

Regulation governing the Business Of Financial Leasing Institutions “Lil-Ijara” (2004)

In accordance with Section 60-(1) of the Banking Business Regulation Act (2003), the Board of Directors of Bank of Sudan issues the following regulation:

SECTION ONE **PART ONE**

1. Title and Commencement

This regulation is cited as the “Regulation governing the Business of Financial Leasing Institutions “*Lil-Ijara*”, 2004” and shall be effective from the date of signing it.

2. Interpretation

- a) In this regulation, and if not inconsistent with the context, the following expressions shall have the meanings hereinafter respectively assigned to them, that is to say :-

Bank: means Bank of Sudan.

Financial Leasing Institution: means any financial institution as defined in Section (4) of the Banking business Regulation Act, (2003) that works in the business of leasing as a financial investment activity.

Ijara (Lease): means the financial leasing institution (as a leaser) gives the lessee the benefits obtained from leasing the property or asset or any other thing for a particular period of time that may end up with owning the leased property for a payment.

Working Ijara: means leasing the property or asset for a specific period of time but does not end up with owning the property.

Ijara muntahiya bil-tamleek (Leasing ending with Ownership): means leasing the property that ends up with the lessee owning the property.

PART TWO

Business of Financial Leasing Institution

- 3- Financial institutions may, after obtaining a written approval from the Bank, conduct leasing business in Sudan for the purpose of financial investment and offer two forms of *Ijara* contracts:
 - a- Working *ijara*.
 - b- *Ijara* ending with ownership.

Or any other form of *ijara* that is approved by the Shari'a Board of the company and the Higher Shari'a Board for Banks and Financial Institutions.

Conducting the Business of Financial Leasing Institutions

- 4- Financial leasing institutions may possess fixed assets, such as: estates, vehicles, and machinery with the purpose of leasing them according to the legally approved conditions for leasing, provided that a specimen of the leasing contracts is submitted to the Bank for examination.
- 5- Financial leasing institutions must produce and distribute an explanatory quarterly (notice) that shows the sources and uses of funds and how they are managed.
- 6- Financial leasing institutions may get long-term finance and issue finance securities for the purpose of *ijara* operations in accordance with the "Finance Securities Act (1995)".
- 7- Financial leasing institutions may not accept any type of deposits or money from within or outside the country.
- 8- Financial leasing institutions must abide by all the laws, regulations, by-laws, directives and policies that govern banking business in Sudan.
- 9- The management of the financial leasing institution must be given to persons with the following traits: honesty, efficiency, experience and academic qualifications in economics and banking.
- 10- Financial leasing institutions must abide by the Shari'a rulings when conducting their business and activities and each institution must have its Shari'a board consisting of, at least, two persons who are well versed with the Shari'a rules of *ijara*.
- 11- Financial leasing institutions must abide by Shari'a Standard No. (9) issued by the Accounting and Auditing Organization for Islamic Financial Institutions (AAOIFI).

- 12- The paid-up capital of the financial leasing institution, at the time of commencing business, must not be less than five hundred thousands (500,000) Sudanese Dinar or the equivalent in foreign convertible currencies, and the Bank may request documents and details of these amounts.
- 13- The contribution of any shareholder in the paid-up capital of the financial leasing institution must not exceed 15%, unless the prior approval of the Bank is obtained.
- 14- The Articles and Memorandum of Association of the financial leasing institution must be issued in compliance with the rulings and conditions appearing on this Regulation, and must be presented to the Bank to be approved. The foreign financial leasing institutions must present the Articles and Memorandum of Association of the mother company in its country of origin when applying to open branches in Sudan.
- 15- Foreign financial leasing institutions or the proposed branches to be established in Sudan must explain to the Bank any direct or indirect relation that it has with any financial institution or group of financial institutions whether Sudanese or foreign.

PART THREE

Conditions for Granting the License

- 16- Without prejudice to the rules and regulations governing the business of financial leasing institutions appearing in Part Two of this Regulation, the following preliminary conditions for obtaining a license shall prevail:-
 - (1) The license application shall be presented to the Bank signed by the founding shareholders, or the mother company in the case of a branch of a foreign financial leasing institution. The application must be accompanied with the original and three copies of the following documents:-
 - a- Identity document and short C.V.s of the each of the founding shareholders or the representative of the foreign financial institution and the persons who are to be expected to be assigned to executive posts.
 - b- Signed documents by the founding shareholders showing the financial obligations/liabilities of each of them or of the representative of the foreign financial institution.
 - c- The percentage contribution of each of the founding shareholders in the capital of the financial institution, showing the share type and appropriation.

- (2) A feasibility study that covers three coming years, and includes the following:-
 - a- Sources of finance and direction of investment.
 - b- Projected profits and loss.
 - c- Projected balance sheet.
 - d- Projected flow of funds.
 - e- Proposed organizational structure.
 - f- Principles and regulations for internal control.
 - (3) The financial institution applying for the license must be a publicly-owned company or branch of a foreign company.
 - (4) The financial positions of the local financial institution or the mother company, in the case of a foreign branch, must be sound.
- 17- In the case of branch of a foreign financial leasing institution, a registration certificate of the institution in the country of origin must be presented, or the license granted from the foreign authorities in charge of approving conducting leasing business, as well as presenting the resolution of the board of directors approving opening a branch in Sudan.
 - 18- The branches of foreign financial institutions must present an undertaking from the head office of their mother company to meet all the liabilities of the branch if the branch was liquidated or in case the mother company merges with another.
 - 19- Three annual reports must be presented, together with the audited balance sheet and profit and loss account for each year, for the mother company.

PART FOUR **General Provisions**

- 20- The Bank may request any financial leasing institution to prove at any time that its assets exceed its liabilities towards others by an amount equals at least its capital.
- 21- Financial leasing institutions must put effective policies, procedures and adequate supervision including risk management.
- 22- The business of financial leasing institutions must be conducted in a suitable and obvious place for the public, and the license must be shown in it.
- 23- Opening, closing or changing the place of a branch of a financial leasing institution within or outside the country must be after obtaining the prior approval of the Bank, after getting the resolution of the board of directors and the financial position of the institution

and the extent of adhering the rules and regulations governing its business in Sudan.

- 24- All the data and financial statements must be kept at the premises of the financial leasing institution, and should be available for inspection at any time by the Bank or any person appointed by it. The data must reflect the activities of the institution accurately.
- 25- The financial leasing institution must provide the Bank with data and information on its activities in the time and manner specified by the Bank.
- 26- The financial leasing institution must appoint an external auditor approved by the Bank, and he must not be changed during the period specified by the law unless approved by the Bank.
- 27- Accounts are prepared in accordance with the standards of the Accounting and Auditing Organization for Islamic Financial Institutions (AAOIFI) and the standards of the International Accounting Standards (IAS) in the issues not covered by the standards of AAOIFI. The Bank must be provided with three copies of the final statements and the auditor's report within four months after the end of the financial year of the financial leasing institution and they must be published in one local newspaper.
- 28- Financial leasing institutions and their branches must abide by anti-money laundering laws or any international or local regulations in this regard.
- 29- The Bank may levy unrecoverable fees on applications for licenses to establish financial leasing institutions.
- 30- The general assembly of the financial leasing institution holds an annual meeting whose date must not exceed the first half of the year following the end of the previous financial year. The agenda of the meeting must include the following items:-
 - a- Annual report of the board of directors to the general assembly.
 - b- Report of the external auditor on the financial position of the institution.
 - c- Report from the Shari'a Supervisory Board.
 - d- Report from the board of directors on the implementation of contracts with the members of the board of directors, in addition to the agreements to be approved.
- 31- The Bank must be provided with a copy of the minutes of the above mentioned general assembly's meeting.
- 32- Financial leasing institutions must provide the Bank with three copies, one of them being the original, of the following documents:-
 - a- The board of director's report to the general assembly of shareholders.
 - b- Report of the external auditor.

- c- Report of internal audit.
 - d- Minutes of the general assembly meeting.
 - e- Articles of the board of directors.
 - f- Names of the shareholders with big subscriptions.
- 33- Branches of foreign financial leasing institution must provide the Bank with two copies of the following documents:-
- a- The annual report issued by the head office that covers: the report of the board of directors, the balance sheet and the resolutions of the general assembly.
 - b- Resolution to appoint the external auditor of the branch in Sudan.
 - c- A document proving non-conviction of its representatives or executive officers in any offence or crime prejudiced to their integrity and honour (provided that it was not issued earlier than three months).
- 34- The license granted to the financial leasing institution is annulled if the institution does not commence work within six months of the date of being granted the license, unless the period is extended by a resolution of the Bank.
- 35- The Bank may cancel the license granted to a financial leasing institution if it carried out an activity that was not allowed, or that is detrimental to the public good, or if it incurred losses and did not try to correct its financial position, or did not raise its capital to the level specified by the Bank, or was put under liquidation procedures or announced its bankruptcy.

I hereby certify that the Board of Directors of Bank of Sudan has issued this regulation on this *twenty-second* day of the month of *Jumadi el-akher* of the year *1425 Hijri*, corresponding to the *eighth* day of the month of *August* of the year *2004 A.D.*

Dr. Sabir Mohammed Hassan
Chairman of the Board of Directors