

## The Islamic Windows in Traditional Banks

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### Abstract

This article discusses Islamic banking windows within traditional banks and the ongoing debate among Islamic scholars, both supporters and opponents of these windows. Some supporting scholars argue for the permissibility having these windows in traditional, providing their religious evidence from the Quran and Sunnah. On the other hand, opponents claim that Islamic windows within traditional banks are nothing but a support for usury moneylending, and they present their religious evidence from the Quran and Sunnah as well. However, the conclusion we have reached in this matter is the permissibility of having these windows, according to Shar‘iyah guidelines, such as the formation of a Shar‘iyah supervisory board consisting of trustworthy scholars with expertise in the field of Islamic banking. It also includes the formulation of legitimate contracts approved by the Shariah supervisory board, along with other mentioned guidelines in the article. Furthermore, this article addresses reservations regarding the financing methods of Islamic windows, the opinions of scholars regarding the mingling of permissible al-Ḥalāl and impermissible al-Ḥarām funds, based on the presence of Islamic window funds in conventional interest-based banks. We also discuss the tools through which Islamic windows can overcome the problem of mixing Ḥarām and Usurious-based fund.

**Keywords:** *Windows, Usuriou, al-Ḥalāl, al-Ḥarām, Traditional Banks, Islamic Windows, Supporters, Opponents, Money.*

**1- In language:** window or "Nāfidhah" in Arabic means a window that has been opened. It is used to mean "I have received my due punishment". It can also mean "to penetrate" or "to have influence". In Islamic tradition, showing respect and asking for forgiveness for one's parents is considered important, as well as fulfilling their last wishes.

"Nāfidhah" can also mean "to sign" or "to validate" a will. "Nāfidhah" can also refer to the successful landing of an arrow or the delivery of a book to someone.

"Nāfidhah" can also mean "to enforce" something with emphasis, and we are commanded to enforce what we say that is effective or obedient.

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**2- Islamic:** In the Arabic language, Islam means surrender, submission, and obedience. It is said that a man who has embraced

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<sup>B</sup> -Ibn manzūr, Lisān al-‘Arab, Dār Ṣādir lil-Ṭibā‘ah, Bayrūt Lubnān, T 4, 2005, § 10029, 10031.

Islam has surrendered, and it is also said that a man who has embraced Islam has entered into Islam and become a Muslim.<sup>C</sup>

**Secondly: In technical terms,** there are multiple definitions for Islamic windows, but there are differences between these definitions. It has been defined as "the sections that provide Islamic banking services in traditional banks," which is an incomplete definition considering that these windows are administratively affiliated with traditional banks. Some of them knew the branches that belong to usurious banks and practice all banking activities according to the provisions of Islamic law.<sup>D</sup>

Some call it the dual system, meaning that the traditional bank provides banking services alongside traditional transactions.<sup>E</sup>

Windows can be defined as "branches established by usurious banks to provide Islamic banking services."<sup>F</sup>

**Secondly: The reasons for the emergence of windows.**

There are multiple reasons for the emergence of windows in traditional banks, but they vary from bank to bank and can be summarized as follows:

- 1- In terms of control and legal procedures, a main bank has greater ease in controlling its branch compared to an independent bank and establishing a branch compared to establishing a new bank.
- 2- Preventing the need for more Islamic banks to be established.
- 3- To meet the increasing demand for Islamic banking services, many individuals in Islamic societies prefer Islamic banks over traditional ones due to their discomfort.
- 4- The desire for a gradual transition towards the Islamic banking system.
- 5- In Western countries, there has been a consistent rise in the Muslim population. has led to the opening of Islamic windows in traditional banks to benefit from Muslim funds.
- 6- The process of establishing a branch is made easier through streamlined legal procedures. or window instead of establishing a new bank.
- 7- Attracting more capital from traditional banks by opening Islamic windows.<sup>G</sup>

<sup>C</sup> -Muḥammad Murtaḍā al-Zubaydī, Tāj al-‘arūs, Dār al-Nahḍah al-‘Arabīyah, al-Qāhirah Miṣr, D. Ṭ, § 385.

<sup>D</sup> - al-Duktūr Ḥusayn Ḥusayn Shihātah, al-ḍawābiṭ al-shar‘īyah lfrw’ al-mu‘amalāt al-Islāmīyah bi-al-bunūk al-taqlīdiyah, Majallat al-iqtisād al-Islāmī, Bank Dubayy al-Islāmī, al-Imārāt al-‘Arabīyah al-Muttaḥidah, al-‘adad 240, Rabī‘ al-Awwal 1422h / Yūniyū 2001 M, §33

<sup>E</sup> - al-Duktūr ‘Umar Zuhayr Ḥāfiz, ra’y fi mas’alat al-nizām al-muzdawaj fi al-A‘māl al-bankīyah, Majallat al-amwāl, Sharikat al-ittiṣālāt al-Dawliyah, Jiddah, al-Sunnah al-ūlā, al-‘adad al-Awwal, Uktūbir / Disimbir 1996m, p60.

<sup>F</sup> -D. Fahd al-Sharif, al-furū’ al-Islāmīyah al-tābi‘ah lil-maṣārif al-ribawīyah dirāsah fi ḍaw’ al-iqtisād al-Islāmī, baḥth muqaddam ilā al-Mu’tamar al-‘Ālamī al-thālith lil-Iqtisād al-Islāmīyah alladhī ‘aqd fi Jāmi‘at Umm al-Qurā, manshūr ‘alā Mawqi‘ Mawsū‘at al-iqtisād wa-al-tamwīl al-Islāmī ‘alā Shabakah al-intirnit, p 13, mtāḥ ‘alā al-rābṭ al-ātī <https://iefpedia.com/arab/?p=450>

### **Thirdly: Characteristics of Islamic windows**

They have multiple characteristics, including<sup>H</sup>:

- 1- Islamic windows differ in their transactions as they follow the provisions of Islamic law unlike traditional banks that deal with usury.
- 2- Investment deposits can be made by the bank in case they are needed and they are subject to profit and loss.
- 3- Investment is done through legitimate speculation based on a contract between the debtor and the creditor.

Islamic windows are based on participation, profit sharing, and speculation. Their forms are multiple, while traditional banks rely on usury loans.

- 4- The existence of a Sharia supervisory board that oversees and decides on various issues raised in Islamic banks.

### **Fourthly: The legal nature of Islamic windows.**

I emphasize the second aspect, not the first, which is Islamic windows in traditional banks and not independent Islamic banks or branches.

Islamic windows are not a term synonymous in content with the term Islamic branches, and one of the most important differences is<sup>I</sup>:

the administrative structure that manages the Islamic branch in the traditional bank, which is larger than the structure that manages the Islamic window, which does not exceed the level of an administrative department in a traditional bank, and in some banks is limited to a department or unit within the bank. This is reflected in the Islamic.

### **Fifthly: Supporters and opponents of the economic windows.**

There is a jurisprudential and economic disagreement between those who see the possibility of establishing Islamic branches in traditional banks and those who see it as not permissible, between opponents and opponents.<sup>J</sup>

- A. Supporters: Those who support this view believe that establishing Islamic branches in traditional banks is a big gain, as these banks will promote Islamic branches and also respond to Western claims about the shortcomings of the Islamic economic approach. One of their most important arguments is that Islamic branches work to combat usury, which is the basis on which traditional banks operate.
- B. The profits achieved by Islamic branches may lead traditional banks to change their pattern from usury banks to Islamic banks.
- C. In the absence of the possibility of opening independent Islamic banks, branches remain an alternative to them.

<sup>G</sup> - al-Duktūr ‘Umar Zuhayr Ḥāfīz, al-nawāfidh al-Islāmīyah fi al-bunūk al-taqlīdiyāh, Majallat al-amwāl Sharikat al-ittiṣālāt al-Dawliyah, Jiddah, al-Sunnah al-thāniyah, al-‘adad al-sādis, Yanāyir / Mārs 1998M, p39

<sup>H</sup> - al-Duktūr Ḥusayn Shihātah, al-ḍawābiṭ al-shar‘īyah lfrw‘ al-mu‘āmalāt al-Islāmīyah, marji‘ sābiq, p33.

<sup>I</sup> - al-Duktūr Ḥusayn Shihātah, al-ḍawābiṭ al-shar‘īyah lfrw‘ al-mu‘āmalāt al-Islāmīyah, marji‘ sābiq, p45.

<sup>J</sup> - D. Fahd al-Sharīf, al-furū‘ al-Islāmīyah al-tābi‘ah lil-maṣārīf al-ribawīyah, pp22-23.

D. Islamic branches gain expertise in management and the use of modern technologies.

2-Opponents: Opponents believe that these branches are only a means of deceiving Muslims and draining their money. They consider usury banks to be just a facade for attracting capital and using it in usury projects, and their evidence for that is:

1- The saying of Allah: "O you who have believed, fear Allah and give up what remains [due to you] of interest, if you should be believers. And if you do not, then be informed of a war [against you] from Allah and His Messenger. But if you repent, you may have your principal - [thus] you do no wrong, nor are you wronged."<sup>K</sup>

2- The saying of Allah: "Then do you believe in part of the Scripture and reject the rest? Then what is the recompense for those who do that among you except disgrace in worldly life; and on the Day of Resurrection they will be sent back to the severest of punishment.

And the god is not unaware of what you do."<sup>L</sup>

3- According to the jurisprudential rule of " al-Tābi‘ tābi‘", branches are considered subordinate to traditional banks.

4- Keeping money in one bank results in mixing al-Ḥalāl wa al-Ḥarām money, especially when there is a liquidity surplus in Islamic branches that is transferred to interest-based banks for investment and then returned to Islamic branches.

5- The trick used by interest-based banks to open Islamic branches is to gain market opportunities.

Through these verses, it becomes clear that dealing with usury is not permissible and it is not acceptable to engage in such transactions while at the same time engaging in Islamic transactions.

### **3-Islamic branches of necessity<sup>M</sup>.**

They said that dealing with Islamic branches in conventional banks is nothing but supporting usury and therefore supporting falsehood. However, it is resorted to in case of necessity because there is no alternative, and dealing with an Islamic branch is better than dealing with conventional banks. They relied on the following evidence:

1- The saying of Almighty god: "So whoever is forced by necessity, neither desiring it nor exceeding limits, there is no sin upon him."<sup>N</sup>

This means; that a Muslim is compelled to deal with the Islamic branch in case of necessity.

2- Dealing with an Islamic branch is better than dealing with a conventional bank if an Islamic branch exists.

<sup>K</sup> - Sūrat al-Baqarah, al-āyah (278-279)

<sup>L</sup> - Sūrat al-Baqarah, al-āyah (85).

<sup>M</sup> - D. Fahd al-Sharīf marji‘ sābiq, p 24.

<sup>N</sup> - Sūrat al-Baqarah, al-āyah (173)

3- Conventional banks are urged to quickly and completely convert to Islamic banks when resorts to them in case of necessity.<sup>o</sup>

**Firstly, Rules for working in Islamic branches.**

It is necessary to provide all the necessary regulations for the success of the work from different aspects, especially from the customers side, as well as for the workers in the management and its Islamic branches, among the bank's employees in general, these regulations have varied to include.

**Firstly: Shari‘at regulations.**

"Compliance with the rules of Sharia is considered one of the fundamental principles that are applied in daily practices, It is necessary to prove these operations according to the provisions and regulations of Sharia which are as follows:

- A) Forming a Sharia supervisory board consisting of trusted scholars and experts The field of Islamic banking has witnessed significant growth and development in recent years to ensure the legitimacy of the procedures, products offered or intended to be offered to customers, contracts operated by them, financial and accounting aspects accompanying all of this.
- B) This board meets regularly once a month to consider its topics and take necessary recommendations for implementation.
- C) Establishing independent Islamic branches that provide Islamic banking services, while giving customers the choice to continue dealing with these branches in an Islamic manner or to switch to another branch of the nearby bank.
- D) This specialization in providing Islamic banking services was a necessary requirement in the first stage.
- E) Preparation of the necessary training programs for all employees of the administration and branches on the basics of Islamic banking, in addition to specialized programs in the fields of Islamic finance and investment.
- F) Drafting of legitimate contracts approved by the Sharia supervisory board in the bank and preparation of work guides that comply with the implementation of these contracts in cooperation with the National Center for Management Consultations.
- G) Developing an internal unit for Sharia supervision to monitor the extent of compliance of other units in the administration and its branches with Sharia procedures when executing their operations was not a basic requirement from a Sharia perspective, as Islamic

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<sup>o</sup> - al-Duktūr Sa‘īd Sa‘d almrṭān, al-furū‘ al-Islāmīyah fi al-maṣārif al-taqlīdīyah, Majallat Dirāsāt iqtisādīyah Islāmīyah al-Bank al-Islāmī lil-Tanmiyah, al-Mamlakah al-‘Arabīyah al-Sa‘ūdīyah, al-mujallad al-sādis, al-‘adad al-Awwal, Rajab 1419h, 1999M, p10

services can theoretically be sold through traditional branches, This is now being prepared with much caution and care with the beginning of the expansion phase in providing Islamic services through various bank departments and branches, in preparation for transforming the bank into an integrated Islamic bank.

**Firstly, reservations regarding Islamic branches:**

These reservations relate to the criticisms that Islamic branches may face, and the most important of these reservations are as follows:

1. Financing methods for the capital of Islamic branches:

One of the main concerns that arises regarding Islamic branches is related to the starting point or the launch point for these branches, which is the way capital is financed, As previously explained the capital of Islamic branches is funded by the main bank through providing a good loan to the Islamic branch, or through an investment deposit that the main bank deposits with the Islamic branch, and in return, it receives its share of the profits achieved, or by allocating a portion of the main bank's capital to finance the capital of the Islamic branch. It should be noted here that although the mentioned financing methods differ, they have the same source which is the funds of the main bank that deals with interest, giving and taking.

This may raise questions about the impact of this on dealing with Islamic branches, and this matter can be clarified as follows:

A) Regarding funding through a good loan, it is known that it is permissible to borrow from people who commit sins and non-Muslims, as long as the loan is good and does not involve any interest. ‘Ā’ishah reported that the Messenger of god, peace and blessings be upon him, died and his armor was mortgaged with a Jew for thirty Ṣā’an of barley<sup>P</sup>. It is also known that the Jews derive most of their wealth from usury. Therefore, the Islamic branch can obtain a good loan from the main bank, provided that it is free of interest or any benefit that the main bank may obtain. However upon closer examination of this picture, we find that the Islamic branch's share of the profits from the investment activities it carries out will be transferred to the main bank, Therefore dealing with the Islamic branch will ultimately indirectly support the main bank which deals with usury and insists on it.

B) Regarding financing through investment deposits or allocating a portion of the main bank's capital to finance the Islamic branch's capital and receiving its share of the return, the main bank in this case is considered a partner of the Islamic branch and treats depositors for investment purposes. Therefore, the ruling on this matter can be derived from what the jurists have discussed regarding the ruling of sharing with the people of the book. al-

<sup>P</sup> - Muḥammad Ibn Ismā‘īl al-Bukhārī, Ṣaḥīḥ al-Bukhārī, al-Maktabah al-‘Aṣrīyah, Bayrūt, 4, 1420h, v2, p899.

Kāsānī concluded that it is not a condition for the trader or the owner of the capital to be a Muslim, and thus trading is permissible between the people of the covenant. It is also permissible between the Muslim, the person of the covenant, and the secured person<sup>Q</sup>. It was also stated that the partnership of Al-Anan is permissible between the Muslim and the person of the covenant, but it is disliked for the Muslim to partner with the person of the covenant because it involves contracts that are not permissible in Islam<sup>R</sup>. Ibn Nujaym mentioned that Abī Yūsuf said, "The partnership of Al-Anan is permissible between the Muslim and the person of the covenant, but it is disliked Because the non-Muslim does not adhere to what is permissible in contracts."<sup>S</sup>

The al-Imām al-Shāfi‘ī hated sharing with the most important writers absolutely, due to what he narrated from Ibn ‘Abbās that he said, "I hate for the Muslim to share with the Jew." And when al-Athram narrated from Abī Ḥamzah from Ibn ‘Abbās that he said, "Do not share with a Jew, Christian, or Magian because they increase in their wealth by usury which is prohibited." It was mentioned in the Grand Record that it is not permissible for a Christian Muslim and Jew to jointly testify according to what Mālik said, unless the Christian and Jew are not absent from anything related to buying, selling or claiming except in the presence of a Muslim, If they do this then it is permissible, but if not then it is not permissible.<sup>T</sup>

And Ibn Qudāmah said: "The Muslim shares with the Jew and the Christian, but the Jew and the Christian do not have more money than the Muslim and he (the Jew and the Christian) is the one who follows him, because he deals with usury."<sup>U</sup>

And upon closer examination of the previous texts, it becomes clear that the jurists agree on the dislike of the Muslim's participation with the Jew and the Christian because they do not believe in their dealing with usury and other illegitimate transactions. They also permit this participation if the transaction is in the hands of the Muslim.

Based on what has been said before, it can be said that if the jurists approve of the Muslim's participation with the non-Muslim, then the Muslim's participation with the disobedient is permissible from the outset. If the main bank does not follow the actions but the Islamic branch follows all the actions according to the provisions of Islamic law, then the objection disappears and the company is permissible in this way. However, dealing with the Islamic branch will ultimately lead, as previously stated, to supporting the position of the usurious main bank.

<sup>Q</sup> - ‘Alā’ al-Dīn Abī Bakr ibn Mas‘ūd alkāsāny, *Badā’i’ al-ṣanā’i’ fī tartīb al-sharā’i’*, Dār al-Kutub al-‘Ilmiyah, Bayrūt, Ṭ1, 1418h, v 8, p9.

<sup>R</sup> - Ibid., v7, p516.

<sup>S</sup> - ibn Aḥmad ibn Qudāmah al-Maqdisī, al-Mughnī, Maktabat al-Riyāḍ al-ḥadīthah, al-Riyāḍ, 1401h, v5, p : 3

<sup>T</sup> - al-Imām Mālik ibn Anas al-Aṣḥabī, al-Mudawwanah al-Kubrā, Dār Ṣādir, Bayrūt, bi-dūn Tārīkh lil-Nashr, v5, p70

<sup>U</sup> - Ibn Qudāmah, al-Mughnī, v5, p3

## **-2-Dependency and lack of complete independence:<sup>v</sup>**

Among the reservations raised about Islamic branches is that these branches, as previously shown, are subordinate to usury banks and are not independent of them. These banks deal in usury and insist on it and openly declare it. Dealing with these branches may be a help to those usury banks to continue and survive, and this is a help to the continuity of falsehood. On the other hand, encouraging these branches to deal with them may lead to the elimination of the need to establish more Islamic banks, thereby narrowing the opportunity for the efforts of Islamic banks to convince the competent authorities of the important role they play in serving and developing the community economically and socially, and the importance of allowing the establishment of Islamic banks freely and in the number that can accommodate the requirements of the Islamic financial and banking services market, which constantly increases in size.

## **3-Mixing al-Ḥalāl and ālḥrām money:**

One of the issues that taints Islamic branches and worries many customers is the possibility of mixing Islamic branch funds with the funds of the main bank and other traditional branches. This is because the surplus liquidity at the Islamic branches, which is a result of high demand, is often transferred to the main bank, which uses it in its transactions.

The Usuriousness is maintained until the Islamic branches need it. Those branches receive awards from the central bank in return, or the latter provides them with free banking services such as executing documentary credits, import and export operations, or other services without commission.<sup>w</sup>

Upon careful examination of the process of transferring liquidity surplus from the Islamic branch to the main bank, it is noticed that this process involves two aspects.

The first of which is concerned with the assistance and support of the liquidity element in the main bank, as the deposits of Islamic branch clients will become important sources of cash liquidity that the main bank relies on to grant interest-based loans, thus aiding in wrongdoing.

The other aspect is concerned with the mixing of halal and haram money resulting from this process, as the profits that the Islamic branch will receive from its investments will be mixed with the interest that the Islamic branch receives in the form of prizes or free services, as previously demonstrated. As a result, investment account holders may be embarrassed and concerned about the mixing of profits that will be distributed to them with interest-based benefits.

And by following the opinions of the jurists regarding the issue of mixing al-Ḥalāl and ālḥrām money, we find that many of them believe that it is permissible to deal with money that has been mixed with

<sup>v</sup> - D. Fahd al-Sharīf, p33.

<sup>w</sup> - al-Duktūr Sa‘īd ‘Arafah, taḥlīl maṣādir wāstkhdamāt al-amwāl fi furū‘ al-mu‘āmalāt al-Islāmīyah, , pp 269-272

ḥrām, as long as the amount of haram is removed. Shaykh al-Islām Ibn Taymīyah, may Allah have mercy on him, mentioned that "many people mistakenly believe that if prohibited money is mixed with permissible money, it becomes prohibited for everyone, and this is incorrect. Some scholars have only exercised caution when the amount is small, but as for a large amount, I am not aware of any disagreement.<sup>X</sup>

Shaykh al-Islām Ibn Taymīyah also concluded that "whoever mixes his halal and haram money should remove the amount of haram, and the rest is halal for him."<sup>Y</sup>

And Ibn al-Qayyim, may Allah have mercy on him, mentioned in the issue of mixing the permissible with the forbidden, his saying: "This does not require avoiding the permissible and prohibiting it completely. Rather if he mixes his money with a forbidden dirham, or more than it, he should take out the amount of the forbidden and the rest becomes permissible for him without dislike, whether the amount taken out is the exact forbidden amount or its equivalent, because the prohibition is not related to the essence of the dirham and its substance, but rather to the aspect of earning in it. So, if he takes out its equivalent from every aspect, there remains no meaning for the prohibition except for what is left."<sup>Z</sup>

According to al-‘Izz ibn ‘Abd al-Salām, he said about this issue: "Even if the lawful dominates, if a forbidden ḥrām dirham is mixed with a thousand lawful dirhams, the transaction is permissible as if his sister from breastfeeding was mixed with a thousand foreign women."<sup>AA</sup>

Based on the provided texts, it is necessary to separate the amount of interest that has mixed with the profits of the Islamic branch. Since the customers with investment accounts do not know the amount of interest that has mixed with the profits, this responsibility falls on the Islamic branch to separate the interest obtained in the form of prizes or free services from the rest of their money and get rid of it in charitable causes.

On the other hand, the Islamic branch can resolve this issue by using some the proposed tools for absorbing excess liquidity have In line with Islamic law's provisions, and among those tools are the following<sup>BB</sup>:

A - Convert the excess liquidity to other Islamic branches that do not face this problem. However, the use of this tool will be limited because most other Islamic branches will the same problem of excess liquidity.

B - Expand funding for long and medium-term investment projects, as this will greatly reduce excess liquidity due to the huge funding required by these projects. On the other hand, the profits of those

<sup>X</sup> - Aḥmad ibn Taymīyah, Majmū‘ Fatawā Shaykh al-Islām Ibn Taymīyah, Dār al-‘Arabīyah, Bayrūt, edition1, 1398h,v 29, p 321

<sup>Y</sup> -Ibid., v 29, p273.

<sup>Z</sup> - Muḥammad ibn Abī Bakr al-Dimashqī al-mashhūr bi-Ibn Qayyim al-Jawziyah, Badā’i‘ al-Fawā’id, Dār al-Sharq al-‘Arabī, Bayrūt, v3, p239

<sup>AA</sup> - al-‘Izz al-Dīn ibn ‘Abd-al-‘Azīz ibn ‘Abdussalām, Qawā’id al-aḥkām fi maṣāliḥ al-anām, al-Maktabah al-Ḥusayniyah, Miṣr, edition 1, 1353h, v1, p80.

<sup>BB</sup> - al-Duktūr Sa‘īd ‘Arafah, taḥlīl maṣādir wāstkhdamāt al-amwāl fi furū‘ al-mu‘āmalāt al-Islāmīyah, pp 272-273

branches will increase, as the most profitable investment areas are usually associated with long and medium-term investment projects, especially long-term ones.

C - Islamic branches collaborate to create a portfolio of medium and long-term investments, including the establishment of large investment firms. or similar entities.

D - Open investment accounts in existing Islamic banks.

## **2-Lack of trust in the credibility of the work and progression in implementation.**

Among the reservations raised about Islamic branches is the credibility of the banking operations carried out through those branches According to Islamic law regulations. The nature of the main bank's work, which is primarily based on interest, greatly undermines the trust of many customers in the credibility of implementing the provisions of Sharia in transactions that will be conducted through Islamic branches, especially if those managing the Islamic and traditional (interest-based) work are the same team. This loss of trust increases if there is no permanent Sharia supervisory body to audit and verify the progress of all transactions carried out in Islamic branches according to the provisions of Islamic law.

As for what is claimed by supporters of Islamic branches that these branches are only a step towards gradually implementing the Islamic banking system until the appropriate time comes for a complete transition to an Islamic bank, the lack of trust in the credibility of this approach is due to the fact that some interest-based banks, after surpassing the initial stage in their project of gradual transition towards fully operating according to the provisions of Islamic law, have started to develop plans and programs that allow traditional branches to also offer Islamic banking services to customers who desire them.<sup>CC</sup>

Consequently, this may lead to no longer needing to convert the remaining traditional branches into Islamic branches in the future, or to delaying and procrastinating in the complete transition to an Islamic bank as initially expected by customers.

On the other hand, there are those who believe that adhering to the principle of gradualism in this matter may contradict the saying of God: "And Allah has permitted trade and forbidden interest. So whoever has received an admonition from his Lord and desists may have what is past, and his affair rests with Allah. But whoever returns to [dealing in interest or usury] - those are the companions of the Fire; they will abide eternally therein."<sup>DD</sup> And His saying: "O you who have believed, fear Allah and give up what remains [due to you] of interest, if you should be believers. And if you do not, then be informed of a war [against you] from Allah and His Messenger. But if you repent, you may have your principal - [thus] you do no wrong, nor are you wronged."<sup>EE</sup> In the

<sup>CC</sup> - al-Duktūr Sa'īd almr̄tān, Ḍawābiṭ taqdīm al-Khidmāt al-maṣrifīyah al-Islāmīyah fi al-bunūk al-taqlīdīyah, , p36

<sup>DD</sup> -Sūrat al-Baqarah, al-āyah (275).

<sup>EE</sup> -Sūrat al-Baqarah. al-āyah (278-279)

previous verses, the Lord commands to abstain from usury and to repent from it. The conditions of repentance are known in Islamic jurisprudence, and one of the most important conditions is to immediately abandon the sin. Therefore, it is not acceptable for a knowledgeable Muslim to continue engaging in usury, which applies to Islamic banks owned or managed by Muslims. It is not acceptable for the owners and operators of these banks to offer Islamic banking services in some branches while engaging in usury in other branches. The religion is complete and indivisible.<sup>FF</sup>

And it is noticed here that the previous viewpoint, although it has its place of consideration and argumentation, some usurious banks in many Islamic societies consider it necessary to adhere to the principle of gradualism in implementation. So, if this door is closed to them, what will be the result? The resulting outcome is the deprivation of sincere usurious banks in their direction from the opportunity to transition to Islamic banking, and this is the hope of every Muslim. On the other hand, this will also result in the deprivation of some Islamic societies. In areas with challenging conditions, the establishment of Islamic banks can be difficult. from this currently available alternative. Therefore, if there is an extreme necessity to adhere to the principle of gradualism for a complete transition to Islamic banking, then there is no harm in that, provided that this principle is followed according to an explicit and clear plan approved by specialists in Islamic law, as will be clarified later, God willing.

### **Secondly,**

#### **the position of Islam on usury and the severe warning that came to those who engage in it:**

The observer of the issue of usury in banking transactions notices that when the awareness of Islamic societies increased regarding the prohibition of usury and its danger to individuals and societies, and the sin, evil, and accompanying destruction associated with it, and a general desire to establish Islamic banks took root in those societies, doubts began to arise about the prohibition of such transactions. Convincing people that the well-known banking interest is not the prohibited usury did this. In response to this, all scholars and fatwa bodies, who enjoy the trust of Muslims, rushed to refute it. With the spread of Islamic branches affiliated with usurious banks, many individuals began to question the ruling on dealing with those branches, due to the lack of clarity in the position of those banks on the issue of usury. Therefore, it was important, before knowing the ruling on dealing with Islamic branches, to emphasize Islam's position on usury and the texts related to it. This introduction is necessary to form a comprehensive view of this matter. It is known from the religion, necessarily and based on legal evidence from the Quran and the Sunnah, that Islam considers dealing with usury as one of the greatest sins. The Lord, may He be glorified and exalted, did not threaten anyone

<sup>FF</sup> -al-Duktūr ‘Umar Zuhayr Ḥāfīz, ra’y fi mas’alat al-niẓām al-muzdawaj fi al-A‘māl al-bankīyah, marjī’ sābiq, p64

from the people of major sins with war like He threatened those who persisted in dealing with usury. This threat also applies to anyone who assists in engaging in usury. Among the texts regarding this matter, the following can be mentioned:

1- Those who consume interest do not stand [on the Day of Resurrection] except as one stands who is being beaten by Satan into insanity. That is because they say, "." But Allah has permitted trade and has forbidden interest. So whoever has received an admonition from his Lord and desists may have what is past, and his affair rests with Allah. But whoever returns to [dealing in interest or usury] - those are the companions of the Fire; they will abide eternally therein. Allah destroys interest and gives increase for charities. And Allah does not like every sinning disbeliever.<sup>GG</sup>

2- And His saying, "O you who have believed, fear Allah and give up what remains [due to you] of interest, if you should be believers. And if you do not, then be informed of a war [against you] from Allah and His Messenger. But if you repent, you may have your principal - [thus] you do no wrong, nor are you wronged."<sup>HH</sup>

3- The Prophet peace be upon him, said, "Avoid the seven destructive sins." They said, "O Messenger of Allah, what are they?" He said, "Associating partners with Allah, practicing sorcery, killing a soul which Allah has forbidden except for a just cause, consuming interest, consuming the property of orphans, fleeing from the battlefield at the time of fighting, and slandering chaste, innocent, believing women."<sup>II</sup>

4- The Prophet, peace be upon him, said, "Interest has seventy branches, the least of which is like a man committing adultery with his own mother." This hadith was authenticated by Sheikh Al-Albani.<sup>JJ</sup>

5- Narrated by Jabir, may Allah be pleased with him, that the Messenger of Allah, peace be upon him, cursed the one who consumes interest, the one who pays it, the one who writes it down, and the one who witnesses it, and he said: "They are all equal."<sup>KK</sup>

As al-Shaykh ‘Abd-al-‘Azīz ibn Bāz (may Allah have mercy on him) explained, dealing with God's provisions in a prohibited manner angers and displeases Him, and it results in the rejection of the actions. It is narrated from the Prophet (peace be upon him) that he said: "Indeed, Allah is good and accepts only that which is good." Allah has commanded the believers with what He commanded the messengers, as He says: "O messengers, eat from the good foods and work righteousness. Indeed, I, of what you do, am Knowing."<sup>LL</sup> And He says: "O you who have believed, eat from the good things which We have

<sup>GG</sup> -Sūrat al-Baqarah. Āyat (275-276)

<sup>HH</sup> -Sūrat al-Baqarah. Āyat (278-279)

<sup>II</sup> -Muḥammad ibn Ismā‘īl al-Bukhārī, Ṣaḥīḥ al-Bukhārī, , v2, p853

<sup>JJ</sup> -Muḥammad Nāṣir al-Dīn al-Albānī, Ṣaḥīḥ Sunan Ibn Mājah, Maktabat al-Ma‘ārif, al-Riyāḍ, edition1 1417h, v 2, p240

<sup>KK</sup> -Muslim ibn al-Ḥajjāj al-Qushayrī al-Nisābūrī, Ṣaḥīḥ Muslim, Dār Ibn Ḥazm, Bayrūt, edition 1, 1416h, v 3, p988

<sup>LL</sup> - Sūrat al-Mu‘minūn, al-āyah (51)

provided for you."<sup>MM</sup> Then the man mentioned in the text is described as a traveler with disheveled hair, dusty appearance, raising his hands to the sky, saying "O Lord, O Lord," while his food, drink, and clothing are all obtained through prohibited means, and he nourishes himself with the forbidden. So how can his supplication be answered in such a state?<sup>NN</sup>

It is emphasized by Sheikh Abdulaziz that a Muslim should be content with what Allah and His Messenger (peace be upon him) have permitted, and should refrain from what Allah and His Messenger have prohibited. What Allah has permitted is sufficient and abundant, and there is no need to resort to what is forbidden. Sadly, many people nowadays do not care about the rulings of Islam; rather, they are only concerned with acquiring wealth through any means possible. This is only due to weak faith, lack of fear of Allah, and the dominance of love for the worldly life in their hearts.<sup>OO</sup>

Upon careful examination of the previous texts and the threats contained therein, there remains no room for hesitation or procrastination for owners of usurious banks and those who operate them to repent or delay, or to resort unnecessarily to what is known as the dual system, because it is a dereliction of the original duty, which is to convert those banks, both swiftly and completely, into Islamic banks.

### **Thirdly,**

#### **the difficulty of obtaining licenses to establish Islamic banks:<sup>PP</sup>**

One of the important points that should not be overlooked in understanding the ruling on dealing with Islamic branches in a more realistic manner and taking into account the difficulties that some societies face in obtaining licenses to establish Islamic banks. Central banks in many Islamic countries still hesitate to issue laws that allow the establishment of Islamic banks and regulate their operations in a manner that is compatible with the nature and special characteristics of these banks. Although issuing such laws will increase competition among banks, thereby increasing their efficiency, enhancing the development of their services, and reducing the cost of dealing with them, which in turn will lead to an increase in demand for their services and expansion in the establishment of productive projects that serve the development process in society. The advanced banking industry is one of the important elements of the necessary infrastructure for the advancement of any economy.

On the other hand, issuing such laws will subject Islamic banks to the supervision of monetary authorities and eliminate any violations that may arise from the lack of legal and regulatory clarity regarding these banks. This will ultimately reassure those dealing with Islamic banks about their rights and their money, which in turn will lead to a decrease

<sup>MM</sup> - Sūrat al-Baqarah, al-āyah (172)

<sup>NN</sup> - Muslim ibn al-Ḥajjāj al-Nisābūrī, Ṣaḥīḥ Muslim., v2, p p 581-582.

<sup>OO</sup> - ‘Abd-al-‘Azīz ibn Allāh ibn Bāz, Naṣīḥat hāmmah fi al-taḥdīr min al-mu‘āmalāt al-ribawīyah, Ri‘āsat Idārat al-Buḥūth al-‘Ilmīyah wa-al-Iftā’ , al-Riyād, al-Ṭab‘ah al-thālithah, 1423h, p 4 – 5.

<sup>PP</sup> - D. Fahd al-Sharif, pp34-35

in the percentage of national funds leaving the country in search of Islamic savings or investment vessels protected by monetary authorities.

And in light of this hesitant and sometimes reserved position by central banks to allow the establishment of Islamic banks, Islamic branches affiliated with conventional banks may currently be the available alternative for a large segment of society who hesitate to deposit or invest their money in conventional banks.

It is worth noting here that despite this reserved position towards Islamic banking activities, Islamic banks are still required to make further efforts to convince central banks of the importance and effectiveness of the role played by Islamic banks in Islamizing investment methods and returning them to the path and approach that aligns with the provisions of Islamic law. Additionally, these banks play a significant and important role in the economic and social development of Islamic communities, in addition to their ability to collect and mobilize the necessary savings to drive economic development in society, given the high demand for them. This feature of Islamic banks is even acknowledged by their competitors, conventional banks. In fact, it is one of the main reasons that prompted conventional banks to open Islamic branches.<sup>99</sup>

## **CONCLUSION**

The Islamic windows in traditional banks have sparked wide controversy among Islamic jurists, between opponents who see them as prohibited based on their view that they involve usury transactions, and supporters who see them as legitimate transactions with their own evidence from the Quran and Sunnah. Those who see their permissibility restrict them with Shari'a controls. These controls include the formation of a Shari'a supervision body consisting of scholars with expertise in Islamic banking, as well as the establishment of independent Islamic branches that provide Islamic banking services while giving customers the choice to continue dealing with these branches in an Islamic manner. It also includes the preparation of necessary training programs for all staff members of the administration and branches on the fundamentals of Islamic banking, as well as the formulation of Shari'a-compliant contracts approved by the Shari'a supervision body, along with the development of an internal unit for Shari'a supervision to monitor the compliance of other units in the administration and its branches. Additionally, the approved Islamic windows have reservations regarding the method of capital financing. The capital of Islamic branches is financed through the main bank providing a benevolent loan or through an investment deposit. As for financing through a benevolent loan, it is known that it is permissible to borrow from people of sins and non-Muslims as long as the loan is benevolent and does not involve interest. Therefore, the Islamic branch can obtain a benevolent loan from the main bank on the condition that

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<sup>99</sup> - Ibid., pp34-35

it is free from usurious interest or any benefit received by the main bank. As for financing through an investment deposit or allocating a portion of the main bank's capital to finance the capital of the Islamic branch and obtaining its share of returns in return, the jurists allowed the participation of Muslims with non-Muslims in this manner, as the participation of a sinful Muslim is permissible as a priority. If the main bank does not engage in transactions but rather the Islamic branch does, and this branch carries out all its transactions in accordance with the provisions of Shari'a, then the objection is removed, and such a partnership is permissible. Among the reservations raised regarding Islamic branches is that they are considered subsidiaries of usurious banks and not independent from them. These banks engage in usury, necessitating the freedom to establish Islamic banks in the required quantity that can accommodate the needs of the Islamic financial and banking services market. Additionally, among the reservations is the issue of mixing halal and haram money, meaning the money of Islamic windows with the money of the main bank, which raises questions about the legitimacy of this money. Therefore, many jurists see it permissible to dispose of the money that has been mixed with haram if the amount of haram is removed. Another reservation raised against Islamic branches is the credibility of the banking operations carried out by these branches in traditional banks that are primarily based on usurious interest. This leads to the loss of trust of many customers in the sincerity of dealing according to the provisions of Shari'a. Therefore, if there is an extreme necessity to adopt the principle of gradual transition to full Islamic banking, there is no harm in that, provided that this principle is adopted according to an explicit and clear plan that the bank adheres to and is approved by experts in Islamic Shari'a.

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