The role and challenges of Islamic financing in Uzbekistan and the key legal issues to be addressed for implementation

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Abstract. This article examines the current state of Islamic finance in Uzbekistan. Analytical views on the draft resolution of the President of the Republic of Uzbekistan "On measures to introduce securities based on the principles of Islamic finance" are also presented.

Keywords: Islamic finance, traditional banking system, risk, interest, legal securities.

Introduction

Islamic banking plays an increasingly important role in the modern world. Indeed, the number of citizens in different countries, including the United States and Great Britain, who profess Islam and refuse to use the services of traditional banks, has grown significantly. Therefore, the study of Islamic banking is a very relevant topic in the global economy. We decided to understand the basic principles of this financial institution and its key differences from traditional banking.

Islamic banking, also known as interest-free banking, is a financial system based on the principles of Islamic or Sharia law. The two fundamental principles of Islamic banking are the sharing of profit and loss and the prohibition on the collection and payment of interest by lenders and investors [4].

1. Prohibition of interest rates. Indeed, in the Islamic financial system, riba is primarily prohibited. This is any predetermined rate that depends on the terms and size of the loan. This prohibition is explained by Muslim laws on social justice and
equality. Islam encourages profit, but condemns the use of interest for profit. After all, such activity does not lead to the creation of a product and does not increase the welfare of society.

2. Sharing risk. Since the bank does not charge interest for lending money, it becomes, in effect, an investor, not a lender. Thus, the owner of the capital and the entrepreneur share the risks associated with the implementation of the project.

3. Money is potential capital. They become real capital when they are invested in production activities.

4. Prohibition of speculative behavior. In this regard, any gambling is prohibited, as well as work with derivative financial instruments (derivatives), since transactions with them are characterized by significant risk.

5. The principle of inviolability of contracts. According to the rules of Islamic banking, the fulfillment of contractual obligations is the most important for the parties to the transaction. This reduces the risks for all participants.

The functions of banks in the Islamic model do not differ from the traditional one: they ensure the operation of the national payment system and act as financial intermediaries.

The key difference, as we have already found out, is the prohibition of receiving remuneration in the form of interest payments. However, at the same time, Islam does not condemn making a profit in principle, it simply prohibits that interest that does not depend on the results of activities. According to Islamic ethics, profit should be a reward for risk, labor and effort.

Under Sharia law, it is prohibited to finance the trade in tobacco, alcohol, weapons, as well as activities related to the distribution of pornography, the development of gambling, etc.

In Islamic banking, as well as in traditional banking, there are a variety of financial instruments. Let's consider a few of them. The most common is "murabaha" - it is a cross between a classic loan and leasing. In this case, the loan is allocated for a specific purchase. And until the client repays the entire agreed amount, the bank is
the owner of the goods. Thus, "murabaha" is a trade transaction in which a bank buys goods at one price and sells at another. And trade in Islam is not prohibited [6].

"Mudaraba" - this type of banking services is used when placing deposits. The owner of the money places his finances with a partner who uses them to finance some kind of business. The profit received from this activity is shared between the parties to the agreement. In the traditional financial system, the analogue of “mudarabah” is venture financing.

Muslims also actively use the "musharaka", which involves the co-financing of a project by a group of participants. It can include both individuals and companies. The profit is divided according to the contribution of each of their participants.

"Takaful" - means the payment of insurance premiums to the insurer, provided that in the event of an insured event, the money will be returned. In this case, part of the funds goes to the accumulation fund. From investing this money, the participants receive income, which is indicated in the contract.

Quite common in Islamic countries is "kardul hasana". It is an interest-free loan that is provided to small businesses and is vital to them. In Iran, for example, banks are obliged to spend a certain part of their own funds on "Kardul Hasan". As we recall, it is prohibited to charge interest for the use of money, but the borrower can voluntarily repay the lender by paying a fee (“hiba”).

Some principles of Islamic finance are developing all over the world, as well as in Uzbekistan [1]. In this regard, the draft resolution of the President of the Republic of Uzbekistan "On measures to introduce securities based on the principles of Islamic finance" was announced [2]. But development is not without its challenges.

**Analysis and results**

It is proposed to implement the following principles and mechanisms in the Republic of Uzbekistan on the basis of the principles of Islamic finance:

legal securities - issued in accordance with the principles of Islamic finance, the right to own property and income from the use and use of property and property rights, the issuance of certain projects for the purpose of financing these securities or an inalienable right to property papers;
legal lease securities (suquq al ijara) - securities issued by a private financial company on the basis of Islamic financing principles, the term of which is determined in advance, and their owners have the right to receive income under the lease agreement (financial leasing);

legal participation securities (suquq al mudoraba / musharaka) - the use of funds raised by a private finance company in accordance with the principles of Islamic financing to establish a new investment project, a simple partnership agreement or a joint stock company or a limited liability partnership. securities issued for the development of an existing investment project or business development in the form of a legal entity;

deferred repurchase securities (suquq al murobaha) - securities issued by a private financial company with a predetermined maturity in accordance with the principles of Islamic finance, in which case the defaulted property is transferred to the originator;

originator - a legal entity resident of Uzbekistan, which transfers property and (or) property rights to a private financial company on the basis of the relevant contract or agreement;

special financial company - a legal entity established exclusively for the purpose of issuing legal securities and in the case of a joint-stock company or a limited liability company in the organizational and legal form and operated by the Agency, included in the list of residents of Uzbekistan;

Beneficiary right (right of economic control) - a property right of an individual or legal entity that ultimately manages the property and property rights of the controlled legal entity, transferred to another, certified by a notarized declaration of the controlled legal entity.

Islamic bonds "suquq" will be introduced in Uzbekistan, and in 2021 a pilot project on the issuance of these securities will be implemented. Under this issue, the rules of English law and the special tax regime apply [3].

Suquq green bonds are a common way to attract investment and are similar to project financing and leasing elements. Currently, the global turnover of this market

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is about 950 billion dollars. The most advantageous advantage of using an Islamic instrument for an investor is that the return on a security is directly related to the income of the project issued by Sukuk.

Issuance of legal securities is carried out through the establishment of a special financial company and the issuance of a special financial company on foreign and domestic platforms of organizers of securities trading, in two ways - asset-backed and unsecured;

In addition, under the pilot project on financing through the issuance of legal securities, a special tax regime will be applied, which provides for a separate tax regime in the form of exemption of originators and issuers from the following types of taxes and fees on operations.

Conclusion and recommendations

The main difference between Islamic finance and traditional financing is that Islamic finance involves profit and loss sharing as well as real asset-based financing. In other words, Islamic finance is based on partnership, cooperation. In this case, Islamic banks can build the facility, purchase equipment, goods, raw materials or lease them at the request of the customer. Funding is based on trade practices. Money is seen as a medium of exchange, i.e. it is forbidden to lend money itself as interest or as a profit. If we compare a lease or an Islamic lease with an alternative to buying a car on a traditional lease, the traditional bank first enters into a lease agreement with you, then prepares 25% or another amount at the discretion of the bank, then the customer pays according to the car purchase agreement with the salon. It then calculates a premium of 25% per annum and provides you with a monthly payment schedule with the same payment for 3 years. In case of late payment, a commission will be charged as a penalty and it will be included in the profit.

One of the main criteria for the introduction of Islamic banking in Uzbekistan is the Central Bank of the Republic of Uzbekistan, through amendments and additions to the laws on banks and banking, tax and civil codes and other by-laws or the adoption of a separate law. In addition, training in this field in Uzbekistan began in 2018 at the International Islamic Academy of Uzbekistan, but in 2019 there was no
admission in this area. This in itself leads to a shortage of staff in this area, especially as there are very few or no suitable candidates for Sharia councils. It is also important to increase the literacy of the population in this regard, as the population who do not have sufficient knowledge of Islamic finance will not understand its difference from traditional financing or will be misinterpreted.

Another problem is that the traditional banking community exaggerates the “threats of the Islamic banking system” by worrying about its declining share of the financial market and the mass transfer of customers to Islamic banks. However, the experience of the development of the Islamic banking and financial system over the past 30 years shows that even in Muslim countries, which have preserved their religious traditions and beliefs, the main share of the financial sector falls on the traditional banking system. For example, apart from Saudi Arabia and other Gulf countries, Pakistan, Bangladesh, Malaysia, Indonesia, Egypt, Turkey and others, in all of them the Islamic banking system has been satisfied with a very small share for many years [5]. At the same time, it is the Islamic banking system that pulls large amounts of money out of the hands of the population "from under the bed" and attracts it to the real economy, thereby significantly activating the economy, trade and welfare of the population. Therefore, within any legal system and under any circumstances, Islamic banks can be seen as a source of economic activation and growth, as well as an alternative system that provides healthy competition in the banking and financial sector.
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