

**DA AFGHANISTAN BANK
(CENTRAL BANK OF AFGHANISTAN)**
Qard Product Guide

Qard Product Guide

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

Approved by DAB Shariah Supervisory Board:	Date
--	-------	---------------

DA AFGHANISTAN BANK
(CENTRAL BANK OF AFGHANISTAN)
Qard Product Guide

Contents

1.	BACKGROUND AND PREAMBLE.....	3
2.	PURPOSE AND SCOPE.....	4
3.	DEFINITION OF QARD CONTRACT.....	6
4.	LEGITIMACY OF THE QARD CONTRACT	8
5.	FEATURES OF QARD CONTRACT	10
6.	DEPOSIT RISK BEHAVIOR	21
7.	CUSTODIAN OF THE DOCUMENT.....	23
8.	EFFECTIVE DATE OF THE DOCUMENT.....	23

DA AFGHANISTAN BANK (CENTRAL BANK OF AFGHANISTAN)

Qard Product Guide

1. BACKGROUND AND PREAMBLE

- 1.1. Deposits are essential sources of funds for deposit taking institutions including Islamic Financial Institutions (hereinafter referred to as "IFIs"), Financial Institution operating with Islamic Window (hereinafter referred to as "Islamic Window") or Financial Institution operating with Islamic Units (hereinafter referred to as "Islamic Unit") operating within the Islamic Republic of Afghanistan.
- 1.2. For the purpose of this product guide (hereinafter referred to as "Qard Product Guide"), all provisions as provided herein shall refer to IFIs, Islamic Window and Islamic Unit collectively as "the Bank".
- 1.3. The main purpose of deposits is for the Banks to utilize these funds for financing Shariah-compliant businesses and consumer activities such as property, equipment, vehicle, project, working capital and personal financing. Deposits are classified as demand or sight deposits according to statutory requirements.
- 1.4. These products are designed to take into consideration depositor expectations, Bank funding needs as well as regulatory requirements. In conventional banks, deposits pay interest on outstanding interest bearing liabilities to their deposit and fixed deposit customers. The quantum of interest paid by the conventional bank to the customer largely depends on the length of the fixed term deposit placed with the conventional bank as well as the need for the liquidity. This payment of interest feature contravenes the prohibition of usury in Islamic finance. Thus alternative contracts such as Qard, may be adopted for Shari'ah compliant deposits.
- 1.5. This product guide specifically addresses the contract of Qard which means an Islamic loan contract without interest.
- 1.6. In modern banking, the Qard contract is relevant to the financial institution and hence facilitates the deposit taking of money with Banks. The liability aspect of deposit taking not only provides assurance to depositors but also allows the custodian (the Bank) to use deposits for its own benefit. Qard, a loan contract, is a valid contract and is useful as a source of funds to Banks. Qard is an act of lending without interest in the form of liability to the borrower. In the context of Islamic deposits, the depositor essentially lends money to Banks which are liable to the depositors for the deposited amount.

DA AFGHANISTAN BANK (CENTRAL BANK OF AFGHANISTAN)

Qard Product Guide

- 1.7. In this Product Guide, text on the treatment of Qard as outlined in AAOIFI Shariah Standard No. (19) (hereinafter referred to as "the Standard") has been referred to extensively.
- 1.8. Per the Preface of the Standard, the purpose for same is as follows:
- "This standard aims to elaborate the rules of the Shari'a for *qard* (loan). Among these are the rules for a benefit (*manfa'a*) arising from a loan whether or not this is stipulated (in the contract), just as it includes the regulations of the Shari'a that must be followed by Islamic financial institutions (institution / institutions). Likewise, the Standard includes the Shari'a rules for some applications that institutions need to implement like current accounts, perquisites in return for loans, service charges for loans, and mutual overdrafts between the institution and its correspondents."

2. PURPOSE AND SCOPE

- 2.1. The purpose of these guidelines for the Qard contract (hereinafter referred to as "the Guidelines") is to provide guidelines on the nature and features of each contract to the Islamic financial services industry. These Guidelines shall be endorsed by the Shariah Supervisory Board of the Da Afghanistan Bank (hereinafter referred to as "the SSB") and shall be a document that prescribes the conduct of Islamic financial activities which adopt or make reference to these Guidelines.
- 2.2. These Guidelines provide the definition and the basis of the legitimacy in adopting the Qard contract. In addition, pertinent and prominent features are identified to facilitate the understanding of Shari'ah contract requirements as well as their application to Islamic financial products and services. These features provide stability and permanence for the recognition, adoption and implementation of the Qard contract. In other words, the Bank will be able to identify, understand, apply and distinguish the contract from other contracts prevalent in the industry that will have their own standards and guidelines.
- 2.3. The scope of the Guidelines is confined to Qard contract to be endorsed by the SSB.

DA AFGHANISTAN BANK (CENTRAL BANK OF AFGHANISTAN)

Qard Product Guide

2.4. The potential benefits of this Guideline are as follows:

- 2.4.1. to develop a comprehensive and complete understanding of the nature and features of the Qard contract by Islamic finance practitioners.
- 2.4.2. to provide guidance to all Islamic finance practitioners, finance professionals, academics, scholars and regulators. Detailed reference to opinions and standards will facilitate scholars, regulators and practitioners in their work in Islamic finance.
- 2.4.3. to assist in the development of Islamic financial products and related services that adopt the Qard contract.

2.5. Per clause 1 of the Standard, (defined in Clause 1.6 above) the Scope of the Standard is as follows:

1. Scope of the Standard

“This standard applies to loans and the accompanying benefits or costs irrespective of the institution being a lender or a borrower.

The Standard does not apply to what is not a *Qard*, like the price in a credit sale and investment accounts, because they have standards specific to them.”

Accordingly, in the case of Qard these Guidelines will refer to:

Deposits and the accompanying benefits or costs irrespective of the institution being a depositor or providing deposit services.

These Guidelines do not apply to what is not a Qard contract, like the price in a credit sale and investment accounts, because they have AAOIFI standards specific to them.

DA AFGHANISTAN BANK (CENTRAL BANK OF AFGHANISTAN)

Qard Product Guide

3. DEFINITION OF QARD CONTRACT

3.1. Qard literally means the cutting of a portion. Technically it is a transfer of fungible assets from a lender to a borrower with the condition that the latter will return the same asset to the lender.

3.2. Qard is defined as follows in clause 2 of Accounting and Auditing Organisation For Islamic Financial Institutions (hereinafter referred to as "AAOIFI") Standard No 19:

"Qard is the transfer of ownership in fungible wealth to a person on whom it is binding to return wealth similar to it".

3.3. The elements of Qard are set out in clause 3 of the Standard and they read as follows:

“3/1 The contract of *qard* (loan) is concluded through offer and acceptance by the use of words *qard* and *salaf* or any other word or act that conveys the meaning of *qard*.

3/2 The legal capacity for making a donation is stipulated for the lender.

3/3 The legal capacity to undertake transactions is stipulated for the borrower.

3/4 It is stipulated for the subject matter of the contract that it be known fungible (*mithli*) marketable wealth.

3/4/1 The borrower comes to own the subject-matter of *qard* (the wealth loaned) through possession, and he becomes liable for the (repayment of) a similar subject – matter.

3/4/2 The applicable rule is the return of an amount similar to the loan amount at the place where it was delivered.”

3.4. Per **Appendix D** (definitions) of the Standard:

Mithli (fungibles): These are cash, things subjected to cubic measure, weight, linear measure and very similar countable things that do not differ to an extent that their difference will lead to a difference in their value.

DA AFGHANISTAN BANK (CENTRAL BANK OF AFGHANISTAN)

Qard Product Guide

Current accounts: These are loans that constitute the current accounts insofar as the bank comes to **own** these amounts and that it is possible for the owner of these accounts to withdraw these amounts at any time he likes.

(emphasis added)

- 3.5. Qard contract is the underlying contract for Islamic current accounts. Current accounts are set out in Clause 10 of the Standard in the following manner:

“Significant modern applications of qard

Among the most important applications of *qard* are the following:

10/1 Current accounts:

10/1/1 The reality of current accounts is that these are loans and not deposits. Thus, the institution comes to **own** the amounts and a liability to repay the amount is established against it.

10/1/2 It is permissible for the institution to demand wages for services rendered to the holders of the current accounts

10/1/3 It is permissible for the institution to render services related to deposits and withdrawals to the owners of the current accounts with or without compensation like chequebooks and ATM cards and the like. There is no restriction on the institution if it distinguishes between the owners of current accounts with respect to what relates to deposits and withdrawals, like exclusive booths for receiving the owners of some accounts. Or like distinguishing between the types or cheques.”

- 3.6. For the purpose of these Guidelines the technical definition Qard is adopted as the case may be.
- 3.7. The funds received from the depositors may be utilized by the Bank in providing financing to customers under Islamic modes or in other Shariah compliant investment transactions, subject to all regulatory and Shariah requirements.

4. LEGITIMACY OF THE QARD CONTRACT

The Qard contract is a contract founded in the Qur'an, Sunnah, as well as the Ijma' of Muslim scholars, as well as the Maslahah.

4.1 THE QUR'AN – the permissibility Qard in the Qur'an

4.1.1 The concept of Qard (benevolent loan) has been mentioned in the Qur'an in a number of verses such as follows: .

(a) "He who will give Allah qard al hasan, which Allah will double into his credit and multiply many times". [Al-Baqarah (2): 245]

(b) "If you give Allah qard al hasan. He will double it to your credit and he will grant you forgiveness". [Al-Tagabun (64):17]

(c) "Verily, those men and women who give charity and lend Allah a beautiful loan, it shall be increased many times and theirs shall be an honorable good reward." [Al-Hadid (57):18]

(d) "Establish regular prayer and give regular charity and give Allah qard al hasan". [Al Muzzammil (73): 20]

DA AFGHANISTAN BANK (CENTRAL BANK OF AFGHANISTAN)

Qard Product Guide

4.2 THE SUNNAH OF THE PROPHET MUHAMMAD (SAW)

4.2.1 The Sunnah has indicated the permissibility of Qard in many Hadith, among others:

(a) Ibn Masud narrated that the Prophet (SAW) said:

“Every two loans extended by a Muslim to another count as one charitable payment.”

[Ibn Majah 2/8]

(b) Abu Amama narrated that the Prophet [SAW] said:

"In the night of the journey, I saw on the gate of heaven written, 'reward for sadqah (charity) is ten times and reward for qard hasan is eighteen times'. So, I asked the angel, how is it possible? The angel replied, "Because a beggar who asked might have already had something but a loanee did not ask for loan unless he was in need." [Ibn Majah & Ibn Hisham]

4.3 THE IJMA' OF MUSLIM JURISTS

There is a consensus of opinion among Muslim jurists on the permissibility of Qard.

[KFH-DMFI p.288; Ibn Qudamah, al-Mughni 6/429]

4.4 THE MASLAHAH

It is rather unlikely that everyone keeps all their possessions with them all the time. The need to deposit one's assets with another person is always relevant in society as this constitutes wealth management requirements at both individual and institutional levels. Likewise, one may need to borrow money from others to satisfy his personal needs due to a shortage of money.

5. FEATURES OF QARD CONTRACT

Qard is a contract that comprises a few features which are unique to this contract. These features include trusteeship or liability basis of deposit taking (as the case may be), deposited asset and both the custodian and depositors.

The Qard contract is a stand-alone contract. It cannot have a sale contract contained within it. Per Clause 7 of the Standard:

“Stipulation of contract in qard

It is not permitted to stipulate a contract of *bay'* (exchange, sale) or *Ijarah* or other commutative contract within the contract of *qard*.”

The rationale for the above is to avoid any ribawi element in the said Qard contract which may come into existence should the same is coupled with a sale contract where the sale price may tantamount to riba.

5.1 NATURE OF QARD CONTRACT

5.1.1 The nature of a Qard contract is that it perceives the money received by the Bank as a loan which is a liability to the Bank. It allows the the borrower also as the custodian of the money, to use the money on a liability basis, they also hold both the borrower liable for any loss to money deposited.

5.1.2 Services rendered to Qard account holders such as cheque books, auto teller machines (ATM) services etc. can be provided as these do not constitute excess prohibited in Qard per Clause 10/1/3 of the Standard which reads as follows:

“10/3 Charges on credit cards for cash withdrawals from ATMs

DA AFGHANISTAN BANK (CENTRAL BANK OF AFGHANISTAN)

Qard Product Guide

- 10/3/1** The charges imposed on cards for cash withdrawals from bank teller machines are a charge for services and are independent of the loan.
- 10/3/2** It is necessary that the charges imposed on credit cards for cash withdrawals from bank teller machines be an amount that is certain within the limits of reasonable charges excluding profit from *qard*. It is not permitted to link the charge to the amount withdrawn. It is not permitted to the institution to slice the withdrawals as a device for obtaining repeated charges just as it is not permitted (for this purpose) to take into account the period of repayment of the amount withdrawn. Where there is a difference in currencies, the application of the rate for the prevailing currency is stipulated. See also item 4/5 of Shari'a Standard No. 2 pertaining to Credit and Charge cards."

For ease of reference Clause 4/5 Shari'a Standard No. 2 below explains pertaining to Credit and Charge cards:

"4/5 Cash withdrawal using a card

- (a) It is permissible for the cardholder to withdraw an amount of cash within the limit of his available funds, or more with the agreement of the institution issuing the card, provided no interest is charged.
- (b) It is permissible for the institution issuing the card to charge a flat service fee for cash withdrawal, proportionate to the service offered, but not a fee that varies with the amount withdrawn"

- 5.1.3 Actual costs in managing the Qard facility can be charged by the lender to the Customer. The actual costs do not include indirect charges such as

DA AFGHANISTAN BANK (CENTRAL BANK OF AFGHANISTAN)

Qard Product Guide

salary of the employees, rentals of space and other similar charges. Per Clause 9 of the Standard which reads:

“Service charges for qard

9/1 It is permitted to a lending institution to charge for services rendered in loans equivalent to the actual amount directly spent on such services. It is not permitted to the institution to charge an amount in excess of such a service charge. All charges in excess of the actual amount spent are prohibited. And it is necessary to ensure precision in the determination of the actual charges so that they do not lead to an excess that can be deemed a benefit. The fundamental rule is that each loan bears its own specific charges, unless this becomes difficult as in the case of a group or common loan, in which case there is no restriction in the way of bearing direct collective charges for all the loans on the basis of the entire sum. It is necessary that the method of determining the charges be laid down by the Shari’a Supervisory Board of the institution in detail, and this is to be done by distributing the expenses incurred among all the loans and each loan is to bear its share proportionately. An explanation of such circumstances is to be presented before the Board along with suitable documents.

9/2 Indirect expenses incurred in rendering services for loans are not included in actual expenses, like the salaries of the employees, the rentals of space, assets and means of transport as well as other management and general expenses of the institution.”

The basis for the permissibility for the Bank charging its customers for services rendered is set out in Clause 11 of Appendix B of the Standard which reads as follows:

“ Charges for services actually rendered

The basis for the permissibility of the lender charging only what is equivalent to the actual costs incurred is that these are in lieu of cost

DA AFGHANISTAN BANK (CENTRAL BANK OF AFGHANISTAN)

Qard Product Guide

alone. The lender is doing a favour and the person doing a favour is not to be penalised. The basis for the prohibition of charging in excess of this is that in such a case it would amount to an excess in lieu of the *qard*. Resolution No. 13 (1/3) was issued by the international Islamic Fiqh Academy (OIC) regarding the recovery of actual costs."

- 5.1.4 The contracting parties that agree on a specific period for the repayment of the Qard are bound by such period. Per Clause 6 of the Standard cited above.
- 5.1.5 the money deposited shall be returned to the depositor at a nominal value. Thus any change in the value of the deposited money has no effect on the contract.
- 5.1.6 The repayment of a loan amount should be the outstanding nominal value and not linked to any particular index.
- 5.1.7 Combination Qard contract with equity-based contract is permissible provided there is a clear distinction of features of both contracts at any point in time of the product.
- 5.1.8 A Qard contract cannot be combined with a sale contract such as a Commodity Murabaha. This may generate an implicit benefit to the lender as the Commodity Murabaha sale to the Bank could be at a higher rate to reward the depositor for making the funds available to the Bank.

A Qard has a benevolent nature, it is an interest free loan given by a person / entity with surplus cash to a person / entity who is in need of cash with the obligation to pay the debtor back his principal. Making a sale a condition of accepting a deposit of cash goes against the nature of qard in that same is a benevolent act, and not done to generate profit.

DA AFGHANISTAN BANK (CENTRAL BANK OF AFGHANISTAN)

Qard Product Guide

5.1.9 Other forms of incentives promised such as free Takaful coverage to depositors or eligibility to enter into certain competitions or promised incentives upon opening a Qard account are equally prohibited. These are expressly prohibited per Clause 10/2 of the Standard which reads as follows:

“10/2 Prerequisites for qard

It is not permitted to the institution to present to the owners of current accounts, in lieu of such accounts, material gifts, financial incentives, services or benefits that are not related to deposits and withdrawals. Among these are exemptions from charges in whole or in part, like exemption from credit card charges, deposit boxes, transfer charges and letters of guarantee and credit.

The prerequisites and incentives that are not specific to current accounts are not governed by this rule.”

The basis for this prohibition is that a Qard is a benevolent act in nature and by inducing the customer to deposit money with the financial institution for some gain removes the benevolent basis of the deposit. The customer is now making a deposit for a gain.

5.1.10 Incentives which are given to all customers of the Bank regardless of the type of products subscribed and amount of loan are permissible per Clause 5 of the Standard cited above.

5.1.11 The custodian can utilize the deposited item for investment, trading or other uses irrespective of the consent of the depositor and is liable for the safety of the deposit in all circumstances.

5.1.12 The custodian bank can benefit from the income resulting from the utilization of the deposited asset. Any gain or income generated from the deposit shall exclusively belong to the custodian bank.

DA AFGHANISTAN BANK (CENTRAL BANK OF AFGHANISTAN)

Qard Product Guide

- 5.1.13 The disposal of the income is at the custodian's discretion in the sense that some portion of the income may be given as a gift (Hibah) to the depositor.
- 5.1.14 The custodian cannot promise any pre-agreed benefit/income to the depositor over and above the principal amount when returning the deposit. Any excess over and above the principal amount of deposit promised by the custodian is deemed as Riba.

Treatment of Qard in the case of death

- 5.1.15 The law of inheritance is applicable in case of death and it is the obligation of the heirs to ensure that the deposit shall be distributed according to the rules of Faraid i.e. Islamic law of inheritance.
- 5.1.16 The Bank can disburse the amount to the legal heir(s) or nominee who have obtained legal authority to collect the deposit from the Qard contract.

5.2 DEPOSITS OR LOAN

Monetary deposits or cash are ideal form of deposits in the context of Islamic financial deposits for various account deposits in the Bank.

- 5.2.1 Cash usually refers to money in the form of liquid currency such as banknotes or coins.
- 5.2.2 Pursuant to the principle that cash deposits are deemed to be a loan under Qard contract, deposit involving cash shall not lead to any pre-agreed return or premium to the depositor/lender. Thus, the custodian/ Bank shall not promise an excess amount in the contract.

DA AFGHANISTAN BANK (CENTRAL BANK OF AFGHANISTAN)

Qard Product Guide

This is in keeping with Clause 4.1 of the Standard which states:

“The stipulation of an excess for the lender in loan is prohibited, and it amounts to *riba*, whether the excess is in terms of quality or quantity or whether the excess is a tangible thing or a benefit, and whether the excess is stipulated at the time of the contract or while determining the period of delay for satisfaction or during the period of delay and, further, whether the stipulation is in writing or is part of customary practice”

- 5.2.3 If the deposit and withdrawal are in the same currency, the exact amount of deposit shall be returned.
- 5.2.4 Any withdrawal made in a currency different from the specified deposit currency, the prevailing currency exchange rate on the day of the withdrawal shall apply accordingly.
- 5.2.5 The sources of deposits to the Bank in the form of Qard shall not be a specific requirement to the deposit contract. However the implications of dubious sources that may affect the credibility of the deposit resulted in instituting a contemporary feature for Islamic deposits shall be a general requirement for all types of source of fund received by the Bank. Hence any doubtful or prohibited sources of funds known to the Banks can be declined as source of funds.
- 5.2.6 Funds from non-Muslim organizations such as churches, temples and other organizations can be accepted as deposits provided these organizations do not carry out activities which are deemed to be detrimental to Islam or its followers.
- 5.2.7 Banks shall not receive any transfer of interest proceeds from a conventional account to the Qard account. However, Banks are not bound to investigate every single electronic transfer made by depositors into their accounts as this is deemed to be beyond the control of the Bank.

DA AFGHANISTAN BANK (CENTRAL BANK OF AFGHANISTAN)

Qard Product Guide

5.2.8 Hibah, at the discretion of the custodian, can be made to the depositor in the form of a dividend for a defined period. The determination of hibah shall be unilateral and at the discretion of the Bank without any obligation to the depositor to grant a hibah.

5.2.9 The advertisement of Hibah prior to or at the time of the deposit is not permissible. Such advertisement can amount to the promising of benefits to the depositors, which is not permissible under Shariah for a Qard contract in accordance with Clause 5 of the Standard which reads as follows:

“5/1 It is not permitted to the borrower to offer tangible property or extend a benefit to the lender during the period of the *qard* when this is done for the sake *qard* unless the giving of such benefits is a practice continuing among the parties from a time prior to the contract of *qard*.”

5.2.10 Banks are allowed to distribute Hibah to its depositors at their absolute discretion. To achieve consistency, the Banks may adopt a distribution formula based on criteria acceptable to them such as average balances, period etc. However, such criteria are to be internal documents and wholly discretionary in nature. This is established in clause 5/2 of the Standard:

“5/2 An excess over *qard* is permitted in terms of quantity or quality, or the offering of tangible property or extending of a benefit, at the time of satisfaction when it is not stipulated or is part of custom, irrespective of the subject-matter of *qard* being cash in kind.”

5.2.11 Upon receipt of an application to deposit money, the Bank shall process the application and issue a passbook or certificate of deposit upon receipt of the money from the depositor. The terms and conditions of Qard shall apply and where relevant the period of deposit (loan) is specified accordingly. The Qard contract is concluded upon receipt of actual cash for safe custody by the Bank.

DA AFGHANISTAN BANK (CENTRAL BANK OF AFGHANISTAN)

Qard Product Guide

5.2.12 Both Banks and account holders who open an account based on Qard may agree to make the account as collateral for the benefit of the Bank.

5.3 THE CUSTODIAN & DEPOSITOR/BORROWER & LENDER

5.3.1 The custodian is central to a Qard contract as the principle of trusteeship is vested with the custodian. The custodian/borrower is principally entrusted to disclose all relevant information to the account holders to remove all uncertainties to maintain the fiduciary duty between himself and the depositor.

5.3.2 The deposit is a trust given to a particular Bank for safekeeping. Therefore, the Bank does not have the right to entrust the deposit to a third party without a valid reason or without the permission of the depositor.

5.3.3 In the event where the deposit is under threat (security, fire, natural calamity), the Bank can transfer the deposit to another entity to ensure its safety. In such a situation, the depositor is deemed to have given implicit permission to the custodian to take such measures to ensure the safety of the deposit. If the deposit is lost or damaged by such measure, the custodian cannot be held liable for any compensation.

5.3.4 In the case of mergers and acquisition of two Banks, the status of the deposit in the acquired Banks will be affected. Two options can be considered:

- The new entity of the Bank shall get permission from the depositor to transfer the deposit to the new entity. Or
- The depositor has the right to either agree to or refuse the transfer. In case the depositor refuses, the Bank, as custodian, can give an option to the depositor to either withdraw or transfer the deposit to another entity as per the instructions of the depositor.

DA AFGHANISTAN BANK (CENTRAL BANK OF AFGHANISTAN)

Qard Product Guide

- 5.3.5 The rights and liabilities of the custodian are governed by the nature of the contract for loan and safekeeping. These rights relate to Qard contract which could be based on either the trusteeship (Amanah) concept or the liability (Daman) concept.
- 5.3.6 A depositor under Qard can impose or make the custodian use the deposit in a specific place or in a specific manner. Any breach of such conditions will render the borrower/custodian liable for loss or damage by placing the loan amount/deposit in a less secure account, location or institution compared to that initially requested by the depositor. However, if the deposit is placed in a place that is equally or more secure than the place required by the depositor, the custodian will not be held liable for the loss or damage.
- 5.3.7 The depositor can essentially withdraw the deposit at any point of time and it is the obligation of the custodian to return the asset upon request of withdrawal.
- 5.3.8 The deposit should be returned on demand by the depositor unless the contract is made for a specific period under which the custodian is not obliged to return the deposit prior to maturity. The permissibility of a period for Qard is set out in Clause 6 of the Standard which reads as follows:

"6. Stipulation of a period in qard

It is permitted to stipulate a period in qard. The borrower is, therefore, under no obligation to return it prior to the termination of the period nor can the lender demand it back prior to the end of the period. If, however, no period is stipulated, it is binding upon the borrower to return its substitute (*badal*) on demand."

- 5.3.9 Similarly, for cash in instances of Qard, where no period is stipulated for the return of the cash, then the substitute cash shall be returned to the depositor on

DA AFGHANISTAN BANK (CENTRAL BANK OF AFGHANISTAN)

Qard Product Guide

demand. The Bank is not under an obligation to return the actual cash notes deposited, it may return the same amount using different cash notes.

5.3.10 In instances of Qard, the **actual asset** shall be returned to the depositor on demand, after payment of storage costs or any other charges agreed in advance with the depositor by the Bank. A time period for storage of the asset may be agreed in advance between the depositor and the Bank, but the Bank may not utilise the asset and the asset shall be available at all times. Where the depositor wants to take possession of his asset before the elapse of the agreed time period, the Bank may, in its absolute discretion, impose a charge relating to the cost of arranging delivery of the asset in advance of the agreed date.

5.3.11 It may be that the asset is of such value that it must be stored off site in a secure location and arranging the transport of the asset to the depositor / branch of the Bank may take some time to organise. A delay in producing the asset in this case is acceptable. However the delay is to be reasonable in all circumstances.

5.3.12 Withdrawal and redemption of the deposited item can be done either by direct handing over of the deposited item by the custodian to the depositor or through the arrangement of transfer of debt (Hiwalah), or set off (Muqasah) or foreign exchange of currency (Sarf).

5.3.13 A child can only open a Qard account with the permission of a parent or guardian. The guardian shall have the right to manage and conduct the account as well as monitor all transactions on behalf of the child.

6. DEPOSIT RISK BEHAVIOR

A Qard contract poses risk exposures on outstanding deposit to both the depositor and the custodian.

6.1 Credit Risk

Credit risk exposures of the depositor are limited to the recovery of the deposit upon withdrawal. In any case, the nature of the Qard contract is that the custodian bears such loss in all circumstances.

6.2 Operational risk

6.2.1 Safeguard of depositors' funds based on Qard features shall be through management of fiduciary relationship classified as operational risks. A trustworthy and reputable custodian is to be supervised by the financial authority, Da Afghanistan Bank (hereinafter referred to as "DAB") in this case.

6.2.2 Guarantee of Qard deposits can be affected by Takaful coverage.

6.2.3 In the case where there are no Takaful providers or they entail excessive cost the Banks may apply to their respective Shariah Boards (hereinafter referred to as "the Shariah Board ") for an exemption on acquiring Takaful coverage for deposits based on Qard whereby they may acquire conventional insurance over their respective deposit books. The terms of such exemptions and the duration of same shall be a matter for the Shariah Board subject to the overall approval of the SSB wherever required.

DA AFGHANISTAN BANK (CENTRAL BANK OF AFGHANISTAN)

Qard Product Guide

6.3 Liquidity Risk

- 6.3.1 Deposits on demand held in trust shall expose the Bank to liquidity risks of inability to meet obligations as they fall due without incurring unacceptable costs or losses.
- 6.3.2 The Bank shall have in place a liquidity management framework as prescribed by DAB taking into account separately and on an overall basis their liquidity exposures with respect to each category of savings and current accounts as well as unrestricted and restricted investment accounts.

6.4 Shariah Non-Compliance Risk

- 6.4.1 Shari'ah non-compliance risk is the risk that arises from the Banks' failure to comply with Shari'ah rules and principles determined by the Shariah Board or the relevant body within whose jurisdiction the Bank operates which shall affect depositors' confidence
- 6.4.2 The Banks shall ensure that their Qard contract documentation complies with Shari'ah rules and principles – with regard to formation, termination and other elements that could possibly affect contract performance such as fraud, misrepresentation, duress or any other rights and obligations.
- 6.4.3 The Banks shall undertake a Shari'ah compliance review to ensure that (a) the deposit is not tainted from non-Shari'ah compliance sources such as money laundering, gambling, alcohol trading; (b) the nature of the Bank's financing and equity investment; and (c) that their operations are executed in adherence to the applicable Shari'ah rules and principles as per the fatwa, policies and procedures approved by the Shariah Board and in accordance with the fatwa, policies and procedures approved by the SSB (where relevant).

**DA AFGHANISTAN BANK
(CENTRAL BANK OF AFGHANISTAN)**
Qard Product Guide

7. CUSTODIAN OF THE DOCUMENT

This Qard Product Guide shall be under the safe custody of the Islamic Banking Division of DAB. Any changes to this Guide 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 Guide shall be made available to all stakeholders and SSB members for reference and implementation.

8. EFFECTIVE DATE OF THE DOCUMENT

The Effective date of this document is the _____ day of _____ 20____