

**DA AFGHANISTAN BANK
(CENTRAL BANK OF AFGHANISTAN)**
**Guidelines on Ibra' (Rebate) for Islamic Debt-Based Financing
Products**

***Guidelines on Ibra' (Rebate) for Islamic Debt-Based
Financing Products***

Accountable Executive & Custodian	Islamic Banking Department
Policy Owner	Head of Islamic Banking Department

Approved by DAB Governor:	Date	DAB Board Secretary
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ISLAMIC REPUBLIC OF AFGHANISTAN

**DA AFGHANISTAN BANK, GUIDELINES ON IBRA' (REBATE) FOR
ISLAMIC DEBT-BASED FINANCING PRODUCTS**

PART A: PREAMBLE

1. Background

- a) These Guidelines on Ibra' (Rebate) for Islamic Debt-Based Financing Products ("the Guidelines") are issued by the Da Afghanistan Bank ("DAB") which shall be adopted and become the guiding principles for Islamic Financial Institutions, Financial Institutions operating with an Islamic Window and Financial Institutions operating with an Islamic Unit (collectively referred to as "the Bank") in the Islamic Republic of Afghanistan offering Islamic debt-based financing products.
- b) Ibra' is an Arabic term which literally means 'to waive'. Technically, it refers to an act of absolving or waiving one's financial rights, or in banking terms, the act of a financier relinquishing its rights to collect the full payment due from the financed party in the event of an early settlement of a debt owed to the financier..
- c) In Islamic banking products, the principle of Ibra' may be applied in a financing facility with deferred-payment basis such as Murabaha contract (debt-based financing) where the Bank may allow rebate on the selling price of an item based on a cost plus mark-up (profit) to the customer by reducing all or part of the outstanding sale price.
- d) If the customer offers to make a pre-payment of the Deferred Sale Price to the Bank, i.e. the customer offers to pay the full Deferred Sale Price to the Bank before the Deferred Payment Date due to any of the valid reasons as stated in Clause 5(a) hereto, ("the Prepayment request") the Bank may, in its absolute discretion agree to reduce or discount the Deferred Sale Price by applying the principle of Ibra'.

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- e) The Bank is under no obligation to accept the prepayment request of the customer. Relevant clauses to address prepayment situations should be incorporated in the facility documentation.
- f) Ibra' may also be applied in a situation where the customer defaults in his payment obligation and could no longer continue with his payment commitment forcing the Bank to terminate the financing contract at a pre-mature stage and recall the facility amount. In this case, Ibra' may be granted by the Bank to the customer. The rebate amount shall be at the discretion of the Bank.
- g) For the avoidance of doubt, the right of reducing or discounting the outstanding price vests entirely upon the discretion of the Bank and the customer, neither has the right to claim or insist on such rights being granted to him nor can the Bank contractually obligate itself to grant an Ibra' in the event of prepayment of the debt.
- h) Notwithstanding the above, Banks are encouraged to give Ibra' to their customers in order to remain competitive with conventional banking products as discount for early or pre-payment is a common feature in conventional banking.

2. International Practices on Ibra': Basis of the Imposition of Late Payment Charges

- a) Standard on Ibra' by Accounting and Auditing Organization for Islamic Financial Institutions ("AAOIFI"):

The practice of granting customers an Ibra' is acceptable to international Shariah standard provided that this has not been agreed upfront or made contractual by the contracting parties. This is essentially based on AAOIFI Shariah Standard on "Murabaha to the Purchase Orderer" item 5/9 which states as follows:

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"It is permissible for the institutions to give up part of the selling price if the customer pays early, provided this was not part of the contractual agreement"

b) Common Practice of Islamic Financial Institutions in Middle East:

Some of the Shariah Boards in some of Islamic Banks observed that the strict adherence to the abovementioned Shariah standard may render the practice of Islamic Banks challenging as rebate or discount is a practice that is prevalent in conventional banking. The customer would normally expect to get a discount for any prepayment or early payment. Based on this need, some Shariah Boards have allowed the clause on Ibra' to be incorporated in Murabahah documents provided it shall be based solely on the discretion of the Bank. Accordingly, any legal document on Murabahah may mention clearly upfront that in the event that the customer decides to make early payment, the Bank may, at its absolute discretion, grant a discount or a rebate from the total selling price outstanding.

c) Other worldwide practices:

i. Malaysia

The Central Bank of Malaysia ("BNM") has issued the Guidelines on Ibra' (rebate) for sale-based financing in 2011 which allows Banks and their customers to agree on an Ibra' arrangement upfront in sale-based financing products. A copy of these guidelines are appended herein as **Appendix 1** for reference purposes.

In addition to allowing both parties to agree upfront on the practice of Ibra', the Shariah Advisory Council of BNM which is the highest authority for Islamic banking and finance matters, has also issued several resolutions, in certain circumstances, requiring Banks to provide an Ibra' to customers who make early settlement in order to safeguard the maslahah (public interest) and to ensure that customer protection is carried out consistently. The argument is based essentially on consumer protection since without this clause, Banks may refuse to grant Ibra' for any early settlement or prepayment request by the

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customer. This will render Islamic banking practice unfavourable in the eyes of the public and may result in increase of legal suits in courts.

ii. Western Countries

This practice of having the clause of Ibra' in Murabahah legal documentation has also been followed by some international Shariah Boards for Islamic finance practices in Western countries. This is in line with relevant laws in those jurisdictions which make discount or rebate a compulsory action for any prepayment.

- d) For all intents and purposes, these Guidelines on Ibra' shall adopt the view that a rebate may be incorporated in Murabahah legal documentation provided that the final decision to grant the rebate is vested solely at the discretion of the Bank.

3. Purpose and Application

- a) These Guidelines on Ibra' provide the requirements and procedures for the implementation of Ibra' in Islamic products with the aim of ensuring transparency and standardisation of practices amongst Banks offering Islamic products.
- b) These Guidelines shall only be applicable to debt-based Islamic financing products such as Murabahah which are based on sale contracts and shall exclude all equity-based financing products such as Musharakah and Mudarabah.
- c) The principles as provided in these Guidelines shall constitute a general guideline as a guidance to Banks and all individual Banks are expected to provide their own detailed management and accounting systems for the implementation of Ibra'. Such specific systems shall be deemed acceptable so long that it does not explicitly contravene any of the provisions as contained in these Guidelines hereto.

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- d) The management and accounting system to be developed and used by Banks shall have a feature to meet the Shariah requirements on the application of Ibra'. For instance, there cannot be an automatic grant of Ibra' in the system for any prepayment or early settlement as under the Shariah principles and as explained under these Guidelines hereto, the award of Ibra' is at the total discretion of the Bank and not being granted to the customer automatically.

4. Legal Provision

- a) The Ibra' guidelines are issued pursuant to Article 2.2 of the Afghanistan Bank Law gazetted on 12/17/2003 (corresponding to 30/10/1382) in relation to the powers of DAB to regulate and supervise Banks in the Islamic Republic of Afghanistan and any amendments thereto.
- b) These Guidelines shall be read together with the following guidelines:
- i. Guidelines on Product Transparency and Disclosure;
 - ii. Guidelines on the Imposition of Fees and Charges on Banking Products and Services;
 - iii. Guidelines on Late Payment Charges; and
 - iv. Other relevant regulations guidelines or circulars that Da Afghanistan Bank ("DAB") may issue from time to time.

PART B: POLICY AND PROCEDURES

5. Policy Requirements

- a) All Banks may grant their customers an Ibra' for an amount to be determined by the Bank when the customer prepays or wishes to make early settlement of their financing contract with the Bank due to any one of the following reasons:

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- i. Prepayment or early settlement of the financing contract leading to ending of the contract;
 - ii. Cases of default of payments leading to termination of the financing contract as per Clause 1 (f) above; or
 - iii. A judicial decree/ court order for an accelerated settlement.
- b) The possibility of being granted an Ibra' shall apply to the following customers of the Banks:
 - i. Existing Bank's customers who originally have in place a financing contract with the Bank prior to the effective date of these Guidelines; and
 - ii. All new customers who wish to enter into a financing contract with the Bank after the effective date of these Guidelines.
- c) For new customers, Banks are may explicitly incorporate the provisions relating to the possibility of the Bank granting the customers an Ibra' in the facility documentation such as the offer letter, terms and conditions or any other relevant documentation to make the customer aware of this provision. Provided always that despite providing the provision on Ibra' in the facility documentation, the specific amount/percentage of Ibra' to be granted shall never be mentioned thereto as it shall be entirely upon the discretion of the Bank at the time of the event occurring. Hence, these terms and conditions shall explicitly state that the grant of an Ibra' and its amount are a matter for the Bank to determine, at its sole discretion.
- d) As for existing customers, it shall be sufficient to inform them via notices or general circulars or any other viable means of communications that shall be deemed reasonable in a normal course of conducting business.
- e) As for the pre-requisite of the granting of Ibra', the Bank may agree on a certain period of time when the Ibra' may be granted to avoid the customer acting in bad faith causing unnecessary administrative and commercial difficulties to the Bank.
- f) The Shariah Board of the Banks must perform a continuous oversight role over the implementation of Ibra' by the Bank.

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- g) In cases where there arises an issue on the subject matter which cannot be decided by the Bank and its Shariah Board or a conflicting application by Banks on the implementation of Ibra', reference shall be made to DAB and its Shariah Supervisory Board (hereinafter referred to as "the SSB") for a final decision and such decision as issued thereupon shall be binding upon all Banks.

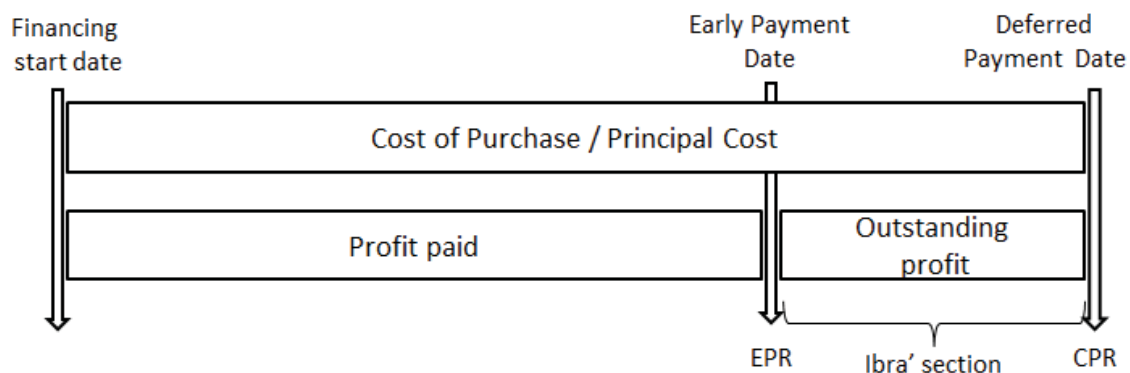
6. Calculation of Ibra'

- a) Ibra' shall only be granted on the profit component of the financing facility and not on the cost/principal amount of the selling price of the asset as the Banks are expected to recover the entire outstanding cost of purchase (outstanding principal amount of financing).
- b) In calculating the amount of Ibra', the Banks must identify and determine the Ceiling/Contracted Profit Rate ("CPR") and the Effective Profit Rate ("EPR") of the financing facility of the respective customer. CPR refers to the maximum profit rate that is calculated up to the Deferred Payment Date while EPR is the amount of profit calculated up to the day of early settlement by the customer (hereinafter referred to as "the Early Payment Date").
- c) The Ibra' may only be granted on the difference between the amount of profit calculated based on CPR and the amount of profit based on the EPR which the maximum can reach up to the total amount of the outstanding profit to the customer. This can be illustrated as per Diagram 1 below:

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Diagram 1: Ibra' calculation method



- d) Banks however may take into account other relevant considerations of costs in determining the final Ibra' amount to be granted to the customer, details of which are further explained in Section 7 below.

7. Factors to consider in Ibra' Calculation

- a) In principle, all Banks may grant to their customers an Ibra' on the outstanding profit amount as per the rule under Clause 6 hereto if the customers' case falls under one of the reasons listed under Clause 5(a). However, the Banks may take into account relevant costs to be borne by the Bank but such factors should only be limited to the following:

i. Administration Costs

These costs must represent the cost incurred/suffered by the Bank as a result of the early settlement request by the customer such as costs of logistics, materials and manpower. The cost must only be charged on an actual as-incurred basis whenever the same is easily quantifiable. In the event such costs are unquantifiable, the Bank shall calculate the same based on a reasonable estimation of the costs that is incurred. In some cases, the Bank may stipulate that the Bank shall not consider

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any rebate application if the customer were to prepay during certain period of the financing tenor.

ii. Unrecovered costs from discounting elements

Costs that have not been recovered because a financing contract has a structure with "specifically designed discount element" given to the customer at the initial period of financing. This should only be applicable to Banks on a case-by-case basis. For example, a special price of a financing contract was given to a few selected/lucky customers due to a promotional event held by the Bank e.g. during festive season. The Bank may recover such discounted portion due to the early termination of the contract by the customer where in such a case, the rebate given to the customer may be lower, taking into account recovery of these costs.

- b) Banks are also expected to take into consideration other mitigating factors, which are out of the control of the customer which forced the customer to seek an early termination of the financing facility such as serious disease/illness resulting in the customer being out of a job, fraudulent representation by a developer or events of natural disaster which are not covered by the insurance/takaful policies. In this regard, Banks are expected to always act equitably and justly towards the customer.

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8. Custodian of the Document

These Guidelines shall be under the safe custody of the Islamic Banking Division ("IBD") of DAB. Any changes to these Guidelines shall be made by the IBD with prior consultation with the SSB, as reviewed by the DAB Executive Board and upon approval by DAB Supreme Council. A copy of the amended Guidelines shall be made available to all stakeholders and SSB members for reference and implementation.

9. Effective Date of the Document

The Effective date of these Guidelines is the _____ day of _____ 20__