SCIENTIFIC CULTURE
www.sci-cult.com

SCIENTIFIC CULTURE, Vol. 12, No. 4, (2026), pp. 10576-10586
Open Access. Online & Print

DOI: 10.5281/zenodo.124261020

FORFEITURE OF DEFERRED DEBT TERM DUE TO DEBTOR DEFAULT AND DELIBERATE DELAY: AN APPLIED FOUNDATIONAL FIQH STUDY ON THE PRACTICES OF ISLAMIC BANKS IN THE UNITED ARAB EMIRATES

Dr. Mohamed Hassan Mohamed Abelwahab[1]*, Prof. Ahmad Mohammad Azzab Moussa[2], Prof. Abdelhalim Mohamed Mansour Ali[3], Dr. Ahmed Abdelgayed Hussiny Basiouny[4], Dr. Atef Abdelhamid Ahmed Abdelrahim[5], Prof. Saeed Ahmad Saleh Farag[6]

[1]Professor of Comparative Islamic Jurisprudence and Head of the Department of Sharia, College of Sharia and Law, Dubai, m.hassan@imc.gov.ae
[2]Professor of Islamic Legal Theory (Oṣol Al-Fiqh), Imam Malik College for Sharia and Law, Dubai, a.moussa@imc.gov.ae
[3]Professor of Islamic Jurisprudence and Dean, College of Sharia and Islamic Studies, Al-Qasimia University; Professor of Comparative Islamic Jurisprudence, Al-Azhar University, amansour@alqasimia.ac.ae
[4]Associate Professor of Islamic Jurisprudence and Its Foundations, Al-Qasimia University, abasiouny@alqasimia.ac.ae
[5]Associate Professor, Imam Malik College for Sharia and Law, Dubai, atif@imc.gov.ae
[6]Associate Professor of Islamic Legal Theory (Uṣūl al-Fiqh), King Khalid University, saeed_frg@yahoo.com

Received: 08/10/2025
Accepted: 20/02/2026

Corresponding Author: Dr. Mohamed Hassan Mohamed Abelwahab (m.hassan@imc.gov.ae)

ABSTRACT

Islamic financial institutions operating under Sharī'ah constraints cannot employ conventional interest-based penalty mechanisms to deter debtor procrastination. This study examines the jurisprudential validity of contractually stipulating debt term forfeiture — whereby all outstanding installments become immediately due upon a debtor's payment default — as a permissible alternative disciplinary instrument. Employing inductive, analytical, foundational (uṣūlī), and applied methodologies, the study (1) establishes the preponderant scholarly position on the permissibility of the forfeiture clause; (2) grounds its enforcement in the ta'zīr (discretionary punishment) doctrine; (3) distinguishes between the solvent-but-procrastinating debtor and the genuinely insolvent debtor; and (4) evaluates the actual contractual practices of UAE Islamic banks against the binding AAOIFI Sharī'ah Standards. Findings reveal that while the forfeiture clause is jurisprudentially legitimate, its enforcement ought to be strictly confined to the procrastinating (māṭil) debtor and must be withheld from the insolvent (mu'sir) debtor. A critical gap is identified: UAE Islamic banks currently apply the clause automatically upon any payment default, without distinguishing between these two categories — a practice that contravenes both scriptural injunctions and binding AAOIFI standards. Recommendations are offered to AAOIFI and to Islamic banks for harmonising standards and rectifying

contractual formulations.

KEYWORDS: Islamic finance, debt forfeiture, deferred payment, *ta'zīr*, procrastination (*maṭl*), insolvency (*i'sār*), AAOIFI Sharī'ah Standards, UAE Islamic banks.

1. INTRODUCTION

The settlement of financial obligations constitutes a fundamental pillar of transactional stability in any legal order. Economies function on the premise that debts will be honoured, that creditors can rely upon the enforceability of their claims, and that systemic trust in financial contracts will be maintained over time. When debtors default — whether through genuine incapacity or deliberate procrastination — the consequences extend beyond the immediate parties to the transaction, undermining the broader integrity of the financial system. Islamic financial institutions, however, face a distinctive challenge in responding to such defaults: unlike their conventional counterparts, they are prohibited by Sharī'ah from applying interest-based penalty mechanisms to deter debtor procrastination. Conventional banks routinely impose compounding late-payment interest as a deterrent against wilful delay; Islamic banks, bound by the prohibition of *ribā*, are denied this instrument entirely. This prohibition, while rooted in profound ethical principles that guard against exploitation and the unjust enrichment of creditors at the expense of debtors, creates an operational asymmetry that disrupts capital circulation, weakens the disciplinary mechanisms ordinarily available to lenders, and inflicts measurable financial losses upon creditor institutions (Shabbīr, n.d.; Al-Turkī, 2003).

The gravity of this asymmetry should not be understated. Islamic banks operate in competitive financial markets alongside conventional institutions that possess a full arsenal of contractual remedies. The inability to impose penalty interest does not merely represent a technical disadvantage — it exposes Islamic banks to a heightened risk of strategic default, wherein financially capable debtors exploit the absence of punitive consequences to delay repayment indefinitely. The resulting accumulation of non-performing assets threatens the solvency of individual institutions and, in aggregate, poses systemic risks to the Islamic financial sector as a whole. The challenge is therefore not merely jurisprudential but existential: how can Islamic finance remain viable and competitive while remaining faithful to its foundational ethical commitments?

Against this backdrop, scholars and practitioners have devoted considerable effort to exploring contractual alternatives that preserve the ethical framework of Islamic finance while providing creditors with effective and Sharī'ah-compliant instruments against wilful delay. Numerous mechanisms have been proposed and debated, ranging from charitable penalty funds to collateral arrangements and reputational sanctions. Chief among the instruments that have gained practical traction, however, is the *isqāṭ al-ajal* clause — a contractual stipulation that the deferred payment term shall lapse and all remaining installments shall become immediately due and payable upon any payment default by the debtor. By embedding this acceleration provision within the original financing contract, creditors seek to replicate, within a permissible framework, the deterrent function that penalty interest serves in conventional finance. While this mechanism has gained widespread adoption in Islamic banking practice globally — finding expression in the standard-form contracts of institutions operating across the Gulf Cooperation Council states, Southeast Asia, and beyond — its jurisprudential foundations and the precise conditions governing its application have remained subjects of active and unresolved scholarly debate.

The core tension is this: classical Islamic jurisprudence draws a sharp and morally significant distinction between the debtor who is genuinely insolvent and the debtor who is merely procrastinating. The Qur'anic injunction — "And if someone is in hardship, then let there be postponement until a time of ease" (Qur'an 2:280) — establishes an unambiguous obligation to grant respite to those who cannot pay. To apply an acceleration clause indiscriminately, without regard for the debtor's true financial condition, risks inflicting a punitive sanction upon one who is already in distress — an outcome that is not merely unjust but positively prohibited by the sources of Islamic law. The legitimacy of the *isqāṭ al-ajal* mechanism therefore cannot be assessed in the abstract; it depends critically upon whether the debtor against whom it is enforced is genuinely procrastinating or genuinely unable to pay.

This study was undertaken to examine the legal validity of the *isqāṭ al-ajal* condition, to establish its jurisprudential foundations within the *ta'zīr* (discretionary punishment) doctrine of classical Islamic law, and critically to evaluate its contemporary applications in the UAE Islamic banking sector — a jurisdiction of particular significance because it has adopted AAOIFI Sharī'ah Standards as mandatory and binding regulatory instruments applicable to all Islamic financial institutions operating within its borders (UAE Central Bank Higher Sharī'ah Authority, Resolution No. 18/3/2018). By situating this analysis within both the classical jurisprudential tradition and the

contemporary regulatory framework, the study seeks to bridge the gap between doctrinal scholarship and banking practice — and, in doing so, to offer actionable guidance to regulators, standard-setters, and practitioners alike.

1.1 Research Significance

This study addresses a lacuna at the intersection of classical Islamic jurisprudence and contemporary financial regulation. The phenomenon of financial default and deliberate delay poses an existential threat to the operational viability of Islamic banks, given their inability to resort to conventional penalty interest. The contractual stipulation of debt term forfeiture represents not merely a creditor-protection device but, properly understood, a coercive instrument serving the debtor's own long-term interest by incentivising timely discharge of obligations and deterring procrastination. Formulating a precise jurisprudential framework governing such stipulations — one that is simultaneously faithful to classical doctrine and responsive to contemporary regulatory realities — is therefore of both academic and practical urgency.

1.2 Research Questions

This study addresses the following central question: What are the Sharī'ah-based legal parameters governing the stipulation of debt term forfeiture and its enforcement against a defaulting debtor? The following subsidiary questions are examined:

1. What are the scholarly positions on the ruling concerning the stipulation of debt term forfeiture in financing contracts, and which opinion is preponderant?
2. What is the precise jurisprudential characterisation of debt term forfeiture as a punitive measure, and does its enforcement differ according to the debtor's financial condition?
3. What are the binding Sharī'ah standards applicable to UAE Islamic banks in this regard, and does actual banking practice conform to those standards?

1.3 Objectives

This study aims to: (1) resolve the jurisprudential dispute concerning the permissibility of stipulating debt term forfeiture and arrive at the preponderant position; (2) establish the jurisprudential foundations for enforcing this condition upon a debtor's default, and clarify the effect of variation in the debtor's financial condition; and (3) elucidate the governing Sharī'ah standards applicable to UAE Islamic banks and evaluate their actual adherence in practice and contractual templates.

1.4 Methodology

This research employs a convergence of scholarly methodologies: inductive (systematic tracing of scholarly opinions on debt term forfeiture), analytical (scrutiny of evidentiary bases to determine the preponderant view), foundational (*uṣūlī* — grounding condition enforcement within the broader doctrine of *ta'zīr*), and applied (evaluation of the UAE banking reality against the established jurisprudential framework). Primary sources include classical jurisprudential texts, Qur'anic exegesis, *hadith* collections, and binding regulatory instruments; secondary sources include contemporary jurisprudential scholarship and institutional documents from UAE Islamic banks.

2. THE JURISPRUDENTIAL RULING ON STIPULATING THE FORFEITURE OF DEFERRED PAYMENT IN FINANCING CONTRACTS

Contemporary jurists have diverged regarding the permissibility of a financial institution stipulating, within a credit contract, the immediate acceleration of installment obligations upon the debtor's default. Two principal positions have emerged.

2.1 The First Position: Permissibility

The permissibility of stipulating forfeiture of deferral upon default was explicitly endorsed by the Ḥanafī school and later Ḥanbalī scholars, and constitutes the majority view among contemporary jurists (Al-Kāsānī, 1920; Ibn Qayyim al-Jawziyya, 1991; Abū Ghudda, 2003; Al-Turkī, 2003; Shabbīr, n.d.; Al-ʿUthmānī, 2011). It has likewise been affirmed by the International Islamic Fiqh Academy (IIFA) through Resolutions No. 51(2/6) and No. 64(2/7) on installment sales, and No. 133(7/14) on the problem of arrears in Islamic financial institutions (IIFA, 2025), as well as by AAOIFI (2017) across three Sharī'ah Standards. The following arguments support this position:

First: The clause forms part of a contract concluded upon mutual consent, and no legal evidence exists to prohibit it; it therefore remains governed by the original principle of permissibility, and compliance is obligatory in accordance with the Qur'anic injunction, "O you who have believed, fulfil [all] contracts" (Qur'an 5:1), and the Prophetic tradition, "Muslims are bound by their stipulated conditions" (Al-Bukhārī, 2001, Kitāb al-Ijāra, No. 2240; Al-

Dabyān, 2010; Shabbīr, n.d.; Al-Turkī, 2003).

Second: Deferral of payment is an entitlement belonging to the debtor, established primarily for his benefit; he may waive it at any time, and may furthermore make such waiver contingent upon his own incapacity to fulfil the obligation or his delay in discharging installments (Shabbīr, n.d.).

Third: The creditor consented to deferral on the condition that the debtor would adhere to the payment schedule without procrastination; accordingly, should the debtor engage in unjustified delay, the condition of deferral is vitiated and the remaining installments become immediately due.

Fourth: The stipulation serves a legitimate interest for both parties, protecting the creditor from the harm of procrastination and the burden of repeated demands, thereby instilling confidence in extending credit — a benefit that ultimately serves the debtor by securing access to financing (Shabbīr, n.d.; Abū Ghudda, 2003; Al-ʿAnzī, 2024).

Fifth: The clause advances the fundamental purpose of the contract, since the very nature of a credit agreement entails the obligation to discharge debt on its appointed terms; the acceleration clause thus incentivises the debtor to honour the essential requirements of the contract (Al-Dabyān, 2010).

2.2 The Second Position: Impermissibility

The Permanent Committee for Scholarly Research and Ifta' in the Kingdom of Saudi Arabia has attributed to itself the view that stipulating forfeiture of deferral upon default is impermissible (Al-Lajna al-Dāʾima, n.d., Vol. 13, p. 182). Two arguments support this position:

First: The increase in sale price typically represents consideration for the extension of the repayment period; accordingly, if all installments become immediately due upon non-payment of any portion, the creditor receives the price increment without corresponding consideration — constituting *ribā* (usury) and the wrongful consumption of others' wealth. This argument is countered on two grounds: (a) deferral is a benefit for which direct compensation is not permissible under the majority view, since neither may the creditor reduce the debt in exchange for early settlement, nor increase it in exchange for an extension (Al-Zaylaʿī, 1895; Al-Nafrāwī, 1995; Al-Subkī, n.d.; Ibn Qudāma, 1969); (b) the forfeiture stipulation does not constitute wrongful consumption, given that the debtor freely consented to it, and the absence of such a stipulation may itself lead to the unjust appropriation of the creditor's wealth (Abū Ghudda, 2003; Shabbīr, n.d.).

Second: Stipulating immediate acceleration upon default contravenes the Qur'anic command mandating respite to a debtor in financial hardship: "And if someone is in hardship, then [let there be] postponement until [a time of] ease" (Qur'an 2:280). This concern is addressed by limiting application of the stipulation to the solvent debtor, rendering it a sanction for wilful procrastination rather than a punishment for genuine inability to pay (Al-Lajna al-Dāʾima, n.d., Vol. 13, p. 182).

2.3 Preponderant View

Having examined the opinions of the jurists and scrutinised their evidentiary foundations, the preponderant position is that of the permissibility of stipulating the acceleration of deferred installments upon the debtor's failure to meet payment obligations. Three grounds support this conclusion:

First: The stipulation accords with the intent and objectives of the Sharī'ah in requiring the fulfilment of contractual obligations, compelling the debtor to discharge what he has undertaken within the agreed timeframe.

Second: It is a stipulation that reinforces the inherent requirements of the contract — the essential function of which is the discharge of debt within its designated term — bringing it within the same legal category as pledge (*rahn*) and suretyship (*kafālah*), both recognised as permissible.

Third: It realises a legitimate and recognised interest for both contracting parties, falling within the category of benefit-conferring conditions (*al-shurūṭ al-maṣlaḥiyyah*) validated by the majority of jurists.

Notwithstanding the juridical legitimacy of the clause, its practical application upon default requires precise jurisprudential characterisation — one that conditions enforcement upon the financial state of the debtor, whether insolvency or solvency accompanied by wilful procrastination. This matter is addressed in Sections 3 and 4 below.

3. THE JURISPRUDENTIAL GROUNDING FOR THE FORFEITURE OF DEFERRED PAYMENT UPON DEFAULT

Given that the deferral of debt repayment serves the interest of the debtor — enabling him either to utilise the retained funds productively or to avoid the hardship of liquidating assets to satisfy an immediate obligation — the debtor occasionally accepts an increase in the sale price as consideration for this deferral. Accordingly, the forfeiture of the deferred term and the acceleration of the debt constitute a harm to the debtor, placing him in a position of legal hardship and depriving him of a recognised interest. This falls within the domain of punitive imposition,

carrying the essential character of a sanction.

Lexically, punishment (*ʿuqūbah*) derives from the root *ʿaqaba*, the most pertinent meaning of which is: to requite a person for a wrongful act he has committed (Al-Azharī, 2001; Al-Jawharī, 1987; Ibn Manẓūr, 1993). In technical jurisprudential usage, scholars have offered numerous definitions that converge upon: a worldly sanction inflicted upon an offender for the commission of a legally prohibited act (Al-Māwardī, n.d.; Abū Zahra, 1998).

Since punishments are divided into *ḥudūd* (fixed penalties) and *ta'zīr* (discretionary penalties), and since the former are distinguished by their quantification through scriptural authority, the penalty of debt acceleration is more appropriately classified as a *ta'zīr* sanction — a worldly consequence for which no specific measure has been stipulated by textual evidence.

Lexically, *ta'zīr* carries the senses of repulsion, prevention, and disciplinary chastisement (Al-Farāhīdī, n.d.; Ibn Manẓūr, 1993). In technical jurisprudential usage, scholars are in agreement that *ta'zīr* refers to an indeterminate worldly sanction applied to an offence for which no *ḥadd* penalty or expiation (*kaffārah*) has been specified (Al-Bābartī, 1970; Ibn Farḥūn, 1986; Al-Māwardī, n.d.).

Upon examining the definition of *ta'zīr*, a clear analogy emerges between it and the forfeiture of deferral clause imposed upon a defaulting debtor, by virtue of both being indeterminate sanctions not fixed by the Sharī'ah, applied to deter the debtor from persisting in delay. This jurisprudential characterisation is attended by two objections that require resolution.

The first objection holds that the authority to impose *ta'zīr* is vested exclusively in the ruler (*walī al-amr*) or his duly appointed delegate, by unanimous scholarly agreement (Ibn ʿĀbidīn, 1966; Al-Mawwāq, 1994; Al-Ghazālī, 1996; Ibn Qudāma, 1969) — whereas the acceleration of installments is the effect of a contractual stipulation that the financial institution enforces unilaterally upon default. This objection is met by observing that the ruler's ratification of such stipulations through legislation, and the oversight exercised by regulatory bodies acting on his behalf — such as the Central Bank — effectively confers upon them the status of *ta'zīr* sanctions authorised by the ruler. Their contractual character therefore does not diminish their essential nature as *ta'zīr* measures.

The second objection is that the basis for *ta'zīr* is contingent upon the commission of a transgression or offence, requiring a precise definition of *jarīmah* (crime) and a determination of whether payment default constitutes such an offence. Lexically, *jarīmah* denotes transgression, sin, iniquity, and disobedience (Al-Farāhīdī, n.d.; Ibn Manẓūr, 1993; Al-Fīrūzābādī, 2005). In technical usage, jurists define it as "legally prohibited acts against which God has prescribed a *ḥadd* penalty or *ta'zīr*" (Al-Māwardī, n.d.; Abū Zahra, 1998). Whether a debtor's payment default constitutes a legally prohibited act varies according to the debtor's financial condition — solvency or insolvency — as elaborated in Sections 3 and 4.

4. WILFUL PROCRASTINATION (MAṬL) AND ITS EFFECT ON THE APPLICATION OF THE FORFEITURE PENALTY

4.1 Definition of Wilful Procrastination (Maṭl)

The term *mumāṭil* (procrastinator) derives from *al-maṭl*, which lexically denotes extension and prolongation — encompassing the notions of delay and evasion in the discharge of debts (Al-Farāhīdī, n.d.; Al-Azharī, 2001; Ibn Manẓūr, 1993).

In technical jurisprudential usage, scholars have approached *al-maṭl* along two distinct lines. The first applies it in its general sense, encompassing any delay in debt repayment beyond its stipulated term. Al-Kāsānī's definition — "the deferral of debt repayment" (Al-Kāsānī, 1920, Vol. 7, p. 173) — illustrates this approach, treating any delay as *maṭl* regardless of whether the debtor is excused by insolvency or without excuse by virtue of wealth and capability.

The second and more precise approach restricts *maṭl* to its specific sense: the refusal to repay despite possessing the capacity to do so. Ibn Ḥajar defines it as "the delay of what has become due without a valid excuse" (Ibn Ḥajar, 1970, Vol. 4, p. 465), while Al-Qurṭubī adds a third condition: "the withholding of payment of what has become due despite the capacity to discharge it, and upon the creditor's demand of his right" (Al-Qurṭubī, 1996, Vol. 4, p. 438). AAOIFI similarly defines the procrastinating debtor as "the solvent debtor who has, without a legally recognised excuse and following customary demand, refused to discharge a debt that has matured" (AAOIFI, 2017, p. 108).

The preponderant view is to rely upon Ibn Ḥajar's formulation, which limits *maṭl* to the two conditions of maturity of obligation and debtor's capacity — these being sufficient to establish procrastination. There is no sound basis for requiring the additional condition of the creditor's formal demand, since the Sharī'ah obliges the solvent debtor to discharge obligations and absolve himself of liability immediately upon their maturity, without awaiting

the creditor's demand.

4.2 The Ruling on Penalising the Procrastinating Debtor through Forfeiture of Deferral

The procrastinating debtor, in his specific sense, is by unanimous agreement across all jurisprudential schools a perpetrator of a legally prohibited act — having wilfully refused to fulfil a Sharīʿah-mandated obligation without valid justification (Al-Kāsānī, 1920; Ibn Rushd, 1988; Al-Shāfiʿī, 1983; Ibn Muflih, 2003). This warrants the imposition of *taʿzīr* upon him. Two lines of evidence establish this:

4.2.1 General Evidences Establishing the Legitimacy of Ta'zīr

These evidences ground the permissibility of forfeiture of deferral as a form of discretionary sanction (for scholarly consensus on *taʿzīr* legitimacy, see Al-Zaylaʿī, 1895; Al-Dardīr, n.d.; Al-Māwardī, 1999; Ibn Qudāma, 1969; Ibn Ḥazm, n.d.):

First: The Qur'anic verse: "And those [wives] from whom you fear arrogance — advise them; then forsake them in bed; and strike them" (Qur'an 4:34). Al-ʿImrānī comments: "God permitted the husband to strike his wife for *nushūz* (disobedience), and *nushūz* is a transgression — indicating that every transgression for which no *ḥadd* or expiation is prescribed may be punishable" (Al-ʿImrānī, 2000, Vol. 12, p. 532).

Second: Abū Burdah al-Anṣārī reported that the Prophet said: "Do not flog [anyone] more than ten lashes except in a matter involving one of the prescribed penalties (*ḥudūd*) of God" (Al-Bukhārī, 2001, Kitāb al-Muḥāribīn, No. 6850; Muslim, 1955, Kitāb al-Ḥudūd, No. 1708). Ibn Daqīq al-ʿĪd interprets this as establishing *taʿzīr* in transgressions without a *ḥadd* (Ibn Daqīq al-ʿĪd, 1987, Vol. 2, p. 250).

Third: Bahz ibn Ḥakīm reported on the authority of his father and grandfather that "the Prophet detained a man on suspicion" (Abū Dāwūd, 2009, Kitāb al-Aqḍiya, No. 3630; Al-Tirmidhī, 1975, Kitāb al-Diyyāt, No. 1417; Al-Ḥākim, 1990, Vol. 4, p. 114). This attests to the legitimacy of *taʿzīr* by imprisonment (Ibn al-Humām, 1970, Vol. 5, p. 350).

4.2.2 Specific Evidences on the Penalty of the Solvent Procrastinating Debtor

First: The Qur'anic verse "And if someone is in hardship, then [let there be] postponement until [a time of] ease" (Qur'an 2:280). Al-Qurṭubī explains: "This indicates that whenever a debtor refrains from discharging his debt despite the capacity to do so, he is a wrongdoer — for God Almighty says: 'you are entitled to your principal,' thereby affirming the creditor's right to demand the return of his capital" (Al-Qurṭubī, 1964, Vol. 3, p. 371).

Second: Abū Hurayrah reported that the Prophet said: "The procrastination of the wealthy is an injustice; and whoever is referred to a solvent person, let him follow [the referral]" (Al-Bukhārī, 2001, Kitāb al-Ḥawālāt, No. 2287; Muslim, 1955, Kitāb al-Musāqāt, No. 1564). Ibn Ḥajar comments: "meaning that it is categorically prohibited for a wealthy person capable of repayment to procrastinate in discharging a debt after it has matured — unlike one who is incapable" (Ibn Ḥajar, 1970, Vol. 4, p. 465).

Third: ʿAmr ibn al-Sharīd reported that the Messenger of God said: "The procrastination of one who possesses [the means] renders his honour and his punishment permissible" (Abū Dāwūd, 2009, Kitāb al-Aqḍiya, No. 3628; Al-Ḥākim, 1990, Vol. 4, p. 114). Al-Khaṭṭābī explains that the solvent procrastinating debtor commits a form of injustice and engages in a prohibited act, thereby rendering himself deserving of sanction (Al-Khaṭṭābī, 1932, Vol. 2, p. 68).

5. INSOLVENCY (IʿSĀR) AND ITS EFFECT ON THE APPLICATION OF THE FORFEITURE PENALTY

5.1 Definition of Insolvency (Iʿsār)

Lexically, *al-muʿsir* (the insolvent person) derives from *al-ʿusr*, the antonym of *al-yusr* (ease), denoting constriction, hardship, and difficulty (Al-Azharī, 2001; Ibn Fāris, 1972; Ibn Manẓūr, 1993).

In technical jurisprudential usage, scholars approach *iʿsār* along two lines. The first treats it as synonymous with *iflās* (bankruptcy), both defined as "the absence of wealth" (Al-Bājī, 1913, Vol. 5, p. 81) or "the inability to repay a debt" (Al-Shawkānī, n.d., p. 802). The second, more precise approach distinguishes between the two: Ibn Juzayy defines the insolvent person (*muʿsir*) as one for whom repayment is impossible — either through complete absence of wealth, or through its existence coupled with the harm that repayment would entail — while the bankrupt (*muflis*) is one whose debts have consumed his entire estate and against whom the judge has ruled that his assets be surrendered to creditors (Ibn Juzayy al-Kalbī, 2013, pp. 524, 526).

The International Islamic Fiqh Academy adopted the distinction approach, defining *iʿsār* as "an incidental condition affecting a person that renders him incapable of meeting his obligatory expenditures and discharging his debts," while *iflās* is "the insufficiency of a debtor's assets to satisfy his

outstanding debts" (IIFA, 2025, Resolution No. 186(20/1), Para. 1/1).

The distinction proves more precise: *iʿsār* is a condition relating to the person himself, whereas *iflās* is a condition relating to assets. Accordingly, the preponderant definition of *iʿsār* is "incapacity to discharge a debt" — encompassing both material incapacity through absence of wealth and constructive incapacity through the existence of wealth coupled with severe harm resulting from repayment. On this basis, the concept of *iʿsār* is broader than *iflās*, which is confined to the circumstance of debts consuming the estate and a judicial declaration of bankruptcy.

5.2 The Ruling on Penalising the Insolvent Debtor through Forfeiture of Deferral

The insolvent debtor's failure to repay does not constitute a transgression warranting *taʿzīr*. Jurists are in unanimous agreement that his excuse is legally established, and that the attribute of injustice (*ẓulm*) does not attach to his conduct — thereby precluding any form of accountability or punishment (Al-Balkhī et al., 1892; Al-Mawwāq, 1994; Al-Shāfiʿī, 1983; Al-Buhūtī, 1968). Four lines of evidence establish this:

First: "And if someone is in hardship, then [let there be] postponement until [a time of] ease" (Qur'an 2:280). Al-Shāfiʿī states: "God did not permit any recourse against one burdened with debt during a period of hardship until ease is restored, and the Messenger of God did not characterise delay as injustice except in the case of the wealthy — therefore, the insolvent person is not one against whom recourse may be sought, unless and until he becomes solvent" (Al-Shāfiʿī, 1983, Vol. 3, p. 206).

Second: "God does not burden a soul beyond that He has given it. God will bring about, after hardship, ease" (Qur'an 65:7). Al-Jaṣṣāṣ explains: "the obligation of demanding guaranteed debts is contingent upon the possibility of their discharge. One who is insolvent is not charged by God with anything beyond his capacity... accordingly, if he is not legally obligated to discharge such debts, it is impermissible to detain him on their account" (Al-Jaṣṣāṣ, 1994, Vol. 1, p. 577).

Third: Abū Saʿīd al-Khudrī reported that a man suffered a loss during the Prophet's time, and when charitable contributions did not cover his debt, the Prophet said to his creditors: "Take what you find, and that is all you are entitled to" (Muslim, 1955, Kitāb al-Musāqāt, No. 1556). Ibn ʿAbd al-Barr interprets this as indicating that the insolvent debtor, once his assets have been taken, incurs no further penalty (Ibn ʿAbd al-Barr, 2000, Vol. 6, p. 313).

Fourth: The previously cited narrations — in which the characterisation of injustice (*ẓulm*) and entitlement to punishment are expressly conditioned upon the debtor's solvency — necessarily imply their negation in the event of insolvency.

6. APPLICATIONS OF THE FORFEITURE CLAUSE IN THE UAE ISLAMIC BANKING SYSTEM

6.1 The Regulatory Framework Governing UAE Islamic Banks

The Higher Sharīʿah Authority at the UAE Central Bank occupies the apex of the regulatory hierarchy and serves as the supreme reference for Islamic financial institutions in the country. Established under Article 17 of Federal Law No. 14 of 2018 concerning the Central Bank — and currently governed by Article 24 of Federal Law No. 6 of 2025 — it holds the authority to codify standards, formulate controls, and establish governing principles that accord with Islamic law. Its resolutions carry binding and enforceable force over all internal Sharīʿah supervisory committees and Islamic financial institutions (Federal Law No. 6, 2025, Art. 24/8).

Within this framework, the Authority adopted AAOIFI Sharīʿah Standards as a mandatory and binding reference through Resolution No. 18/3/2018, issued on 4 July 2018, stipulating that: "The Sharīʿah standards issued by AAOIFI shall be binding upon internal Sharīʿah supervisory committees in financial institutions that conduct all or some of their activities in accordance with the provisions of Islamic law, effective from 1 September 2018" (UAE Central Bank Higher Sharīʿah Authority, 2018).

Examination of these binding standards reveals that they explicitly affirm the legitimacy of the forfeiture of deferral clause across three instruments — the Procrastinating Debtor Standard, the Guarantees Standard, and the Murābaḥah Standard (AAOIFI, 2017) — though with notable inconsistencies in the conditions attached to each.

Procrastinating Debtor Standard (Standard 3, cl. 2/1/6): "It is permissible to stipulate that all installments become immediately due if the procrastinating debtor delays the payment of any one of them. It is preferable that this condition not be applied except after notifying the debtor and allowing a reasonable period to elapse, unless exceptional circumstances exist" (AAOIFI, 2017). This standard conditions enforcement upon the establishment of *maṭl*; given AAOIFI's definition of

the procrastinating debtor as "the solvent debtor who has, without a legally recognised excuse and following customary demand, refused to discharge a debt that has matured" (AAOIFI, 2017, p. 108), three conditions must concur: maturity of the obligation, debtor's solvency, and the creditor's formal demand.

Guarantees Standard (Standard 5, cl. 5/1): "It is permissible to stipulate that all or some installments become immediately due if the debtor defaults on the payment of any of them, unless force majeure circumstances exist; this condition shall not be applied except after notifying the debtor and allowing a reasonable period to elapse" (AAOIFI, 2017). Notably, this standard conditions enforcement not upon *maṭl* but upon the absence of force majeure — a broader formulation that may result in the clause being applied to the insolvent non-procrastinating debtor, since insolvency (as defined above) may fall short of the force majeure threshold.

Murābaḥah Standard (Standard 8, cl. 5/1): "It is permissible for the institution to stipulate upon the client the acceleration of all installments prior to their due dates upon his refusal or delay in paying any one of them without a recognised excuse, following the expiry of a reasonable period specified in a notice sent to him after the maturity of the installment" (AAOIFI, 2017). This standard likewise does not condition permissibility upon established *maṭl*, instead requiring the absence of a "recognised excuse" — a formulation susceptible to differing interpretations regarding whether insolvency constitutes such an excuse.

In light of this inconsistency — which risks engendering confusion and disparate application across institutions — it is urged that AAOIFI confine itself to the text contained in the Procrastinating Debtor Standard and abrogate the corresponding provisions in the Guarantees and Murābaḥah Standards, so as to eliminate redundancy, prevent conceptual conflict, and achieve the objective of unifying banking practice under a single governing criterion.

6.2 Applications of the Clause in the Contractual Terms of UAE Islamic Banks

Examination of actual contractual documentation reveals that UAE Islamic banks apply the acceleration clause as an automatic and immediate consequence of payment default, without differentiation between the procrastinating and insolvent debtor. Three illustrative examples are presented:

Hilal Bank's Framework Agreement for the Sale of Commodities on a Murābaḥah Basis for the Issuance of a Credit Card (2023) provides under Article 10 that the Bank is entitled to consider all installments immediately due and payable upon, inter alia, "If the Second Party fails to pay any installment of the total price on its due date" (Hilal Bank, 2023, p. 2).

Dubai Islamic Bank's General Terms and Conditions for Personal Finance (2025a) at Clause 14.11 provides that all installments and charges become immediately due "without the need for any notice or judicial order," upon, inter alia, "If the Client fails to pay three consecutive monthly installments or six non-consecutive monthly installments without the Bank's approval" (Dubai Islamic Bank, 2025a, p. 5).

Dubai Islamic Bank's Key Facts Statement for Personal Finance through Sukuk (2025b) states: "if you fail to pay two installments for any reason following written notification to pay within (14) days, all remaining installments shall become immediately due and payable as a single lump sum" (Dubai Islamic Bank, 2025b, p. 7).

It is manifest from these provisions that UAE Islamic banks apply the forfeiture clause as an automatic trigger upon any payment default, without differentiation or regard for the debtor's condition of insolvency or procrastination. This practice is at variance with the preponderant jurisprudential position — that the clause's application to the insolvent debtor is impermissible — and constitutes an explicit departure from binding AAOIFI Sharī'ah Standards, which confine the basis for forfeiture of deferral exclusively to *maṭl*, not *iʿsār*.

7. CONCLUSION

7.1 Summary of Findings

Finding 1 — Legitimacy of the Stipulation: Islamic banks are permitted to stipulate the acceleration of deferred installments upon the debtor's default in payment. This constitutes a valid condition that gives effect to the essential requirements of the contract, serves the legitimate interests of both contracting parties, and does not conflict with any scriptural text.

Finding 2 — Discretionary Punitive Character: The forfeiture of deferral is to be regarded as a *taʿzīr* sanction imposed upon the debtor for default. It ought not to be applied except against the procrastinating debtor (*al-māṭil*) by reason of wilful transgression, and must be withheld from the insolvent debtor (*al-muʿsir*) who has not committed any legally prohibited act warranting punishment.

Finding 3 — Authority of Binding Standards: AAOIFI Sharī'ah Standards — legally binding upon UAE Islamic financial institutions — require that the forfeiture clause be applied exclusively to the procrastinating debtor, notwithstanding the

ambiguity that characterises some of their formulations. The Procrastinating Debtor Standard provides the most precise and jurisprudentially grounded articulation of this requirement.

Finding 4 — Gap in Banking Practice: UAE Islamic banks enforce debt acceleration as an automatic consequence of any payment default, without distinguishing between the procrastinating and insolvent debtor. This practice is at variance with scriptural texts commanding respite for the insolvent, and constitutes a manifest departure from binding AAOIFI standards.

7.2 Recommendations

Recommendation 1 — Revision of Sharī'ah Standards: AAOIFI should review its Sharī'ah Standards on Guarantees and Murābaḥah and remove the provisions pertaining to the forfeiture clause upon default — given that this matter is addressed with sufficient clarity in the Procrastinating Debtor Standard. Such revision would eliminate redundancy, prevent ambiguity in application, and resolve conceptual inconsistencies across standards.

Recommendation 2 — Rectification of Banking Contracts: UAE Islamic banks should amend the forfeiture clause so that its enforcement is restricted to the procrastinating debtor and withheld from the insolvent. To this end, the relevant provision in financing contract terms should be formulated as follows:

"*The debt shall become immediately due and payable if the debtor defaults on the payment of [...] installments, unless his insolvency and inability to repay — without any negligence or wrongful conduct on his part — is duly established.*"

REFERENCES

Abū Dāwūd, S. ibn al-A. al-A. al-S. (2009). *Sunan Abī Dāwūd* (1st ed.). Dār al-Risāla al-ʿĀlamiyya.

Abū Ghudda, ʿA. al-S. (2003). *Al-bayʿ al-muʾajjal* [Deferred-payment sale] (2nd ed.). Islamic Development Bank.

Abū Zahra, M. (1998). *Al-jarīma wa-al-ʿuqūba fī al-fiqh al-Islāmī: Al-jarīma–al-ʿuqūba* [Crime and punishment in Islamic jurisprudence]. Dār al-Fikr al-ʿArabī.

Accounting and Auditing Organization for Islamic Financial Institutions (AAOIFI). (2017). *Sharīʿah standards*. AAOIFI.

Al-ʿAnzī, M. ibn M. (2024). *Taghyīr al-ajal wa-atharuhu fī al-duyūn* [Modification of the deferred term and its effects on debts] (2nd ed.). Dār al-Ḥaḍāra.

Al-Azharī, M. ibn A. (2001). *Tahdhīb al-lugha* [Refinement of the Arabic language] (1st ed.). Dār Iḥyāʾ al-Turāth al-ʿArabī.

Al-Bābartī, M. ibn M. ibn M. (1970). *Al-ʿInāya sharḥ al-Hidāya* [Commentary on al-Hidaya] (1st ed.). Maṭbaʿat Muṣṭafā al-Bābī al-Ḥalabī.

Al-Bājī, A. al-W. S. ibn Kh. (1913). *Al-Muntaqā sharḥ al-Muwaṭṭaʾ* (1st ed.). Maṭbaʿat al-Saʿāda.

Al-Balkhī, N. al-D., & a group of scholars. (1892). *Al-Fatāwā al-Hindiyya* (2nd ed.). Al-Maṭbaʿa al-Kubrā al-Amīriyya.

Al-Buhūtī, M. ibn Y. ibn I. (1968). *Kashshāf al-qināʿ ʿan matn al-Iqnāʿ*. Maktabat al-Naṣr al-Ḥadītha.

Al-Bukhārī, M. ibn I. (2001). *Ṣaḥīḥ al-Bukhārī* (1st ed.). Dār Ṭawq al-Najāt.

Al-Dabyān, D. ibn M. (2010). *Al-muʿāmalāt al-māliyya aṣālatan wa-muʿāṣara* [Financial transactions: Classical and contemporary] (2nd ed.).

Al-Dardīr, A. (n.d.). *Al-sharḥ al-ṣaghīr*. Dār al-Maʿārif.

Al-Farāhīdī, A. ʿA. al-R. (n.d.). *Al-ʿAyn*. Dār wa-Maktabat al-Hilāl.

Al-Fīrūzābādī, M. al-D. (2005). *Al-qāmūs al-muḥīṭ* (8th ed.). Muʾassasat al-Risāla.

Al-Ghazālī, A. Ḥ. M. (1996). *Al-wasīṭ fī al-madhhab* (1st ed.). Dār al-Salām.

Al-Ḥākim al-Nīsābūrī, M. ibn ʿA. (1990). *Al-Mustadrak ʿalā al-Ṣaḥīḥayn* (1st ed.). Dār al-Kutub al-ʿIlmiyya.

Al-ʿImrānī, A. al-Ḥ. Y. (2000). *Al-bayān fī madhhab al-Imām al-Shāfiʿī* (1st ed.). Dār al-Minhāj.

Al-Jaṣṣāṣ, A. ibn ʿA. (1994). *Aḥkām al-Qurʾān* (1st ed.). Dār al-Kutub al-ʿIlmiyya.

Al-Jawharī, I. ibn Ḥ. (1987). *Al-Ṣiḥāḥ: Tāj al-lugha wa-ṣiḥāḥ al-ʿArabiyya* (4th ed.). Dār al-ʿIlm lil-Malāyīn.

Al-Kāsānī, ʿA. al-D. (1920). *Badāʾiʿ al-ṣanāʾiʿ fī tartīb al-sharāʾiʿ* (1st ed.). Al-Maṭbaʿa al-Jamāliyya.

Al-Khaṭṭābī, A. S. Ḥ. (1932). *Maʿālim al-sunan: Sharḥ Sunan Abī Dāwūd* (1st ed.).

Al-Khaṭṭābī, A. S. Ḥ. (1988). *Aʿlām al-ḥadīth: Sharḥ Ṣaḥīḥ al-Bukhārī* (1st ed.). Center for Scientific Research and Revival of Islamic Heritage, Umm al-Qura University.

Al-Lajna al-Dāʾima lil-Buḥūth al-ʿIlmiyya wa-al-Iftāʾ [Permanent Committee for Scholarly Research and Ifta']. (n.d.). *Fatāwā al-lajna al-dāʾima*. Riʾāsat Idārat al-Buḥūth wa-al-Iftāʾ.

Al-Māwardī, A. al-Ḥ. ʿA. (n.d.). *Al-aḥkām al-sulṭāniyya*. Dār al-Ḥadīth.

Al-Māwardī, A. al-Ḥ. ʿA. (1999). *Al-Ḥāwī al-kabīr fī fiqh madhhab al-Imām al-Shāfiʿī* (1st ed.). Dār al-Kutub al-ʿIlmiyya.
Al-Mawwāq, M. ibn Y. (1994). *Al-tāj wa-al-iklīl li-mukhtaṣar Khalīl* (1st ed.). Dār al-Kutub al-ʿIlmiyya.
Al-Nafrāwī, A. ibn Gh. (1995). *Al-fawākih al-dawānī ʿalā risālat Ibn Abī Zayd al-Qayrawānī*. Dār al-Fikr.
Al-Qurṭubī, A. ʿA. M. ibn A. (1964). *Al-jāmiʿ li-aḥkām al-Qurʾān* (2nd ed.). Dār al-Kutub al-Miṣriyya.
Al-Qurṭubī, A. al-ʿA. A. ibn ʿU. (1996). *Al-Mufhim li-mā ashkala min talkhīṣ kitāb Muslim* (1st ed.). Dār Ibn Kathīr.
Al-Shāfiʿī, A. ʿA. M. ibn I. (1983). *Al-Umm* (2nd ed.). Dār al-Fikr.
Al-Shawkānī, M. ibn ʿA. (n.d.). *Al-sayl al-jarrār al-mutadaffiq ʿalā ḥadāʾiq al-Azhar* (1st ed.). Dār Ibn Ḥazm.
Al-Subkī, T. al-D. ʿA. (n.d.). *Fatāwā al-Subkī*. Dār al-Maʿrifa.
Al-Tirmidhī, M. ibn ʿĪ. (1975). *Sunan al-Tirmidhī* (2nd ed.). Maṭbaʿat Muṣṭafā al-Bābī al-Ḥalabī.
Al-Turkī, S. ibn T. (2003). *Bayʿ al-taqsīṭ wa-aḥkāmuhu* [Installment sale and its jurisprudential rulings] (1st ed.). Dār Ishbīliyā.
Al-ʿUthmānī, M. T. (2011). Aḥkām al-bayʿ bil-taqsīṭ [Rulings on installment sale]. In *Buḥūth fī qaḍāyā fiqhiyya muʿāṣira* (2nd ed.). Dār al-Qalam.
Al-Zaylaʿī, ʿU. ibn ʿA. (1895). *Tabyīn al-ḥaqāʾiq sharḥ kanz al-daqāʾiq* (1st ed.). Al-Maṭbaʿa al-Kubrā al-Amīriyya.
Dubai Islamic Bank. (2025a). *General terms and conditions: Personal finance*.
Dubai Islamic Bank. (2025b). *Key facts statement: Personal finance through sukuk*.
Hilal Bank. (2023). *Framework agreement for the sale of commodities on a murabaha basis for the issuance of a credit card*.
Ibn ʿAbd al-Barr, A. ʿU. Y. (2000). *Al-Istidhkār* (1st ed.). Dār al-Kutub al-ʿIlmiyya.
Ibn ʿĀbidīn, M. A. (1966). *Radd al-muḥtār ʿalā al-durr al-mukhtār* (2nd ed.). Maṭbaʿat Muṣṭafā al-Bābī al-Ḥalabī.
Ibn Daqīq al-ʿĪd, T. al-D. (1987). *Iḥkām al-aḥkām sharḥ ʿUmdat al-aḥkām*. Dār ʿĀlam al-Kutub.
Ibn Farḥūn, I. ibn ʿA. (1986). *Tabṣirat al-ḥukkām fī uṣūl al-aqḍiya* (1st ed.). Maktabat al-Kulliyyāt al-Azhariyya.
Ibn Fāris, A. al-Ḥ. A. (1972). *Maqāyīs al-lugha* (2nd ed.). Maṭbaʿat Muṣṭafā al-Bābī al-Ḥalabī.
Ibn Ḥajar, A. ibn ʿA. (1970). *Fatḥ al-Bārī bi-sharḥ al-Bukhārī* (1st ed.). Al-Maktaba al-Salafiyya.
Ibn Ḥazm, A. M. ʿA. (n.d.). *Marātib al-ijmāʿ fī al-ʿibādāt wa-al-muʿāmalāt wa-al-iʿtiqādāt*. Dār al-Kutub al-ʿIlmiyya.
Ibn al-Humām, K. al-D. M. (1970). *Sharḥ fatḥ al-qadīr* (1st ed.). Maṭbaʿat Muṣṭafā al-Bābī al-Ḥalabī.
Ibn Juzayy al-Kalbī, M. ibn A. (2013). *Al-Qawānīn al-fiqhiyya* (1st ed.). Dār Ibn Ḥazm.
Ibn Manẓūr, M. ibn M. (1993). *Lisān al-ʿArab* (3rd ed.). Dār Ṣādir.
Ibn Muflih, Sh. al-D. M. (2003). *Al-Furūʿ* (1st ed.). Muʾassasat al-Risāla.
Ibn Qayyim al-Jawziyya, M. ibn A. B. (1991). *Iʿlām al-muwaqqiʿīn ʿan rabb al-ʿālamīn* (1st ed.). Dār al-Kutub al-ʿIlmiyya.
Ibn Qudāma, A. M. ʿA. (1969). *Al-Mughnī* (1st ed.). Maktabat al-Qāhira.
Ibn Rushd, A. al-W. M. (1988). *Al-muqaddimāt al-mumahhidāt* (1st ed.). Dār al-Gharb al-Islāmī.
International Islamic Fiqh Academy (IIFA). (2025). *Qarārāt wa-tawṣiyyāt al-majmaʿ* [Resolutions and recommendations of the Academy] (Issue 5, 1st ed.).
Muslim, A. al-Ḥ. M. ibn al-Ḥ. (1955). *Ṣaḥīḥ Muslim*. Maṭbaʿat al-Ḥalabī wa-Shurakāʾih.
Shabbīr, M. ʿU. (n.d.). Ṣiyānat al-madyūniyyāt wa-muʿālajatuhā min al-taʿaththur fī al-fiqh al-Islāmī [Protecting debt obligations from default in Islamic jurisprudence]. In *Buḥūth fī qaḍāyā iqtiṣādiyya muʿāṣira*. Dār al-Nafāʾis.
UAE Central Bank Higher Sharī'ah Authority. (2018). *Resolution No. 18/3/2018 on the adoption of AAOIFI Sharī'ah Standards*. https://www.centralbank.ae/ar/our-operations/islamic-finance/shariah/
ʿUlaysh, M. (1984). *Minaḥ al-jalīl sharḥ mukhtaṣar Khalīl* (1st ed.). Dār al-Fikr.