Unified Agreement for the Sale of Forward Commodities

Among the activities of the Commodities Mudarba Fund is the sale of goods and commodities on a deferred payment basis to the high net worth financial institutions according to "The Unified Agreement for the Sale of Forward Commodities". This product starts with signing the agreement which organizes the relationship between the fund manager and the financial institution whereas the fund owns the commodity after the company expresses its desire to buy, and then sells this commodity to the institution on a deferred payment basis. The institution will then have a choice of either retaining the commodity and bear the costs of storage, insurance, and the like, or authorize the fund manager to sell this commodity in the market.

- **The Executive Steps:**

The First Stage: Expression of Interest to Sell:
If the Fund is interested in selling goods on a deferred purchase basis, it must fill the "Expression of Interest in Sale Transaction" form, and send it through one of these means: e- mail, fax, or through the recorded phone calls subject to the following two conditions:

A. The e- mail, fax, or phone call shall include contents of the "Expression of Interest in Sale Transaction" Form.
B. The phone call must be recorded to document the transaction, and to enable referring to it when needed.

- **Sharia rules:**

The expression of desire is considered a non- binding promise upon the fund to sell the commodities in case of its ownership to it. This application shall not result in any commitment from the part of the Fund or the institution.

The Second Stage: Ownership of the Commodity by the Fund:
The fund purchases the commodities from The London Metal Exchange Market through brokers according to a "Commodity Purchase Agreement" which organizes the relationship between the Fund and the Suppliers.
Prior to purchasing the commodities by the Fund, the following particulars are to be determined:

1- The purchase price must be close to the amount which the Fund desires to sell the commodity at.
2- The number of the metal units are determined or measured in ounces.
3- The unit price is determined by the broker.
4- The delivery maturity date is usually on SPOT basis, i.e. after two working days.

- **Note:**

  The identification document is usually the Ownership certificate. This certificate is sent to the Fund Manager in this stage which includes the following information:

  Ownership Certificate Number, type of metal, number of units "ounces", location of the metal, date of implementing the transaction, and date of commodity delivery. This certificate is considered as an official document which proves the seller's ownership of the metal.

  The Third Stage: Acceptance of the Fund

  After the commodities are in the possession of the Fund according to the previously mentioned , "Purchase of Commodities Form, the Fund issues an acceptance to selling the commodities owned by it, and sends this acceptance to the financial institution according to the "Seller Acceptance Form" either by fax, e- mail, or phone calls, subject to the following two conditions:

  a. The e-mail, fax, or the phone call shall include content of the "Seller Acceptance" Form".
  b. The phone call must be recorded to document the transaction and to facilitate future reference to it when needed.

- **Note:**

  The Fund, in all cases, must include a copy of the identification documents with the "Seller Acceptance Form" to the financial institution before it issues the acceptance.

- **The Sharia rules:**

  a. The Fund shall own the commodities before sending the Seller Acceptance Form to the customer in order to avoid selling what he actually doesn't own.
  b. It is impermissible according to Islamic Sharia, for the Fund to obtain an advance payment of the commodities value from the Company before the supplier owns it in order to avoid selling what he actually doesn't own.
  c. The supplier may not increase the commodity's price or impose high fees or take actions that prevent the Company or its customer from receiving it or selling it to a third party.

  The Fourth Stage: Acceptance of the Financial Institution

  If the financial institution accepted the purchase of commodities from the Fund and received the commodities identification documents it must send its acceptance to the Fund in accordance with the "Purchaser's Acceptance" Form after signing it and filling all of its particulars by fax or e- mail. Upon receipt of the Fund of this acceptance, the purchase transaction between the two parties would be completed according to the terms and conditions of "The Unified Agreement for the Sale of Forward Commodities and its Appendixes ".

Upon completing the purchase transaction, the institution would own the commodity having all rights pertaining to these commodities and shouldering all its consequences including the risks associated with the commodity damage, price changes, and the like.

- **Note:**

  If the acceptance of the institution is expressed by phone, it is necessary to adhere to the following matters:

  1. The phone call shall be recorded and it shall include the content of the "Buyer's Acceptance" form.
  2. The " Seller's Acceptance Confirmation'' Form must be sent by the Fund to the institution.
  3. The "Purchaser's Acceptance Confirmation" Form must be sent by the institution to the Fund.

- **The Sharia rules:**

  1. The Fund may not sell gold, silver, and currencies to the Institution on a deferred payment basis because it is not permissible to purchase and sell these commodities by exchanging one different kind of it with another on a deferred money basis.
  2. The Fund may not buy commodities from the institution, and then sell them to the institution with a deferred price because that falls under the Baye'aleayana (buy-back sale) which is prohibited by sharia.
  3. The company may not sell the commodity to the entity from which it had purchased whether it purchased these commodities for itself or for others to close completely the pretense (claim) of the prohibited Baye'aleayana (buy-back sale) in any one of its forms, i.e. whether involving two parties, three parties or more..

The Fifth Stage: The Institution's disposition of the commodity

After owning the commodities, the institution shall have one of the following three options as to the disposition of the commodities:

- Keep the commodities in the location where they are stored , and bear all the resulting consequences of the storage , insurance and other expenses.
- Take the commodities from the location where they are stored, and bear all the resulting consequences of the storage , insurance and other expenses.
- Authorize the Fund to sell the commodities in the market on its behalf according to the following:

The Institution authorizes the Fund to sell commodities which it owns to a third party, through filling a "Sale Authorization" Form, and then sends it to the Fund through one of aforementioned means. The Fund will then sell the commodity in the market and the third party will deposit its value in the institution's account, according to the place and date of delivery agreed upon.

- **The Sharia rules:**
    1. The fund may not sell the commodity by proxy on behalf of the institution to the entity from which the Fund has purchased the commodity because this falls under the prohibited Baye'aleayana (buy-back sale) which involves three parties.
    2. The Institution may not authorize the Fund to sell the commodities to a third party before it becomes under its possession.
    3. The selling and purchase transactions in this product shall be performed according to the above mentioned arrangement.