

Central Bank of Sudan Act 2002

In the Name of Allah, the Gracious, the Merciful

The Bank of Sudan Act, 2002

Be it hereby passed, by the National Assembly, and signed, by the President of the Republic, in accordance with the provisions of the Constitution of the Republic of the Sudan, 1998, the following Act:

Chapter I

Preliminary

Provisions

Title and commencement

This Act may be cited as the, “Bank of Sudan Act, 2002”, and shall come into force, as from the date of signature.

Repeal

The Bank of Sudan Act, 1959 shall be repealed. Nevertheless all the regulations, orders and rules made, or the measures taken thereunder shall remain in force, until revoked, or amended in accordance with the provisions of this Act.

Exclusion

The Bank of Sudan and the employees thereof shall be excluded from the following laws, and any other laws replacing the same, namely:

1. the Employees of the Public service (Discipline) Act, 1994 ;
2. the Public Service Act, 1995;
3. the Public Service Pensions Act, 1992;
4. the Financial and Accountancy Procedure Act, 1977;
5. the Federal Employees of the Public Service (Justice) Chambers Act, 1998.

Interpretation

In this Act, unless the context otherwise requires,:

“**Advances**”: mean employment of money, in accordance with Islamic forms;

“**Approved non-banking bodies**”: mean the non-banking bodies, for which a permit has been issued by the Governor to deal in foreign exchange;

“**Bank**”: means the Bank of Sudan, established under the repealed Bank of Sudan Act, 1959;

“**bank**”: means any bank established by law , or registered under the provisions of the Companies Act , 1925, after satisfying the requirements of the Banking Business (Organization) Act, 1991, and practises banking business inside, or outside the Sudan;

“**Banking business**”: means the banking services, investment and advances, advanced by the Bank, in accordance with the provisions of this Act;

“**Board**”: means the Board of Directors of the Bank, established under the provisions of section 7;

“Credit bills”: mean the financing instruments issued by the Bank, and circulated in the primary and /or secondary exchange;

“Dinar”: means the unit of currency in the Sudan , in accordance with the provisions of section 19;

“Governor”: means the Governor of the Bank, appointed under the provisions of section 9(1);

“Loan”: means vesting of money, or thing into another; provided that he shall repay its like in amount, type and capacity, to the lender, at the end of the term of loan;

“Member”: means the member of the Board;

“Minister”: means the Minister of Finance and National Economy;

“Sight liabilities”: mean the aggregate liabilities of the Bank, which are repayable on demand;

“Time liabilities”: mean any liabilities, other than sight liabilities.

Chapter II

The Bank shall have an independent corporate personality , perpetual succession and a common seal, and may litigate in its own name.

The headquarters of the Bank shall be in Khartoum, and may establish branches , or agencies inside the Sudan, and appoint correspondents outside the Sudan.

Objects of the Bank

The Bank shall have the following objects, to:

1. issue currency of the types thereof, organize, control and supervise the same;
2. issue monetary and financing policies, and manage the same, in consultation with the Minister, in such way, as may achieve the national objectives of the national economy;
3. organize banking business, monitor and supervise, strive to promote and develop and raise the efficiency thereof, in such way, as may achieve the balanced economic and social development;
4. strive to achieve economic stability and the stability of the par value of the Sudanese Dinar;
5. act, in its capacity as the Government banker, as an advisor and agent thereof, in the monetary and financial affairs;
6. abide, in the discharge of the duties, achievement of the objects, exercise of the powers and supervision thereby, of the banking system, by the ordinances of the Islamic Sharia.

Chapter III

Management

Establishment and constitution of the Board

There shall be established a board for management of the Bank, and constituted as follows:

1. the Governor, ex officio Chairman;
2. the first deputy of the Governor, ex officio deputy Governor;
3. the Under-Secretary, Ministry of Finance and National Economy, member;
4. the Chairman of the Higher Commission of Sheria Control, member;
5. five persons, from those possessed of efficiency, to be appointed by the President of the Republic, in consultation with the Minister, members.

The Board shall be subject to the supervision of the President of the Republic.

Functions and powers of the Board

The Board shall have the following functions and powers, to:

1. organize the policy of the Bank, in such way, as may achieve the objects thereof, and manage the general affairs and business of the same, upon sound bases;
2. specify the monetary and financing policies, and specify the policies of the rate of exchange, upon the recommendation of the Governor and consultation with the Minister, or such initiatives, as may be presented by the members of the Board in this respect;
3. specify such reserve, as the Bank may keep, from time to time, in accordance with the provisions of this Act;
4. establish and cancel posts of the Bank;
5. make the terms of service and discipline of the employees of the Bank;
6. pass the budget and final accounts of the Bank;
7. constitute a standing, or ad hoc committee, or committees , and specify the functions and powers thereof;
8. make internal regulations, for organizing the business of the same;
9. any other functions, or powers , as may be necessary for the achievement of the objects of the bank;

The Board may delegate any of the powers, or functions thereof to its Chairman, any of his deputies, any of its members or any committee, as to such conditions and safeguards, as they may deem fit.

Appointment of the Governor and his two deputies and their terms of service

1. The President of the Republic, in consultation with the Minister, shall appoint the Governor and both his deputies, from those possessed of qualifications, experience and efficiency, and specify the terms of service thereof.
2. The term of the Governor shall be five years, and the term of any of both deputies thereof shall be three years, and they may be re-appointed.

Duties of the Governor and both his deputies

The Governor and both his deputies shall dedicate all their professional time to serve the Bank, and shall not, during their occupation of post, occupy any post, or perform any other work, whether for, or without pay. Nevertheless every one of them may, by permission of the Board, work as a:

1. member in any board of directors, or committee constituted by the Government;
2. governor, or deputy governor, director or member of any board whatever the description thereof may be, of any international bank, or any international financial association, as may be established under an agreement, or treaty, to which the Government has acceded , or ratified ;
3. member of the board of directors of any financial institution, as the Government, or the bank may subscribe thereto, under the provisions of section 54.

The Governor shall manage the daily business of the Bank, be responsible therefor, before the Board, and exercise the power of disposal and signature of documents, on the Bank's behalf. He may delegate such power to any of his deputies, or to others, from the employees of the Bank.

In case of absence of the Governor, the first deputy, and in case of absence of the latter, the second deputy, shall manage the daily affairs of the Bank, and they shall have the same powers and responsibilities of the Governor, provided for in sub-section (2).

The Governor, or any of his both deputies shall not, without the approval of the Board, accept to have a considerable interest in any other bank, or in any of the other financial institutions, save after the expiry of the period of one year, for the Governor, and six months, for both his deputies, of the date of

leaving the office at the Bank; provided that every one of them shall enjoy his emoluments in full , during such period.

Other members of the Board

1. The members, appointed in accordance with the provisions of section 7(e), shall disclose, to the Board, all the facts relating to the commercial, financial, agricultural or industrial interests thereof, or any other interests in any contract concluded with the Bank.
2. The members, appointed under the provisions of section 7(c) and (e), shall act in the capacity of being deputed by, or representatives of the ministries, departments or institutions thereof, and shall have due regard to the interest of the Bank.
3. The five members , appointed under the provisions of section 7(e), shall occupy their posts for the period of the three years, subject to renewal.

Non-qualification for occupying the post

No person shall be appointed, as a member of the Board, where he is:

1. a member of the board of directors of any commercial bank, a director or employer thereof;
2. an official paid salary by the Government; provided that this paragraph shall not apply to the member appointed under the provisions of section 7(c).

Vacation and filling of office

The office of any member of the Board shall fall vacant, in any of the following cases:

1. disabling mental, or physical infirmity ; or
2. conviction of an offence, relating to breach of trust, forgery or conduct inconsistent with honour; or
3. declaration of his bankruptcy, suspending payment to, or compounding with his creditors; or
4. absence from three consecutive meetings of the Board, without acceptable excuse; or
5. resignation, or relief of office; or
6. death.

The President of the Republic, upon the recommendation of the Board, shall prescribe the realization of disqualification, provided for in section 12, or the case of vacation of office, provided for in sub-section (1).

In case of vacation of the office of the member, another person shall be appointed to fill the vacant office, for the remaining period, in accordance with the procedure of appointment applicable to such office.

Meetings of the Board

1. The Board shall hold a periodical meeting, at least once every three months, upon call of the Chairman thereof, and in the case of necessity, the Chairman may call for holding an emergent meeting.
- 2.
3. The quorum for convention of the Board shall be constituted by the attendance of five members.
- 4.
5. Decisions of the Board shall be adopted by the majority of the members present; and in case of equality of votes, the Chairman shall have a casting vote.
- 6.

7. The Governor, or his first deputy shall preside meetings of the Board; and in case of absence thereof, and his first deputy, from any meeting, the members present shall elect, from among them, a chairman for such meeting .
- 8.
9. No decision, or work adopted under the power of the Board shall be void for merely that a person from those who have sit, or worked, at the time at which the decision has been adopted, or the work has been accomplished, or permitted, is disqualified from appointment, under the provisions of section 12, or his office has fallen vacant, under the provisions of section 13.
10. The Board shall have a secretary, to be appointed, and the functions and emoluments of whom, shall be specified by the Governor.

Appointment and discipline of employees

The Governor shall appoint the employees of the Bank, discipline them and terminate the service thereof, in accordance with the provisions of the regulations; provided that they shall not be appointed, save in the posts created by a decision of the Board.

The Bank shall not connect, between any salary, costs, wages, or any benefit or other increment, as may be payable to employees, and the net profits thereof.

Chapter IV

Capital, Reserve and Profits

Capital

The licensed capital of the Bank is three hundred million, one hundred and fifty thousand Dinars. The Government has paid it in full, and may increase the same, whenever need requires that.

Net profits determined

The Bank shall determine the net profits thereof for every financial year, after allowing for the value of expenses of operation of such year, including the value of bad and doubtful debts, depreciation and renewal of assets, or its obligations towards termination of service gratuities, or any other schemes of social interdependence.

Reserve allocated and remainder of net profits distributed

1. At the end of each financial year of the Bank, there shall be allocated, to the General Reserve Fund:
 1. 25% of the net profits, until the balance of the Fund reaches 50% of the capital;
 2. 15% of the net profits, whenever the balance exceeds 50% of the capital, until it reaches 100% thereof.
2. Any other appropriations, or reserves, as the Board may determine.
3. The remainder of the net profits shall be paid to the Government.

Chapter V

Currency

Currency unit

The unit of currency, in the Sudan, shall be the Sudanese Dinar.

The Sudanese Dinar shall be divided into 100 equal units, each of which shall be called a Piastre .

Par value

The Board, upon the recommendation of the Governor, in consultation with the Minister, shall determine the policies of the par value of the Dinar.

Sole right to issue currency

The Bank shall have the sole right to issue currency, and no person shall issue currency notes, bank notes or coins, or any documents, which are , in the opinion of the Bank, likely to pass as legal tender.

The business of the Bank concerning currency

The Bank shall:

1. take such measures, as may be necessary for printing currency notes, and minting of coins, and securing the keeping and safety thereof;
2. issue currency notes and coins, at its offices, and such agencies, as the Bank may, from time to time, establish, or appoint, and may re-issue, or exchange the same at such sites;
3. take measures for cancellation, or destruction of currency notes, or the cutting, breaking or destruction of coins, withdrawn from circulation, under the provisions of section 25(3), or found by the Bank unfit for use.
4. There shall vest, into the Bank, any foreign exchange, which is seized inside the Sudan, and with respect to which a judicial judgement is passed, or reconciliation, in accordance with the laws in force, has been made.

Denominations, forms and composition of currency notes and coins

The Bank shall issue currency notes and coins, as to such denominations, forms and designs, as may be approved by the Council of Ministers, upon the recommendation of the Governor, and the same shall be notified in the Gazette.

Standard weight of coins

The standard weight and composition of coins, and the amount of remedy and variation from standard weight, shall be as the Council of Ministers may approve, upon the recommendation of the Governor, and the same shall be notified in the Gazette.

Legal tender

1. The currency notes, issued, or re-issued by the Bank , shall be legal tender, in the Republic of the Sudan.
2. The coins, issued by the Bank, shall be legal tender, in the Republic of the Sudan, as to such amount, as the Governor may determine, from time to time, unless they have been illegally dealt with, in accordance with the provisions of section 26(1); provided that the Bank, after the approval of the Council of Ministers, shall issue coins and/or notes for special purposes, and such coins shall be legal tender, for any amount, as the Governor may determine.
3. Notwithstanding the provisions of sub-sections (1) and (2) , the Bank shall have the power, after giving notice in the Gazette, to call in any of the currency notes, or coins, on payment of the face value thereof, and any currency notes, or coins, with respect to with such notice has been given, shall, on the expiration of the period of such notice, cease to be legal tender.

Coins illegally dealt with

1. Coins shall be deemed to have been illegally dealt with, where they have been impaired, diminished or lightened, otherwise than by fair wear and tear, or have been defaced.
2. The Bank may call in any coins, which have been illegally dealt with, cut, break or destroy the same.

Recovery of lost, mutilated or imperfect coins

No person shall be entitled to recover, from the Bank, any lost, stolen, mutilated or imperfect coins. The Bank shall have the absolute right to prescribe such circumstances, as under which the value of the imperfect, or mutilated currency notes may be recovered, as to such conditions, and within such limits, as may be prescribed in the regulations.

Reserve of gold and external assets

The Bank may maintain a reserve of gold and external assets, expressed in such currencies, as may be determined by the Board, from time to time, and consisting of all, or any of the following types:

1. foreign exchange;
2. bills of exchange and promissory notes payable outside the Republic of the Sudan;
3. such treasury bills, or investment deposits, issued by foreign governments, as the Board may determine, from time to time;
4. such bills, issued, or guaranteed by foreign governments, or international institutions, as the Board may determine, from time to time.

The Bank shall maintain such reserve, as the Board may determine, from time to time, in accordance with the provisions of sub-section (1).

Chapter VI

Foreign Exchange Operations

Reserves deposited

1. The official external reserves of the Republic of the Sudan shall be deposited with the Bank.
2. The Bank may allow any other official body to maintain and manage external reserves.

Dealing in gold, bullion and foreign exchange

The Bank may:

1. buy, sell or deal in gold, or silver coins, gold or silver bullion, in accordance with Sharia bases for the exchange contract, or any other precious metals, inside, or outside the country, and may hold gold coins, gold bullion or any other precious metals in safe custody for others;
2. buy, sell or deal in foreign exchange, using for such purposes, any of the instruments used by banks;
3. buy and sell treasury bills, and otherwise of securities, as may be issued, or guaranteed by foreign governments, or international financial institutions;
4. open and maintain accounts, and appoint agents and correspondents outside the country;
5. open and maintain accounts, and act as agent, or correspondent, for foreign banks and governments, government agencies and international institutions.

Foreign exchange operations limited

Saving the arising of special circumstances, the Bank shall not practise the operations, set out in section 30, save with banks, approved non-banking bodies and licensed persons, working in the Sudan, and with the Government and the institutions thereof and central and commercial banks, and foreign banks and governments, and the institutions of the same, and international institutions.

Power to grant and receive foreign loans

The Bank shall have the right to grant advances to any of the institutions provided for in section 31, or obtain advances therefrom; provided that such advances shall be consistent with the nature of the work of the Bank.

Functions of the Bank with respect to exchange control

The Bank shall carry out the functions and duties, relating to control of foreign exchange transactions, as may be authorized by the law; and the Bank shall be the sole body having the power to grant licences in the field of dealing into foreign exchange.

Chapter VII

Relations with Banks

Accounts opened for banks

The Bank may open accounts for banks and other credit institutions, working in the Republic of the Sudan, and may likewise accept deposits therefrom .

Fluidity Managed

The Bank may:

1. issue, buy and sell credit bills of the types thereof, for the purpose of management and organization of fluidity;
2. finance, or upon need, guarantee banks, as to the appropriate Sharia forms, in consideration of such securities and conditions, as it may determine in each case.

Profit rates fixed

The Bank may fix and announce, to the banks and the non-banking bodies approved thereby, from to time, the rate and share of profits, in the various transactions and forms, and the rate of subscription, of the partner, to the capital of partnerships, and all such as may control and serve the public interest in this respect.

Reserve requirements for banks determined

1. The Bank may require the banks to maintain a reserve, in the form of deposits, in the Bank, or in such other form, as may be determined thereby; provided that the reserve shall be by a specific ratio to the liabilities of such banks, whether sight, or time liabilities.
2. Banks shall be notified, at an early time, before the first requisition is addressed thereto, under the provisions of sub-section (1), or given sufficient time to reconcile the conditions thereof with the requisition.
3. The Bank may, from time to time, alter the required reserve ratio , and determine differential ratios for sight and time liabilities.
4. Any bank, which fails to maintain the required reserve, shall be subject to the financial and administrative sanctions, as the decisions issued by the Governor, from time to time, in accordance with the regulations, may determine.

Bank financing restricted

The Governor, whenever he deems the same necessary, may :

1. require banks to submit, for approval, all the applications, presented thereto to obtain such advances, as may exceed the amount specified, from time to time, for approval of such applications;
2. prescribe a ceiling for advances for such investment operations, as may be granted by each bank, for the various activities in which they are used;
3. prescribe the ceiling of the aggregate amount for advances for such investment operations, as may be granted by any bank, and due for payment at any time;

Every bank, which exceeds any of the ceilings prescribed by the Governor, under the provisions of sub-section (1), shall be subject such administrative and financial sanctions, as the regulations may specify.

Information required from banks

The Governor, or whoever he may authorize, may require banks to submit thereto:

1. within four months, of the end of the financial year, an approved copy of the balance sheet, which has been audited by certified auditors, accompanied by an approved copy of the auditors' report;
2. within thirty days, of the end of every month, an approved statement of the assets and liabilities of the bank concerned, at the end of the previous month , as to such form, as the Governor may prescribe;
3. any other information, as the Governor, or whoever he may authorize, may require.

The Governor, or whoever he may authorize, may require any bank to prepare its books for inspection, and submit such documents and evidence, as may prove that it has executed the directions, issued thereto under the provisions of this Act.

All branches of any bank treated as one bank

All the branches, subordinate to any bank, shall be deemed as one bank, for the purposes provided for in sections 37, 38 and 39.

Clearing houses organized

The Bank, in consultation with other banks, shall establish clearing houses, at any place, as it may deem fit.

New banks established, or to conduct part of banking business

No person shall establish any bank, or conduct banking business, or part thereof, in the Republic of the Sudan, save under a licence from the Bank.

Power to issue directions and instructions to banks

The Governor, or whoever he may authorize, shall have the power of the issue of directions and instructions, to any bank, or any person, conducting banking business, or part thereof, and such bank, or person shall abide by, and execute such directions.

Chapter VIII

Relation with the Government

The Government banker and fiscal agent

The Bank shall be the Government banker, its advisor and the fiscal agent thereof.

Holding Government accounts

1. Government funds shall be deposited with the Bank.
2. The Bank shall receive the Government funds and hold the accounts thereof.

The issue and management of credit bills

There shall be entrusted, to the Bank, the function of the issue and management of the Government credit bills, as to such terms and conditions, as may be agreed upon, between the Government and the Bank.

The Bank carrying out other functions on behalf of the Government

The Bank may act as an agent of the Government, as to such terms and conditions, as may be agreed upon, between the Government and the Bank; provided that the same shall be in accordance with the provisions of this Act.

Government granted advances

The Bank may grant temporary advances to the Government, as to such terms, as it may prescribe; provided that the advances shall not at any time exceed 15% of the estimates of the general revenues of the Government in the financial year, in which the advances are granted; provided further that the whole advances shall be repaid within a period not exceeding the six months subsequent to the end of the financial year, in which the same have been granted.

Where the whole advances, or part thereof are not repaid, within the period provided for in sub-section (1), the same shall be treated as to such manner, as may be agreed upon, between the Bank and the Government.

Securities dealt in

The Bank may purchase and sell securities, issued and publicly offered for sale, by the Government, or form part of an offered issue.

Lending to the Government limited

Save as provided for in sections 46, 47 and 48, the Bank shall not directly, or indirectly advance loans, or advances, to the Government; provided that the Bank may continue to hold such non-transferable treasury bills, as it may take over from the Sudan Currency Board.

Chapter IX

Other Operations of the Bank

Banking operations

Subject to the provisions of section 55, the Bank may perform any type of banking business, as the prohibition of which is not expressly provided for in this Act; on condition that they shall not be inconsistent with the nature of the work of the Bank.

Sight drafts issued

The Bank may issue sight drafts and such other types of remittances, as may be payable at its own offices, or the offices of the agents and correspondents thereof.

Other persons' accounts opened

The Bank may open accounts for and accept deposits, from public institutions and corporations, states' governments, localities and the bodies mentioned in sections 30, 31 and 45.

Shares of financial enterprises held

The Bank may subscribe to the shares of any enterprise, purchase, sell or hold such shares, whenever participation to such enterprise, or the initiation thereof, achieves the objectives of the Bank, or the same is generally in the interest of the national economy.

Operations which the Bank shall not undertake

The Bank shall not:

1. draw, or accept any bills payable otherwise than on demand;
2. engage in trade, or participate directly in the ownership of any agricultural, commercial, industrial or other enterprise, save as provided for in section 54, for the purpose of acquiring profit;

3. purchase, or retain ownership of real property, save as to such amount, as may be necessary for performing the work thereof;
4. advance , without security, loans, or advances, other than those advanced in accordance with the provisions of section 48;
5. advance loans, or advances, for a security inconsistent with the provisions of this Act; provided that where the Bank has such debts, as may be in jeopardy, it may accept, as security therefor, estates, or other property. Where such security is enforced, the Bank may retain therewith, such estates and property with the intent of selling the same as soon as possible;
6. purchase, or acquire shares, or accept the same as collateral security, save in accordance with the provisions of section 54;
7. advance a security, to obtain advances, save for the Government and commercial banks.

Chapter X

Control of the National Assembly

The Governor shall present, before the National Assembly, at the end of every year, a statement including the general policies, plans and future programmes of the Central Bank, and a report on the general performance for the previous year, as to such procedure, as may be followed in presenting and approval of the statements of ministers, before the National Assembly, subject the privacy of the information of the Central Bank.

Chapter XI

Accounts

Financial year

The financial year of the Bank shall be the Gregorian year, which commences, on the first of January, and terminates, on the thirty first of December of the same year.

Audit of the Bank's accounts

Accounts of the Bank shall be audited, in accordance with the General Audit Chambers Act, 1999.

Annual statements of accounts and the annual report

The Bank shall present, to the President of the Republic, within three months, of the end of every financial year, an audited copy of the annual statement of the accounts, and such statement shall be published in the Gazette.

There shall be attached, to the statement provided for in sub-section (1), a report from the Board , on the operations of the Bank, during the ending financial year.

Chapter XII

Miscellaneous Provisions

Exemption from taxes and fees

Profits of the Bank, its operations, capital, property and document shall be exempted, from all taxes and fees.

Secrecy of the Bank's affairs

Every member of the Board and employees of the Bank shall have due regard to secrecy, with respect to the matters connected with the affairs and clients of the Bank, save as performance of the duties thereof may require under the provisions of this Act.

Liquidation of the Bank

The Bank shall not be liquidated, save by law.

Power to make regulations and orders

The Board may make such regulations and orders, as may be necessary, for the implementation of the provisions of this Act.