



# CENTRAL BANK OF NIGERIA

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## **CIRCULAR TO ALL NON INTEREST (ISLAMIC) FINANCIAL INSTITUTIONS**

### **TREATMENT OF HAMISH AL JIDDIYYAH (EARNEST DEPOSIT)**

Following our observation on the inconsistencies in the treatment of Hamish Al Jiddiyah (earnest deposit) by Non-Interest (Islamic) Financial Institutions (NIFIs) in Nigeria, the Central Bank of Nigeria hereby issues the following circular to standardize the treatment of Hamish Al Jiddiyah (HAJ) in line with international best practice.

Consequently, all NIFIs operating in Nigeria are directed to comply with the provision of this circular.

For further enquiry, kindly contact the Director, Financial Policy and Regulations Department, Central Bank of Nigeria.

**KEVIN N. AMUGO**

**DIRECTOR, FINANCIAL POLICY AND REGULATION DEPARTMENT**

## **1. INTRODUCTION**

The Central Bank of Nigeria (CBN) has observed inconsistencies in the treatment of Hamish Al Jiddiyyah (earnest deposit) by different Non-Interest Financial Institutions (NIFIs) in Nigeria which is against the provision of the Accounting and Auditing Organisation of Islamic Financial Institutions (AAOIFI) Standards on the treatment of HAJ in Murabaha and Ijarah contracts.

In order to standardize the treatment of HAJ by NIFIs operating in Nigeria and to ensure that customers of such institutions are treated fairly in line with international best practice, the CBN hereby prescribe the treatment of HAJ to be adopted by NIFIs.

## **2. DEFINITION**

Hamish Al Jiddiyyah (Earnest Deposit) is an amount advanced by a party making a binding promise to enter into a contract with a counter party, whereby the amount is deposited to serve as compensation for any loss suffered by the counter-party as a result of a breach of the promise by the promisor.

It is therefore a form of security indicating the commitment of a customer as regards his obligation to execute a contract with a financial institution and is held by the institution to compensate it for actual damage incurred as a result of the customer's breach of promise to execute the contract in question.

The amount of HAJ may be determined in accordance with the agreement of the two parties, either as a lump sum or a percentage of the purchase price of the item that is the subject of the contract.

## **3. TREATMENT OF HAMISH AL JIDDIYYAH BY THE FINANCIAL INSTITUTION**

There are two options for NIFIs regarding holding the amount of HAJ deposited by a customer:

- a. Holding it as an investment deposit on the basis of Mudaraba between the customer (as investor) and the institution (as mudarib), with an explicit permission of the customer;
- b. Holding it as a trust deposited by the customer in a third party non-interest (Islamic) bank with a standing order by the customer that the amount will only be withdrawn with the express authority of the benefitting financial institution.

#### **4. RETRIEVAL OF HAMISH AL JIDDIYYAH BY THE CUSTOMER**

Where the customer fulfils his promise and executes the contract with the financial institution, the Hamish Al Jiddiyah is to be refunded to the customer.

#### **5. AGREEMENT TO DEDUCT HAMISH AL JIDDIYYAH FROM THE CONTRACT AMOUNT PAYABLE BY THE CUSTOMER**

It is permissible for the institution to agree with the customer that the amount of Hamish Al Jiddiyah will be deducted from the amount payable by the customer pursuant to the contract of Murabaha to the purchase orderer or the contact of Ijarah, with the following conditions:

- a. Agreement of the customer;
- b. The agreement is done after the execution of the Murabaha or Ijarah contract between the institution and the customer.

#### **6. PROCEDURE FOR DETERMINATION OF ACTUAL DAMAGES INCURRED BY THE INSTITUTION**

The procedure for determining the actual damages incurred by the institution in the event of a breach of promise by the customer should observe the following points:

- a. Determining the amount should be under the supervision of the Advisory Committee of Experts ( ACE) of the financial institution;
- b. The amount must not include the expected mark-up or opportunity cost to the institution for lack of fulfilment of the promise by the customer;
- c. The procedure for determining the actual damages should be clearly stated in the promise undertaking document to be signed by the customer.