah min al-'Uyoob*) is a matter of disagreement among jurists across several views:

- The Hanafis, the third narration from Malik, and the second opinion of the Shafi'is held that a sale subject to a disclaimer of every defect is permissible, and the seller is disclaimed (exempted) from every defect.
- The Hanbalis in one narration, which is also the third opinion of the Shafi'is, held that the seller is not disclaimed whether he knew of the defect or not. This is because it falls under uncertainty (Gharar) regarding what the seller does not know, and under fraud (Ghabn) and deception (Ghash) if he knew it.

The bottom line is that a sale subject to a disclaimer of every defect is a valid sale, provided that the seller does not conceal a defect he knew in the commodity prior to the contract; because concealing a defect is prohibited (Haram) and constitutes clear deception. *(Encyclopedia of Islamic Economics and Finance, 2024)*

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Does the ownership of the commodity transfer to the client prior to their full payment of the amount?

- **Standard Clause 5/4:** "It is impermissible to stipulate that the ownership of the commodity shall not transfer to the client except after full payment of the price. However, it is permissible to defer the registration of the commodity under the buyer client's name for the purpose of guaranteeing the payment of the price, provided that an authorization (power of attorney) is obtained from the client for the institution to sell the commodity if they delay payment of the price. The institution must issue the buyer a counter-document ('Sanad Dhidd') to prove their right of ownership. If the institution sells the commodity due to non-payment of the price on its due date, it must restrict itself to taking its dues and return the remainder to the client." *(Accounting and Auditing Organization for Islamic Financial Institutions, 2017, p. 215)*

Table (11): Transfer of Commodity Ownership to the Client Prior to Full Payment

Bank	**Response**
Bank of Agriculture and Rural Development (**BADR**) Oran	Yes, ownership of the commodity is transferred before full payment of the price.
Bank of Agriculture and Rural Development (**BADR**) Jijel	Yes, it is transferred, and the customer pays the remaining amount in installments.
National Bank of Algeria (**BNA**) Jijel	No, the client must pay the full amount for ownership of the commodity to transfer from the institution to the client
External Bank of Algeria (**BEA**) Jijel	Yes.
Al Baraka Bank Algeria – Constantine	Ownership of the commodity is transferred before the client pays the full amount.
Al Salam Bank Algeria (**ASBA**) Oran	Ownership is transferred to the customer before payment.
Local Development Bank (**BDL**)	Yes, it is transferred, and the client pays the remainder in installments

Note: All banks—with the exception of the National Bank of Algeria (BNA)—are more flexible in dealing from this perspective and are compliant with what is stated in the standard clause. The stipulation by the latter—i.e., the National Bank of Algeria—of full payment of the price complicates matters for the client, in addition to violating the text of the Sharia clause.

Table (12) : Compliance Rate of Banks with Clauses Issued by the Accounting and Auditing Organization for Islamic Financial Institutions

	BDL-	ASBA	AL-BARAKA	BEA-	BNA-	BADR-jijel	BADR-oran
Clause: 2/1/4	✓	✓	✓	X	✓	✓	✓
Clause: 2/3/5	✓	✓	✓	✓	X	✓	✓
Clause: 2/5/3	X	✓	✓	X	✓	X	X
Clause: 2/5/6	X	✓	X	X	✓	X	X
Clause: 2/5/4	✓	X	✓	✓	✓	✓	✓
Clause: 4/3	✓	✓	✓	✓	X	✓	✓
Clause: 4/4	✓	✓	✓	✓	✓	✓	✓
Clause: 2/4/3	X	X	X	X	X	X	X
Clause: 3/2/2	X	✓	X	✓	✓	✓	✓
Clause: 2/3/2	X	X	X	X	X	X	X
Clause: 2/6	✓	X	X	X	X	X	X
Clause: 5/6	✓	✓	✓	✓	✓	✓	✓
Clause: 2/5/2	X	X	✓	✓	✓	✓	X
Clause: 2/4/1	✓	✓	✓	✓	✓	✓	✓
Clause: 2/4/2	✓	✓	✓	✓	✓	✓	✓
Clause: 5/7	✓	✓	✓	X	✓	X	✓
Clause: 5/4	✓	✓	✓	✓	X	✓	✓
Clause: 3/1/3	X	✓	✓	✓	X	✓	X
Clause: 3/1/5	X			X	X	X	X
Clause: 3/5/4	✓			✓	X	✓	X
Clause: 2/2/1	X			✓	X	✓	X
Compliance Rate (%)	**%57,14**	**%72.2**	**%72,2**	**%61,90**	**%52,38**	**%66,67**	**%52,38**

Source: Prepared by the researcher based on the preceding tables.

Table No. (01) reveals a variation in the degree of compliance of the Islamic banks under study with the clauses issued by the Accounting and Auditing Organization for Islamic Financial Institutions (AAOIFI) regarding Murabaha to the Purchase Orderer.

Banque d'Albaraka and Al Salam Bank achieved the highest compliance rate at **72.22%**, reflecting their relative commitment to applying standard requirements and disclosing most clauses related to Murabaha contracts, while some clauses remain unapplied—indicating that the level of compliance is still incomplete.

In second place came the Local Development Bank (BDL) with a rate of **66.67%**, followed by the External Bank of Algeria (BEA)* with **61.90%**. These rates reflect a moderate level of compliance, as these banks adhered to a substantial number of clauses; however, they still suffer from deficits in applying certain standard requirements, whether regarding disclosure or procedures associated with the Murabaha contract.

Meanwhile, the Bank of Agriculture and Rural Development (BADR) recorded, across its two branches, rates of **57.14%** and **52.38%**, while the National Bank of Algeria (BNA) recorded **52.38%**, representing the lowest compliance rates within the sample. This reflects a clear shortcoming in applying the standard's requirements, which may impact the level of transparency and the quality of accounting information related to Murabaha operations.

It is observed that the gap between the highest and lowest compliance rates is approximately **20 percentage points**, indicating a noticeable disparity among banks in their degree of adherence to AAOIFI standards. This is attributable to differences in disclosure policies, the level of application of Sharia and accounting standards, and the extent of each bank's commitment to adopting AAOIFI standards in preparing its financial statements.

Overall, the results confirm that the level of compliance with the Murabaha to the Purchase Orderer standard remains moderate, as no bank managed to achieve full compliance (**100%**). This demonstrates the persistent gap between the requirements of AAOIFI standards and the actual application within Algerian Islamic banks. Consequently, these findings call for strengthening Sharia supervision, enhancing disclosure policies, and raising the level of compliance with AAOIFI standards in a manner that contributes to improving the quality of financial reporting and boosting user confidence

Conclusion :

Murabaha is one of the most important debt-based modes of Islamic financing, which has occupied a large portion of Islamic banks' activity. It has two types: Simple Murabaha, which takes place between two parties (the seller and the buyer), and the second type—which is the basis of our research—is Murabaha to the Purchase Orderer. Here, the bank enters as a third party between the seller and the buyer (the client to the bank); it purchases the commodity from the seller, owns it, and takes possession of it, then resells it to the client with a profit margin, which allows the client to pay in installments, thereby making it easier for the client to meet their needs.

In this context, Algeria sought to develop Islamic banking activity and establish its regulatory framework; the establishment of Banque d'Albaraka Algérie in 1990 marked the first milestone as the first Islamic banking institution in the country, and this sector was later reinforced by the founding of Al Salam Bank Algeria as a new dimension and the second full-fledged Islamic bank in the national banking market. At a later stage, the scope of activity expanded by opening the field for conventional banks to establish Islamic windows.

Through what was addressed in this study by researching, analyzing, and comparing the Sharia and normative frameworks issued by the Accounting and Auditing Organization for Islamic Financial Institutions (AAOIFI) and the practical, empirical field practices in a sample of commercial, state-owned, and Islamic banks operating in Algeria, such as: BNA, BEA, BADR, BDL, Al Baraka, and Al Salam, the results of the empirical evaluation revealed the existence of varying gaps between internationally recognized standard requirements and local field practices, particularly in issues related to the binding nature of the promise, insurance, guarantee against defects, distribution of expenses, and the timing of ownership transfer.

Main Results Reached:

In light of the above in this paper, a set of the following results was reached:

- Most banks contradict the AAOIFI standard (2/3/2) by imposing a binding promise to purchase in Murabaha, and they exceed the resolutions of the International Islamic Fiqh Academy by requiring a binding mutual promise lacking an option clause, thereby incurring the suspicion of selling what one does not possess.
- The results showed a clear disparity in the mechanism and timing of collecting earnest money (*Arbun*) and seriousness margins among the surveyed banks; where some state-owned banks tend to collect it before signing the contract, while other banks like Al Salam Bank and Al Baraka adhere to the proper Sharia timing and legal characterization, with a variation in the method of compensation for default and holding these amounts.
- It turned out that a number of banks immediately resort to appointing the client as an agent to purchase and receive the commodity on behalf of the bank without observing the

requirement of actual or constructive Sharia possession (*Qabd*) by the institution first, which makes the transaction in some cases approach purely monetary financing (an explicit loan) and deprives the sale form of its Sharia substance represented by the entering of the commodity into the bank's guarantee (*Dhaman*) before transferring its ownership to the client.

- The results of Table (11) showed a disparity in the extent of accurate disclosure to clients regarding expenses related to the commodity (such as shipping, storage, documentation, and customs duties); where it turned out that some state-owned banks (such as the National Bank of Algeria - BNA) include these expenses within the total price without explicit or transparent notification to the client regarding the mechanism of allocating these costs.
- Both Al Salam Bank Algeria and Banque d'Albaraka Algérie recorded the highest overall compliance rate among the surveyed banks, reaching 72.2% for each, which confirms the priority and readiness of the regulatory and Sharia infrastructure in specialized Islamic banks in applying international standards.
- Islamic windows showed compliance disparities, with BADR Bank (Jijel) leading at 66.67%, followed by BEA (61.90%) and BDL (57.14%), while BNA and BADR Bank (Oran) recorded the lowest rate at 52.38%.

Main Suggestions:

- The necessity of creating a body with general public acceptance at the central bank level or an independent body consisting of experts and specialists who supervise, follow up on, and correct Islamic products—primarily Murabaha to the Purchase Orderer—both technically and, most importantly, from a Sharia aspect, so that these contracts become compliant with Islamic Sharia.
- Coordination between the university and Islamic banks and windows for joint work in which university professors specializing in this field participate to collaborate on correcting and adjusting these products in accordance with Islamic Sharia.
- Training banking cadres who supervise Islamic banks—especially windows in conventional banks—from technical and Sharia aspects to avoid errors in managing, operating, and following up on the execution of these products correctly.
- The possibility of avoiding many problems through training employees in coordination with the Accounting and Auditing Organization for Islamic Financial Institutions (AAOIFI).

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