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Resolution 179 (19/5)

in relation to

Tawarruq : its meaning and types (classical applications and organized *tawarruq*)

The International Council of Fiqh Academy, which is an initiative of the Organization of Islamic Conferences (OIC), in its 19th session which was held in Sharjah, United Arab Emirates, from 1 - 5 of Jamadil Ula 1430 AH, corresponding to 26 – 30 April 2009, decided on the following:

Having reviewed the research papers that were presented to the Council regarding the topic of *tawarruq*, its meaning and its type (classical applications and organized *tawarruq*), a resolution were passed. Furthermore, after listening to the discussions that revolved about the applications of *tawarruq*, the resolutions were presented at the International Council of Fiqh

Academy, under auspices of the Muslim World League in Makkah.

The following were the resolutions:

First: Types of *tawarruq* and its juristic rulings:

- Technically, according to the Fiqh jurists, *tawarruq* can be defined as: a person (*mustawriq*) who buys a merchandise at a deferred price, in order to sell it in cash at a lower price. Usually, he sells the merchandise to a third party, with the aim to obtain cash. This is the classical *tawarruq*, which is permissible, provided that it complies with the *Shari'ah* requirements on sale (*bay'*).

- The contemporary definition on organized *tawarruq* is: when a person (*mustawriq*) buys a merchandise from a local or international market on deferred price basis. The financier arranges the sale agreement either himself or through his agent. Simultaneously, the *mustawriq* and the financier executes the transactions, usually at a lower spot price.

- Reverse *tawarruq*: it is similar to organized *tawarruq*, but in this case, the (*mustawriq*) is the financial institution, and it acts as a client.

Second: It is **not permissible** to execute both *tawarruq* (organised and reversed) because simultaneous transactions occurs between the financier and the *mustawriq*

, whether it is done explicitly or implicitly or based on common practice, in exchange for a financial obligation. This is considered a deception, i.e. in order to get the additional quick cash from the contract. Hence, the transaction is considered as containing the element of *riba*.

The recommendation is as follows:

To ensure that islamic banking and financial institutions adopt investment and financing techniques that are *Shari'ah*-compliant in all its activities, they should avoid all dubious and prohibited financial techniques, in order to conform to *Shari'ah* rules and so that the techniques will ensure the actualization of the

Shari'ah

objectives (

maqasid Shari'ah

). Furthermore, it will also ensure that the progress and actualization of the socioeconomic objectives of the Muslim world. If the current situation is not rectified, the Muslim world would continue to face serious challenges and economic imbalances that will never end.

To encourage the financial institutions to provide Qard Hasan (benevolent loans) to needy customers in order to discourage them from relying on Tawarruq instead of Qard Hasan. Again these institutions are encouraged to set up special Qard Hasan Fund.