

The Effect of the 20-02 Regulation on The Algerian Islamic Banking Sector: Study on the Role of The New Regulation in Achieving Financial Inclusion

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Abstract:

Our descriptive research aims to measure the effectiveness of the regulation 20-02, in complementary with the instruction 03-20 of the central bank, to reform the Islamic banking sector, and its effect on its capabilities to integrate the parallel market economies into the official one, and achieve financial inclusion. This regulation will enhance the sharia-performance of those banks, and contributes to its ability to attract 6140 billion da the monetary masse outside the banking, especially that before the regulation, Islamic banks realise a higher deposits growth rate compared to its conventional peers. but it's too soon to judge the effect of the regulation on the parallel market, especially if we know that according to the Global Findex 2017 report only 5% of Algerians are unbanked for religious reasons, and for that we need an in-depth analysis of the real reasons that contribute to the expansion of the Algerian parallel market.

Keywords : Islamic banking; 20-02 regulation; 03-20 instruction ; parallel Market; Financial Inclusion.

JEL classification codes : E26;E51;G21.

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أثر النظام 02-20 على قطاع الصيرفة الإسلامية الجزائرية دراسة دور النظام الجديد في تحقيق الشمول المالي

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الملخص:

تهدف دراستنا الوصفية إلى قياس فعالية النظام 02-20 بالتكامل مع التعليم 03 - 20 للمصرف المركزي، لإصلاح القطاع المصرفي الإسلامي وأثر ذلك على قدراته على دمج مدخرات السوق الموازي في السوق الرسمي، وتحقيق الشمول المالي. هذا النظام يحسن من الأداء الشرعي للمصارف الإسلامية، ويساهم في تعزيز قدرتها على استقطاب 6.140 مليار دينار ككتلة نقدية خارج النظام البنكي، خاصة وأنه قبل اصدار النظام، حققت المصارف الإسلامية نسبة عالية لتطور ودائعها، مقارنة مع نظيرتها التقليدية. ولكن من المبكر الحكم على أثر النظام على السوق الموازي، خاصة وإن علمنا أن حسب تقرير غلوبال فيندكس لعام 2017 فإن 5% من الجزائريين من هم خارج النظام البنكي لأسباب دينية، ومن أجل هذا علينا القيام بتحليل معمق للأسباب الحقيقية التي تساهم في توسع السوق الموازي في الجزائر.

الكلمات المفتاحية: صيرفة إسلامية; نظام 02-20; تعليم 03-20; سوق موازي ; شمول مالي.

رموز تصنيف JEL: E26;E51;G21.

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I- Introduction :

Since mid 2014 oil prices crisis, Algeria looks for other alternative to diversify the resources of our economy, especially that it's become a rent economy that its fate is related to the hydrocarbons product prices in the commodity market with 92.8% share of the total exportation in 2019, and 34.98% of its budget in the financial law of 2020.

One of the solutions to that is the integration of the parallel market, who represent a considerable portion of the economy, and with the severity of the crisis, the size of it also increases, from a total of 4.780 billions da in late 2018 according to the former governor of the central bank, to 6.140.7 billion according to the last annual report of the central bank.

The government initiates several attempts to integrate this market, especially the 2016 state bond operation, collecting a 500 billions da, which represent only 8.14 % of the parallel market, which is not significant to helps the economy, and will raise the debt on the national treasury, and with its terms are close, the treasury must reimburse it holder with their interest rate (and fr that the government opted for the unconventional financing), and with the severity of the crisis, especially with ramification of the global pandemic (caused by the spread of the corona-virus) that led to demand collapse on hydrocarbons product, that effect its prices with 61.1% (of the Algerian Sahara Blend), the government must find more efficient instruments to integrate the parallel market into the official one.

According to the former governor of the central bank, in 2018 about 1500 billion da to 2.000 billion da of the parallel market are the savings of the household, and private sector agents, in which represent from 31.38% to 41.84% of the parallel market at the time.

This particular class, the notion that reason they don't invest their savings into the banking system, for the absence of the legitimate alternative (or banking products that are submitted to the Sharia standards), is frequently traded in the Algerian market, even there is not a single scientific research that prove it, but basing that notion on research made on foreign parallel market in societies in which are similar in their characteristics to the Algerian society.

Even with the availability of banks that provides those types of product, but it had a bad reputation from the public and the reason for that is the several violations committed by those banks in their operations (vis-a-vis to the sharia rules and dispositions), that led to a misconception by the public, that those banks just use " the Islamic banking " as a brand to attract their savings, and in reality they are just the same.

The problem ignored here, is that a considerable portion of those violations are committed unintentionally by those bank, because they are working in a conventional banking sector.

In 15 march 2020, the central bank issued a new regulation, to regulate the Islamic banking sector, cancelling the old one (18-02) that couldn't fix these problems, especially that their dispositions weren't implemented, with the new instruction 03-20 issued on April the 2nd 2020, to details the process of the operation defined in the new regulation.

And that the problematic of our research, **WHAT EFFECT THE NEW REGULATION 20-02 WILL HAVE ON THE INTEGRATION OF THE PARALLEL MARKET PROCESS?**

To responds to this question, we will have to set a group of hypotheses, to base our research on:

- The responds of the parallel market to the new regulation is insufficient to boost the Algerian economy dynamic.
- The new regulation will enhance the statue of the sharia oversight and control in the Algerian banking sector.

Literature review:

Like we explain before there no scientific research that dealt with this problematic before, and all their notions are based on foreign researches based on foreign parallel market.

And also the new regulation was issued in march 2020, and the new instruction 03-20 in april 2020, so the research on their effect on the banking sector are not issued yet.

But we find several scientific paper and thesis that focus on the subject of financial inclusion and the parallel market in Algeria, and the role of Islamic finance in limiting its effects.

1- **Foudil al bachir**, on his **article the reality and challenge of financial inclusion in Algeria**, published in the journal of business administration and economic studies, from Djelfa University, June 2020, Dif focused on the gaps on the Algerian banking sector, that challenge our ability to achieve financial inclusion, like the geographical coverage of the Algerian banking network, and that is one of the major problems to limit also the abilities of the Islamic banking in Algeria to integrate the parallel market savings, where both a Salam and al-baraka banks have 49 agency or branch in only 24 states, and according to Dif even the conventional network is enable to cover and present its services to all citizens, especially those who are living in the shaded areas, than he present a range of solutions to compensate the deficit of the coverage like the use of the mobile money account (this technique is used in the trans-Saharan countries), especially that the majority of Algerians own a mobile phone 45.22 million client in a country of 43.96 millions.

2- Another paper by **Ali Smay and omar kadi**, **the reality of financial inclusion and the Algerian Islamic banks**, as an intervention in a national seminar about The Financial Inclusion as a mechanism to support sustainable development, where the researchers focused on the mechanisms of Islamic finance to contribute in financial inclusion in Algeria, and one interesting aspect that was discussed, the rising costs of Islamic financial product compared to it conventional peers, which exclude most of the clients, that look for financial opportunities, where we can't speak about financial affordability to the majority of the clients, but the researchers didn't really gives real solution for that, just notified the role of digitalization on that without any details.

3- **Omar Yacine Oussiaf and Shafia Chaoui** in their paper “ **financial inclusion in Algeria: reality, obstacles and solutions** “, published in the **Global Islamic Economy Magazine, june 2020**, they analyzed the factors that contribute to a poor financial inclusion in Algeria, a weak financial infrastructure (poor coverage of the market), failure to keep pace with the technological advancement in the banking field (especially in the payment systems), complexity in the services (especially in the processing loan applications), and of course a lack of consumer protection in their dealings, especially in their pricing and clients returns on their banking investments, basically effected lately by the rise of the inflation rates, and as a perspectives the researchers have suggested as an actual mechanism to support financial inclusion in Algeria, is to target the individual and the household categories with a range of banking services, and encourages Micro-Finance to target the young entrepreneurs, who have promising innovative projects, (but the ILO insist on the fact that the rise of the SME contribute to the parallel market and not the opposite).

Methods and materials:

We have chosen the descriptive method to tackle this problematic, in which we analyzed the effect of the deviation on the sharia performance of the Islamic banks in Algeria, on the attractiveness of their business, especially vis-a-vis the household and the parallel market agent, that represent the sample of our research, in which the independent variable of the research is the sharia performance imposed by the new regulation to affect the dependent one in which is the attractiveness of the bank business vis-a-vis the parallel market.

We used also the comparative method, to compare the effectiveness of the new regulation 20-02 with the old one 18-02.

We classified the parallel market by it economic agents, the household, the private sector agents, the unofficial agents (agents the works illegally).

Then measuring the attractiveness of the banking business, by classify deposits and financing from and for particular and entities, and those are the information that we are basing our research on.

In this analysis we used the E-VIEWS 10 program to calculate regression coefficient, to measure the expectations of the performance of the Islamic banks in Algeria during the next three years (2020-2022), where the financial resources our economy will run-out, and we expect a 6.554 billion da deficit of the national treasury.

I. The concept of Islamic banking

Islamic banking is a banking system that is subjected in its operations to the terms and dispositions of Islamic Sharia law, where its institutions (the Islamic banks) role is collecting financial resources than invested within the scope of Sharia law for the Goals of building a society with the provisions of Islamic solidarity, achieving a fair distribution of wealth, and contributing to sustainable development.

Most common conception of Islamic banks, is that those institutions don't treat with the interest rate giving or receiving, meaning that there is no engagement or a direct commitment on the part of the bank to insure its client a guaranteed benefit on their investment (especially the interests on their term deposits), and they invest their economies (in leading ops), it won't be on the base of the interest rate, but the base of " al-Mourabah "; or the participation in the benefit or the deficit of the financed activity (Azaazi, 2012), but this a superficial conception of Islamic banking, to call an institution an Islamic financial institution, this latter must respect the principals of Islamic finance on its activities, this principles are as follows:

The sharia based principles: in this type of principles are related directly to the terms and dispositions of sharia law:

- **The prohibition of dealing with usury in all its forms:** the usury is a conditional increase from the pawnbroker to the borrower in his reimbursement based on the capital, and we separate between two kind of usury: Credit usury, and excess usury, the first one is a selling of a product whatever the exchange was with the same kind or not, but with a delayed payment, with or no condition of the increase in the value of payment compared to the product subject of the contract, the second one it is the differential selling in one of the kinds " gold- silver – barely – salt – wheat and dates ", and the exchange occur with the same type of commodity, whatever there is a delay in the payment or not".
- **Imposing sharia audit on the bank activity:** where it role is to make sure, the bank respect the terms and dispositions of sharia law.
- **The necessities allows the prohibitions:** the necessity represent a licence or permission for the institutions to deal on what is forbidden (in case there is other alternatives, for example the submission to the rules and regulations of a conventional monetary system, in the case where the non-submission will lead to a penalties that will harm the institutions stakeholder interests).
- **The respect of the purposes of Sharia Law:** this purposes are organized according to the priorities of the society, that leads to its development and renaissance and this purposes are the five necessities (protection of faith or religion – protection of life – protection of lineage – protection of intellect – protection of property).
- **Neither harm nor damage:** the economic activity is permitted based on the mutual benefits, for both parties and cause harm or damage to any of the parties, or a third external one, where the contracts are free from any kind of fraud (Moughrabi, 2004).
- **Too much deception (GHARAR) spoils the contracts:** the Gharar (or deception), is made up of any elements that introduces into a contract an elements of uncertainty that can lead to wilful or involuntary harm, especially to the weaker party of the contract (the borrower in the case of banking), true that most contract has a level of risks of the weaker party, but the low level

of risks, which is caused unwillingly or involuntary, and won't cause any damage to the client is acceptable, this is why in Islamic banking contract, it must clarified the object of the contract, the pricing and its specificities, and the operations executing timing.

- **The gain comes with the cost:** and the sense of this principle is the ensuring of justice in the dealing to all parties, where all of them must share the cost of the investments and its risks before its gains (which is not guaranteed), in the Islamic banking the individual must be productive even if he have economies and savings he could lives with its interests because the burden of ensuring productivity from those economies will be unloaded on the other party with all its costs and risks, and from other perspective it will lead to stamped money phenomenon (Mohamed, 1996).

- **The benefit comes with the guarantee:** and the meaning of this principle that the financial institutions have the benefit from exploiting the demand deposits, but this kind of deposits are guaranteed by the banks, and also when the bank deal in a dealing that will result in a delivery of a product, this latter must be guaranteed by the bank to satisfy the needs of the clients and the purposes of the financing, to make the bank benefit eligible.

- After the sharia based principles, there are other principles that an Islamic banks must follow in order to achieve the economics and social objectives of the Islamic finance:

- **the accompaniment of the national monetary policy objectives:** the Islamic banks with its activities must guarantees the protection of the power purchase of the citizen, and the raise and development of the national businesses abilities of a total exploitation of its production factors, and reduce unemployment level in the country and effect the production level of goods and service in way that maximize its added value.

- **Insure a fair coverage of its services:** one of the main reasons of wealth and income inequality in a society, is the lack of opportunities to a part of the society (especially those lives in the shaded zones), and a poor diversification of its services that is not customized to the vast majority of people.

II. The reform of the Islamic financial market by the 20-02 regulations:

in November the 4th 2018, the Algerian law maker issued the first regulation of the Islamic financial market, under the name of the participatory financing in which its try to defines the rules of practice of the banking operation of the financial institutions that don't treat with the interest rate giving or receiving on it operations, and he defined 7 product (el murabahah- el mousharakah – el ijarah (leasing) – al istisnah –a salem – investment account deposits).

But the problematic with this regulation that it doesn't offer any solution on the difficulties of the Islamic banks to applies the central bank instruments of it monetary policy (like the interest on the obligatory reserve, the rediscount operations ...etc), and also didn't offer an appropriate platform that guarantee the appropriate application of the Islamic financing in the Algerian market, by giving the administration of those banks a space of manoeuvrability especially on the matter of respect the sharia rules and dispositions that control the Islamic banking operations.

The old regulation 18-02 tried to impose a level of sharia control and supervision on those banks, in his 3rd and 4th-articles, by regulating the treatment with the Islamic financial product, by imposing an initial licence issued by the central bank on the product, after auditing the dossier that contain the demand of the initial licence, in which it should also include a description card of the product and the judgment of the head of the conformity control service of the bank on the new product, and in case of a conventional bank that want to open a participatory windows at their level they need also to present their procedures to guarantee the administrative and financial independence of it windows operations from the rest of the bank activities after the initial licence from the central bank, the regulation approve the role of a new committee, “ the national committee of IFTA”, its responsibility is to evaluate the product presented by the bank, in case

of an approval the committee will agree to issue a certificate of conformity vis-a-vis the sharia rules and dispositions and by that, the bank will have a total clearance to present those product to its clients. (The central bank of Algeria , 2020)

II.1. The effect of 20-02 regulation on the Sharia control efficiency:

The new regulation 20-02 issued on 15 march 2020, try to enhance the role of the sharia audit on the Islamic banks operations, according to the 13th and 14th articles of the new regulations, there's a change in the order of the procedures to gain permission to treat with the Islamic financial product, and now before the gain of the initial licence from the central bank, the bank must gain the conformity certificate, from the new committee found for this purpose “ the national Charaic committee for the Islamic financial industry “, which is the first line of Sharia control.

This is the natural order of decisions, because in the first regulation, the initial licence issued by the central bank, and they only focus on the judgment of the conformity control service on the product, and this judgement have nothing to do with the sharia audit and control, and according to the 25th articles of the 08-11 regulation, this service will only give its opinion on the risks of the new adopted products, especially the risks of non-conformity of those product (the non-conformity risks according to the first article of the 08-11 regulation, is the risks of several types of penalties on the bank (judicial, administrative, disciplinary) or risks of a significant financial losses and the bank reputation, and all risks that emerge from the non respect of the bank administration to the legal rules and dispositions that organize the banking and the financial sector in Algeria (both legislatives and regulatory) or the professional and deontological standard of the banking profession in Algeria, or the non-respect of the executive branch of the council instructions (The central bank of Algeria , 2011).

After the analysis of the new product vis-a-vis the non conformity risks from the bank, the conformity service chief will give his judgement on a letter, in which he explain that the bank analyze the non-conformity risks of the new product, and confirm that the bank establish the measures to measure the risks of those new product and it is subject to control and make sure that its adapted to the accounting, informational treatments, and permanent control measure of the bank.

Even those items of the file submitted to the central bank to gain the initial licence are important, but we witness a total absenteeism to the sharia standard from the central bank, to gain the initial licence, the judgement is purely technical and that's what the new regulation fixed first, the bank must insure the conformity certificate, than ask the central bank, for the initial licence, and that's mean the central bank decision follow the committee decision and not the opposite.

Taking the lead by the national committee in the sharia audit, that will give much more credibility to the process, first because the committee benefit from the most esteem competence and qualifications, with members who gain respectful experience on the Islamic finance operations, and extensive knowledge of the dispositions and rules of the sharia law, and its applications in the banking operations (financing, investment and services process and their contracts and agreements ...etc), and have the qualifications to give their insights when they face a problems when there is no text or rules that adjudge it.

To enhance more the role of the sharia control service the new regulation indicate the obligation of the bank to found a high committee of sharia audit and control, composed of 3 members, which are chosen by the general assembly and not the counsel of administration, to guarantee a level of independence of the committee, and gives it more leverage and power to fulfil its responsibilities (in the end it gives a guarantee of the bank's operations conformity vis-a-vis the rules and dispositions of shaira, but we have a several remarks on this article:

- The central bank know that the only financial entities that treat with Islamic financial product but don't have a committee to organize and control it operations, are the Islamic windows at the level of the conventional banks (the participatory windows in the 18-02 regulations), so basically

it's an order to the conventional banks to start dealing with Islamic products, they need to establish their own sharia control service, that supervises their windows operations (external with the committee and internal with the internal sharia audit service that insure daily sharia audit on the bank windows or agencies).

There are a lot of ambiguities about the structure of the sharia audit and control body in the Islamic banks, or conventional one with Islamic windows, and because it inadequate to attribute only 4 articles to organize the control body of the Islamic banks, that's need more details on it structure.

According to the 15th article, the assembly general will chose and designate the committee, knowing that the assembly general has the right already to chose, but the designation of those members, are on the council prerogative (in case of both a Salam and al Baraka banks), It's the actual structure that led the Islamic finance market to high level of impurity, with remarkable violation to the rules and dispositions of sharia.

Now according to the new regulation there is no indications that there's a relation between the high committee and the national committee, by reporting the results of the audit operations, in the same way the regular auditor (the statutory auditors) in their relation to the central banks banking committee, in which they report the result of their audit to the governor of the central bank in a maximum 4 months after the end of the exercise, that give them more leverage and power to their reports, and the council of the bank will have no choice but obey and respect the auditors reports ,especially if there's reservations on it, because they could lead to impose a penalty on the bank, and that what we want with the sharia control apparatus, to gain a legal authority, and fears of the legal ramifications of ignoring it decisions, and not give it to the council members conscience to apply to the rules and dispositions of sharia.

In simulation to the conventional control, the banking commission in the article 102 of the 03-11 order indicate that the statutory auditors are submitted to the committee control and oversights, and it could penalize them in case of excess and violation in their missions, and those penalties are varied from blame, warning than prohibitions from their duties in the bank that was the subject of the violation, than the prohibition and termination of their licence to control and audit in the financial sector in 3 years. (The central bank of Algeria , 2003).

- In the 5th article of the new regulation, the legislator define the murabahah and emphasis on the matter of the ownership of the assets by the bank before sell it to its clients, with a margin of profit they both agreed on it, the issue of the ownership of the assets in al murabahah operations in Algeria become one of the important issues that has seen a great controversy, because of the accusations to both a-Salam and al Baraka banks that's they don't totally own the assets, and that's led to the problematic of the last year 2019, when the government ceiled the imports of automobile pieces to 2 billion dollars, and that led to a shortage in the cars supply in the Algerian market, those banks couldn't fulfil the obligations of delivering the cars of clients that sign the murabahah contracts, and that's mean those banks were delivering its clients with the murabahah financing without the ownership of the assets.

And now with the new regulation the administration of the banks will have less space to manipulate the issue of the ownership of the assets and possession of its documents, before signing the contract with the client.

This is an example of the importance of the definition of those products in the new regulation.

- One of the important articles in the new regulation is the 11th articles, about the deposit accounts, in which the old one didn't recognized it, and the importance of this article according to professor “ **Mohamed boudjellal** “, that it give the clients the opportunities to open this king of account at the level of the conventional banks that opted of the Islamic windows, or to switch from a conventional deposit accounts to an Islamic deposits accounts, (or account on demand), that will give the Islamic finance more space at the level of the conventional banks, and represent

a real opportunity to push the conventional bank to transfer its operation from the conventional banking to Islamic banking, and that depend on the level of the deposit accounts that will be opened.

This operation will lead to the realisation of a pure financial migration from the conventional finance to the Islamic one.

According to **Ahmed Tahiri Jouti** research on the role of the Islamic finance on the financial inclusion or migration, in 2018 before counting to plan a strategy of financial inclusion on Islamic finance, we must designate the categories that are influenced and attract by it, and this portion are composed from 4 categories:

✓ The first one: the unbanked people due to religious reasons, and those people won't treat with the conventional banking system with all its services, unless there is a pure Islamic alternative (they have the confidence that those banks follow the dispositions and the rules of Sharia Law), and this category if we could provide them with that alternative we could realise pure financial inclusion.

✓ The second one: the people that own a bank account, but it compulsory (as an employee or owning a business), but they don't treat with it only in a compulsory situations, and they will switch automatically in case of the availability of the appropriate Islamic alternative, and this category make the data about the portion of the people who are included financially misleading, because this category won't create a positive dynamic in the financial sector, and for that we shouldn't just focus on the accounts ownership indicator to measure the level of financial inclusion, this category should be targeted to realise the partial financial inclusion.

✓ The third category: the people who benefit from all conventional financial services, but if they found the appropriate Islamic alternative, they will switch to it (and this in case of Islamic windows at the level of the conventional banks, in which clients don't have to cut their relations with their banks, because of the complications to find another source of financial services), this category will migrate from conventional to Islamic finance and realise the pure financial migration, and this category will absolutely will be affected by 11th article.

✓ The fourth category: the people who have a complete relationship with the conventional banking system, but they prefer to switch to the Islamic finance, but actually they don't find the appropriate mechanism to switch directly (for example there isn't Islamic windows in the conventional banks, which is the Algerian case before the 20-02 regulation of 15 march 2020, and 03-2020 instructions of 02 April 2020), and with this case we will realise what we call the gradual financial migration, and we should provide the market with the appropriate mechanism to realise the financial migration.

If we analyse this four categories we witness that our research shouldn't just focus on the unbanked people but even banked people, and this is the problem with the Findex analysis (concluded that only 5% of Algerians are unbanked for religious reasons), ignoring the people who are banked but they are willing to migrate from conventional to Islamic finance.

This reforms with the 11th articles it seems very simple, but its benefit that the Islamic banking gains in the future could be very interesting and that also depend on the works of all actors of the Islamic finance in Algeria (institutions and personal) to promote this type of finance in the Algerian market and convince the national economic agents (companies or household) especially those who belong to the parallel market to invest their savings using the Islamic products at the level of the Islamic bank, or the windows in the other banks, pushing the Islamic finance share of the financial market to grow, and that could lead like we said before conventional banks to

switch to Islamic ones, and the emergence of the new financial institutions to satisfy the demand on the Islamic product (banks, takaful institutions), and that will lead the central bank to focus more on the regulation of this market, at the same level with the conventional market, and that could lead to the disappearance of the violations and irregularities that is committed by those banks (intentionally or not), by taking the responsibilities of the sharia audit and control of those banks, and it become also a legal control imposed and organized by the central bank, with the establishing of the bodies authorized to this task, and all the sharia control bodies at the level of those banks they have to report to the central bank, and those reports will gain the legal authorities, that lead the banks to respect it contents, and be exposed to penalties (in case of violations), in the same way the central bank organize the financial legal control (the relation between the banking commission and the statutory auditors).

This kind of change in the financial system in the country will lead the central bank to opt for one of the two options:

- ✓ The first one: establishing a double system, like the one established in Malaysia,, Turkey, Yemen, and UAE, and this system is similar to what we explain before, because this nations after according the licence to Islamic banks, they found that it's imperative that the central bank establish at its level, the control and regulatory body that organize the Islamic financial market.
- ✓ The second one: establish a total Islamic central bank, like the one established in Iran, Pakistan, and Sudan, and that's depend on the grow of the share of the Islamic finance in the Algerian market, and growth of it capacities to attract the savings and the economies of the economic agents.

The 11th article like we explain will push the share of the Islamic banking in Algeria, because the actual share of the Islamic banking in Algeria is far from the level that could put the initiative of founding an entire Islamic financial system on the table, in late 2018 (and same for late 2017) the deposit of the Islamic banking represent 2.64/% of the total deposit of the commercial banks in Algeria which is a improvement compared to late 2016 where the Islamic banks deposit represent 2.19% of the total deposits (central bank of algeria , 2019), but with this level we can't push for the adoption of the total Islamic banking sector in Algeria.

in 2017 the share of the Islamic bank financing is 2.04% with 181.677 billions da, but if we measure the growth of those banks in the Algerian market, we will witness a growth with 15.25% compared to 2016, where the market share stagnate at 1.77% with 140.088 billions da growth, than a growth with 12.25% in 2018 compared to 2017 with 231.8 billions da, in financing, gaining 2.29% of share of the national market.

II.3. The integration between the 03 – 20 instructions, and the 20-02 regulation:

In the 2nd of April 2020, the central bank issued an instruction N° 03-20 in which will details the process of the products defined between the articles 04 to 12 of the 20-02 regulation.

This instruction will reduce the violation of the Sharia standards, that control the defined products, and the banks in their internal audit process must respect the dispositions of the articles of the new instruction.

One of the biggest problems on the application of the Islamic financial product in Algeria is the absence of the legal regulation that organize the process of the product, so every bank will establish its own organizational book, writing by the high authority of the bank, submitted to the jurisprudence of its members and the dispositions of it had no legal authority to be applied, for example, one of the problems in some products contracts is the accumulations of several contracts in one, like in the leasing ending in ownership (ijarah muntahia bittamleek), when the bank put the leasing and the selling contracts in one, or in al-murabahah when they put the selling promise and the murabahah contract in one.

According to the sharia standards this is forbidden and have a negative effect on the client especially in case of a default, in case of a leasing ending in ownership, the client is paying two tranches, one for the leasing service, and a bigger one to buy the property, in case of a default that's lead to terminate the contract, the bank must repay the client the total amount of tranches paid to own the property, and only keep the tranches of the leasing, because that's the only service the client had really benefited from, but that's not the case, the bank take the property back, without reimburse the client on the selling tranches, and that is a deceive of the customer rights. But now with the separations of the contract, the bank will treat with the client separately on the leasing and the selling and in case of an annulment; the treatment of the contracts will be different. And also the new instructions end the problematic of the delay penalties, which before the instruction, the delay penalties don't respect the sharia dispositions, in which when the client have a delay on his payment with no justifications, the bank would include in the contract that the client is submitted to pay a specific amount of money or a percentage of the rent, this penalty will be transferred directly to the high national authority, in which it will take the responsibility of the expenses of that money on the charitable and goodness matters, and we witness that on the articles 31 in which respects the 9th standard in it 6th clause, part 4, of the AAOIFI standards (Accounting and auditing organisation for Islamic financial Institutions , 2020).

The treatment that the new instructions fixed is the charge of the maintenance and the insurance and the penal clause on the contracts, and that for the differences that occur between the contracts. In case of the insurance charges, when it is a leasing contract the bank should take the charge (article 29 of the instruction) and that follow the 9th standard, clause 5, part 2, of the sharia standard. (The central bank of Algeria, 2020)

But the maintenance is a burden on the client according to the article 28 of the instructions, but only the operational and periodic maintenance (maintenance of the property at the period of use by the client to keep its functions), and the articles is clear, because the 9th standard on it 5th clause, part 1 indicate that the bank can't force the client to assure the major maintenance that will assure the sustainability of the usufruct, but only the operational maintenance, so we witness a conformity of the sharia standards.

Same with the penal clause in which in al-istisnah is permitted to include it as a condition in the parallel istisnah contract, but it is prohibited in a salem contract, and that's respect the sharia AAOIFI standards.

But we witness gaps in the new instructions in which it don't details the insurance, and the maintenance and penal clause of all contract, but only focus on leasing in case of the insurance and maintenance, and al-istisnah and salem in case of a penal clause, and for that we suggest in the upcoming instructions a full regulations of the nine products in matter of:

- Promise to sign the contract.
- The acquisition of the assets by the bank, or its usufruct.
- The signing of the contract with the clients and its forms, and the conditions on the clients themselves.
- The conditions of the assets itself.
- The guarantees and treatment of the contract receivables.
- The parallel contract in case the original contract needs it.
- The issuing of the SUKUK.
- The rules to follow in case of the loss of the assets.

III. The Islamic banking projected capacities to integrate the informal market:

With the new regulation 20-02 there’s an expectation that the Islamic banking will have the ability to integrate the parallel market into the official one, but before that we should measure, the actual attractiveness of the Islamic banking, vis-a-vis the Algerian public, especially the household.

III.1. The development of al-baraka deposits and contributions to the treasury:

First we will try to measure the actual contribution of the al-baraka bank to deal with the deficit crisis, by projecting its fiscal contribution until 2022.

Table 01 : The development of al-Baraka deposits and contributions to the treasury : By million dinars

The Financial year	The deposits	The total taxes paid
2013	125 435	1360.335
2014	131 175	1055.846
2015	154 564	1533.869
2016	170 137	1385.657
2017	207 891	1442.496
2018	223 995	2114.591

Resource: al Baraka annual reports, 2014 until 2018.

According to the analysis of the al-baraka deposits using the E-VIEWS 10 program we find that the development of its deposits submit to this equation of regression

$y = 21.1004571429 x + 95.0130666667$, and according to the analysis of the al-baraka contributions to the national treasury, we find that its development will submit to this equation of regression, $Y = 136.658085714 x + 1003.82953333$, projecting al-baraka capacities to integrate the informal market into the banking sectors in 2020-2022 period, according to the analysis of the past 6 years performance of al-baraka deposit growth, with a projection by the end of 2022 al-baraka could accept an amount of 306.017 billion dz, with a growth of 36.61% and that mean that al-baraka attractiveness will continue at the same level of the past 5 years.

The Baraka bank contributions to the national treasury based on the result of the 5 past years, will past the 6.701 billion da, from 2020 until the end of 2022, with a growth of 35.57% compared to the past three years (2016 to 2018) contributions to the national treasury.

III.2 The development of al-Salam deposits and contributions to the treasury:

Now, we will try to measure the actual contribution of a Salam bank to deal with the deficit crisis, by projecting its fiscal contribution until 2022.

Table 02 : The development of al-Salam deposits and contributions to the treasury : By million dollars

The Financial Year	The deposits	The total taxes paid
2013	306.27	495.348
2014	221.43	383.962
2015	220.1	176.023
2016	309	425.3
2017	553	446.639
2018	721	917.951

Resource : al-Salam annual reports, 2014 until 2018.

According to the analysis of the al-Salam deposits using the E-VIEWS 10 program we find that the development of its deposits submit to this equation of regression

$y = 90.2074285714 x + 72.7406666667$

We witnessed a respectable growth rate in their deposits in 2013 to 2018 period (81.3% in 2017), and we project that at the end of 2022, the deposits at the level of the bank will rise to 974.81 million dollar with a growth rate of 35.2%.

and according to the analysis of the al-Salam contributions to the national treasury, we find that its development will submit to this equation of regression.

$$Y = 72.8663714286 x + 219.171533333$$

A -Salam contributions to the treasury will continue to rise, based on its numbers from 2013 to 2018, we project that the bank will pay the national treasury an amount of 2624.905 million DA in the period from 2020 until the late 2022, and a growth rate of 46.65% compared to the last three years (from 2016 to 2018).

If we cumulate the taxes paid by both the banks, it will match only 0.142% of the deficit projected by the national treasury in the 2020 until 2022 period, and with a capacity to attract only 6.89% of the informal market.

According to the data of al-baraka bank know a growth rate on its business of 7.76% between 2017 to 2018, and that's mean that the new regulation N° 18-02 didn't boost the bank ability to collect household savings nor the informal market money, and what was surprising that before 2018 (the year of the regulation), al-baraka bank realise better growth rate of it deposit (between 10.08% in 2016 to 22.89% in 2015).

Al-Salam-bank who realised a very oscillatory deposit growth rate in the 5 years before the regulation (between a negative rate of 28% in 2014 to a positive 81.3% growth in 2017), in 2018 a Salam realise a 32.94% growth rate, less than the previous 2017 growth rate, and that's mean that also al-Salam business wasn't affected positively by the 18-02 regulation.

III.2.2 The development of the clients financing in al-Salam bank:

After the release of the new regulation 18 – 02, there was speculations about the individual and the household responds, assuming that this particular category are more enthused to treat with the banking sector, when there is an Islamic alternative.

In al-Salam bank the major financing drop by 16.8% in 2014 with 23.94 billion da compared to 28.7 billion in 2013 (al salam bank, 2014), than dropped by 3.38% in 2015 realising 23.13 billions da as clients financing (Al-salam Bank, 2015), but after 2015 al-Salam start making progress in individual financing realising a 30.8 billion da with 33.35% growth rate in 2016, than realising 55% growth in 2017 with 45.45 billion da.

In 2018 al-Salam realise a 66% growth rate in it clients financing with 75.34 billion da in late 2018, but according to the bank administration this growth is effect by the bank strategy to grow it share of the Algerian market, by signing a several agreements with different institutions to benefit from the bank services, like those signed in 2017 with 24 national company (than with 9 others in 2018) to benefit from the bank consumption loan, permit the bank to sell 7425 car in 2018, with a growth of 139% compared to 2017 in which he sell only 3100 car (Al-salam Bank, 2018).

And even if we try to measure a responds of the individuals and the household financing, after the regulation we will find a growth with 174% in 2018, but according to the bank this is not the effect of the regulation but to the agreement of “ the consumption loans “ with 33 companies, that led to rise the individuals financing from 5 billion da in 2017 (3.5 billion da as cars loans, 1.5 billion as mortgages), to 13.7 billion da (11.5 billion da as cars loans with a growth of 217.2%, and 2.2 as mortgage with a growth of 63.24%) (Al-salam Bank, 2018).

III.3 The attractiveness of the Islamic banks service for the household:

we said before that the household are the category which are the most attracted to the Islamic banks services, and for that we tried to analyze the household financing from those banks.

Table 03: the development of the Salam-banks individual financing / by thousands Da

The financial year	The individual financing	Consumer loans	Leasing for individuals
2014	143.348	0	143.348
2015	92.031	0	92.031
2016	541.526	46.826	494.700
2017	5.030.143	3.653.767	1.376.376
2018	13.834.845	11.587.952	2.246.893

Resource : the Salam-bank annual reports, 2014 until 2018.

From this table we witness a remarkable improvement from the individuals financing from 2015 to 2018, from 488.4% in 2016 to 928.83% in 2017 to 275.03% in 2018, but this improvement had nothing to do with the household willingness to treat and benefit from the Islamic banks services, but in case of a Salam bank, this improvement is due to the bank agreement with 42 institutions to benefit it employees from the bank automobile-loans, and that rise the loans from 3.100 in 2017 to 7425 auto-loans, raising the total amount of the auto-loans from 3.5 billion da in 2017 to 9.3 billion in 2018 with 165.7% growth.

The leasing financing for individuals in a Salam-bank growth 63% in 2018, and 178.1% in 2017, 435.5% in 2016, moving from 92 millions da in 2015 to 2.2 billons da with a total growth of 2341.45% in 2018 (based on 2015), and that is an encouraging sign in the leasing operations for individuals, which is high compared to the leasing operation for individuals in the conventional banks.

Table 04 : the development of the Salem banks individuals deposits by thousands of da:

The financial year	The individuals deposits	Percentage of the individuals deposits to the total deposits
2014	1.892.146	5.82%
2015	2.884.757	9.57%
2016	5.246.887	15.2%
2017	9.562.521	14.88%
2018	11.307.743	13.23%

Source: the Salam-bank annual reports, 2014 until 2018.

We witness a development in the growth of the individuals deposits from 52.45% in 2015 to 81.18% in 2016, and 82.25% in 2017, than a shrinking in the growth in 2018 with 18.25%, with a total growth of 497.61% in 2018 (based on 2015), and in the period from 2014 to 2016, a development in the percentage of the individuals deposits to the totality of the deposit, than a stability in the period from 2017 to 2018.

According to the analysis of the individuals deposits growth (using the E-VIEWS 10 program) we found that the regression equation that reflect the development of the individuals deposits is:

$$Y = 2.550.895,8 X + 1.473.876,6$$

we expected that the individual deposits will rise to 21,484 billion da in 2022 representing 17.11% of the total deposits, which is not encouraging sign for the process of the integration of the parallel market representing only 10.17 billion da difference, which only represent 0.508% of the household savings.

III.4 The development of the BEA contributions to the national treasury:

Comparing the contributions of the one the major conventional banks in Algeria the BEA (the exterior bank of Algeria) with the contributions of the both a-Salam and al-Baraka, proves the Islamic finance is not the short term solution to the actual crisis of the treasury deficit.

But it could be a long term solution with the activation of the Islamic windows at the levels of the conventional banks.

Table 05 : The development of the BEA contributions to the treasury :

By million da

The Financial year	The total taxes paid
2014	10620.401
2015	12436.772
2016	11291.313
2017	19694.509
2018	26411.662

Resource: the Bea annual reports, 2014 until 2018.

According to the analysis of the BEA contributions to the national treasury, we find that the development of its deposits submit to this equation of regression.

$$Y = 3884.0259 x + 4438.8537$$

The BEA contributions to the national treasury in the period from 2020- 2022 is projected to be 106.533 billions da, representing 1.62% of the projected deficit in the same period, high with 1041.34% than the contribution of both banks, and that proves the needs for the Islamic windows at the level of the conventional banks, and their role to integrate the parallel market savings, and its effects on the national treasury.

Conclusion:

The new regulation 20-02 integrated with the new instruction 03-20 will enhance the sharia performance of the Islamic banks in Algeria, reducing the margin of the violations and deviation committed by those banks, by regulating the process of 8 principle products defined in the 4th articles of the regulation and establishing the high National Charaic authority of Ifta, that will take the lead in licencing the Islamic financial product from the central bank, and this latter will follow it judgment, and not the opposite compared to the old regulation.

Unlike the old regulation, the articles of new one are implemented (especially with the establishing of the high authority), and that prove the seriousness of the actual government to encourage the application of the Islamic banking in the Algerian market, to create a boost of the economic dynamic, especially in this particular times.

But that doesn't mean the regulation is perfect, because there's a lot of aspect that didn't cover, like the monetary policy instruments, that are not compatibles with the nature of the Islamic banking (like the interest on the obligatory reserves, the prudential ratios, the rediscount process, and the participation on the guaranteed deposits funds), and will push those bank to commit violations vis-a-vis the sharia standard, and will cut their ability to finance real investments.

It's too soon to judge the effect of the new regulation on the parallel market, but we predict an enhancement in the parallel market responds, but not at the level that we expected, to create a real economic dynamic, especially at the end of the decade where our financial resources will run-out, and the treasury deficit will rise with 3.950 billion DA in this year.

True that the Islamic banks realise a better attractiveness business rate, compared to the conventional ones, with a 28% to 79% growth in a Salam bank, and 4.57% to 22.1% in al Baraka banks from 2014 to 2017, better than the entire deposits rate of the Algerian banking sector, who realise 13.1% in 2017, and 14.6% in 2018, the same year the Salam bank realise 30.31% (al Baraka realise 7.71%).

So than to create dynamic we need a full integration of the parallel market, which the Islamic banking is not capable to realise, even with activation of the Islamic windows at the level of the conventional banks, this latter will have a partial positive effect on the economic dynamic and contribute to the budget deficit (in case of the BEA alone the banks will contribute 1.62% of the projected budget deficit from 2020 to 2022).

And the reasons for that is the misperception of the parallel market mentality and why a big portion of their agents refuse to enter their savings and economies into the banking system, it's a pure profitability reasons (avoid to pay taxes, and the investments of their parallel activities will gain them a higher profit rate than the banks interest).

Perspectives:

The research on this subject must be initiate from the parallel market, and not from the Islamic banks, by conducting surveys on those markets, to measure their willingness to invest their savings in the Islamic banks, because the issue with this problematic is that it's based on past research who are not based on scientific approaches, but on an emotional approach that Muslims will react positively when they find the sharia legitimate alternative, and that's wrong.

And for the Islamic banks in Algeria, they can't realise a clean sharia performance without the legalization of the entire Sharia control body, in which the authority of Ifta of the bank will report the result of it audit to the high national authority, and this latter will have the authorities to control the Sharia control service of the banks, and penalize them in case of negligence, in simulation of the statutory auditors with the banking committee in which guarantee more transparency and enhance the credibility of the Sharia control on the banking operations.

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