

Law No. 2013-48 of December 9, 2013, relating to Islamic investment funds ⁽¹⁾.

On behalf of the people,

The National Constituent Assembly having adopted,

The President of the Republic promulgates the following law:

Article 1 - Islamic investment funds may be created either in the form of undertakings for collective investment in transferable securities or investment companies or expert funds or non-resident companies engaged in the activity of acquiring holdings in the capital of existing or newly created companies as provided for in Article 147 of the Code of Financial Services for Non-Residents, provided that they operate in accordance with Sharia law. They are hereinafter referred to as "Funds."

Art. 2 - The provisions of the collective investment undertakings code promulgated by Law No. 2001-83 of July 24, 2001, Law No. 2005-58 of July 18, 2005 on seed funds, Law No. 88-92 of August 2, 1988 on investment companies, and the code governing the provision of financial services to non-residents promulgated by Law No. 2009-64 of August 12, 2009, shall apply to Islamic investment funds unless otherwise provided for in this law.

Art. 3 - Each fund must have a Sharia supervisory committee responsible for issuing fatwas and monitoring to ensure that the fund's transactions comply with Sharia standards. The decisions of this committee are binding.

The committee shall consist of at least three members, who shall be chosen from among experts specializing in Islamic transaction doctrine and who are Tunisian nationals, with the exception of members of fund committees operating under the code governing the provision of financial services to non-residents.

Committee members are appointed for a three-year term, renewable twice.

(1) Preparatory work:

Discussion and adoption by the National Constituent Assembly at its meeting on November 22, 2013.

The internal regulations or articles of association of the fund shall lay down the conditions of integrity and expertise that members of the committee must meet.

Art. 4 - The Sharia Supervisory Committee is responsible for presenting an annual report on its activities to the general meeting of the company or the manager.

All provisions relating to financial statements concerning the terms and conditions and deadlines for making them available to shareholders or unit holders, for distribution and for filing with the Financial Market Council shall apply to the committee's annual report, in accordance with the legislation in force relating to each type of fund.

The board of directors or supervisory board shall provide the committee with all documents and explanations it deems necessary for the performance of its duties.

Art. 5 - The Sharia Supervisory Committee must be independent, and the appointment of its members, their dismissal, and the determination of their fees shall be carried out by the general meeting of the company or the manager and approved by the Financial Market Council when the Fund is a public offering entity or subject to the control of the Financial Market Council.

The general meeting may not dismiss a member of the committee before the expiry of his or her term of office unless it is established that he or she has committed a serious breach of duty in the performance of his or her duties, in which case he or she shall be replaced by a new member.

Art. 6 - Members of the Sharia Supervisory Board are bound by professional secrecy with regard to all documents and information they have obtained in the course of their duties. The provisions of the Penal Code relating to the disclosure of professional secrecy apply to them.

Art. 7 - Members of the Sharia Supervisory Board must take all measures to avoid conflicts of interest during their term of office.

A conflict of interest is considered to be any direct or indirect personal interest or direct or indirect personal relationship that may affect the commitment of the member concerned to comply with the conditions and obligations incumbent upon them and affecting the proper performance of the committee's duties, whether they are a member of the board of directors or a member of the supervisory board or the executive board or an employee of the company or the manager, or whether they are a subscriber or shareholder of the fund or whether they provide services in relation to the interests of the Fund other than those provided within the committee.

Any member affected by a conflict of interest must declare it to the board of directors or supervisory board and refrain from participating in committee meetings or deliberations or decisions relating to the conflict of interest until the board of directors or supervisory board has ruled on the matter within ten (10) days of the date of the declaration.

When it is established that the conflict of interest is temporary, the member concerned shall be notified and invited to refrain from participating in committee meetings or deliberations or decisions relating to the conflict of interest until the impediment ceases to exist.

When it is established that the conflict of interest is permanent, the member concerned shall be notified and invited to submit their resignation to the chair of the general meeting within forty-eight (48) hours of said notification and shall be replaced by a new member.

If a conflict of interest is discovered, the board of directors or supervisory board must investigate the matter and hear the person concerned. If it is established that the conflict of interest was deliberately concealed, the matter shall be referred to the general meeting, which shall dismiss the member concerned and replace them with a new member.

Art. 8 - Each fund must have an internal Sharia audit unit responsible for reviewing and monitoring the fund's compliance with Sharia standards in accordance with the fatwas and decisions of the Sharia supervisory committee, and for preparing periodic reports to be submitted to the committee and the board of directors or supervisory board.

The internal Sharia audit unit shall consist of one or more members who are specialists in Islamic transaction doctrine. The composition of the unit shall be approved by the Sharia Supervisory Board.

The Sharia Supervisory Board shall periodically verify the effectiveness of the internal Sharia audit system.

Art. 9 - The fund's articles of association or internal regulations and, in the case of a public offering, the prospectus must include the following information:

- the fund has been created and operates in accordance with Sharia standards,
- the Sharia supervisory committee and its composition,
- the internal Sharia audit unit and its composition,
- the method of managing income that does not comply with Sharia standards, if applicable,
- the determination of the party responsible for paying Zakat, whether it be the subscribers, the shareholders, or the fund. In the latter case, the Zakat due on each share or unit must be disclosed.

Art. 10 - Investment companies operating under Law No. 88-92 of August 2, 1988, relating to investment companies, may convert into Islamic investment funds provided that they comply with the provisions of this law.

Art. 11 - Islamic investment funds operating on the date of publication of this law in the Official Journal of the Republic of Tunisia must comply with its provisions within one year of the date of its publication. This period may be extended by decree.

This law shall be published in the Official Journal of the Republic of Tunisia and enforced as a law of the State.

Tunis, December 9, 2013.

The President of the Republic
Mohamed Moncef El Marzougui