

## “Shari’ah-compliant Financing-Based Crowdfunding” Regulations for the Kingdom of Bahrain

- A. Definition of Regulated Shari’ah-compliant Financing-Based Crowdfunding Business (“SCF Crowdfunding”)**
- A.1 A Shariah-compliant Financing Crowdfunding Platform (P2B) is a financing e-platform which takes place on an online portal, on which people finance other businesses on a Shari’ah-compliant basis, for the purpose of gaining a financial return over a pre-specified period of time.
- A.2 SCF Crowdfunding Platforms may only raise funds for fundraisers based in the Kingdom of Bahrain.
- B. Requirement to be licensed**
- B.1 Firms operating an electronic platform in relation to Shariah-compliant financing must be licensed in the Kingdom of Bahrain as ‘operators of P2B’ SCF Crowdfunding Platforms under the CBB Rulebook Volume 5 – Ancillary Service Providers.
- B.2 B2B and P2P financing is not permitted to be undertaken by a SCF Crowdfunding Platform Operator.
- B.3 A SCF Crowdfunding Platform Operator must become a member of the Bahrain Credit Reference Bureau.
- C. Licensing Criteria**
- C.1 Financing transactions arranged and introduced through a SCF Crowdfunding platform must be Shari’ah-compliant in nature. This means that the financing must be done based on a Shari’ah compliant financing contract (such as Murabaha, Ijarah, Salam, Istisna’a, etc.).
- C.2 The role of SCF Crowdfunding Operators is restricted to *arranging deals*, bringing together financiers/investors and fundraisers. SCF Crowdfunding platform operators are strictly prohibited from providing any advice on deals.
- C.2 SCF Crowdfunding Platform Operators (including their shareholders, board members, management) and their close family members must not:
- i. Contribute any proprietary funding in deals promoted through their platforms.
  - ii. Hold any Sukuk or invest, in whatever form, in fundraisers hosted on their platforms.
  - iii. Provide any financial assistance to financiers/investors to invest in a financing contract hosted on their platform.
- C.3 SCF Crowdfunding Platform Operators must make arrangements with a local Islamic retail bank to facilitate transactions.
- i. All monies raised must be deposited at a licensed Islamic retail bank in the Kingdom of Bahrain, whereby an escrow account must be designated for the funds raised by the fundraiser. The name of the Islamic retail bank must be disclosed to the CBB.

- ii. The SCF Crowdfunding Platform Operator must designate a separate escrow account for each fundraiser. The name of the designated bank must be provided to the financiers/investors.
- C.4 SCF Crowdfunding Platform Operators must make sure that the financing/investing thresholds and the prescribed tenors for the financing are met.
  - C.5 SCF Crowdfunding Platform Operators hold full responsibility for checking that the 'Self-Declaration' form<sup>1</sup> has been signed and submitted by the financiers/investors, prior to investing in financing contracts arranged through the platform.
  - C.6 SCF Crowdfunding Platform Operators are liable for demonstrating to the CBB that they have devised appropriate consumer protection standards.
  - C.7 SCF Crowdfunding Platform Operators must ensure that sufficient information is available to financiers/investors on the profiles of the fundraisers, by relying on the information disclosed by the fundraisers in the 'Standard Form for Fundraisers' and the related required documents to be submitted by the fundraisers, thus allowing financiers/investors to make informed financing decisions. The disclosure of such information shall be on standard CBB-prescribed templates. Additionally, such information must be provided to potential financiers/investors before they agree to commit to financing.
  - C.8 It is the responsibility of the financiers/investors to perform their own creditworthiness assessments on the fundraisers.
  - C.9 SCF Crowdfunding Platform Operators must comply with the FC module of Rulebook Volume 5 under 'Common Modules', with respect to Anti-Money Laundering and Combating Financial Crime requirements.
  - C.10 SCF Crowdfunding Platform Operators must establish effective systematic internal procedures for establishing and verifying the identity of financiers/investors and the source of their funds and must undertake financier/investor due diligence ('KYC') by requiring them to fill out the 'Standard Financing Form', along with submitting the required related documents<sup>2</sup>.
  - C.11 SCF Crowdfunding Platform Operators must establish a framework which sets out policies and procedures to effectively and efficiently manage conflicts of interest. Such conflicts must be managed in a timely manner.
  - C.12 SCF Crowdfunding Platform Operators must have a fair dealing policy for excluding a fundraiser from using the SCF crowdfunding platform if there is adequate reason to believe that the fundraiser, in relation to any financing arrangements, has:
    - i. Engaged in conduct that is misleading or deceptive or likely to mislead or deceive; or
    - ii. Made a false or misleading representation; or
    - iii. Made an unsubstantiated representation.

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<sup>1</sup> The 'Self-Declaration Form' must include amongst other things a declaration that the financier/investor will meet the financing thresholds imposed by the CBB and an acknowledgment that they may lose all or part of their funds invested.

<sup>2</sup> All forms are to be provided by the CBB under Part B of Rulebook Volume 5.

- C.13 SCF Crowdfunding Platform Operators are responsible for tracking the performance of the financing portfolios and are required to disclose this information to the financiers/investors and the CBB on a quarterly basis as per the templates to be specified by the CBB. The information provided by the SCF Crowdfunding Operators must be clear, fair and not misleading.
- C.14 SCF Crowdfunding Platform Operators are responsible for having Business Continuity and Disaster Recovery plans in place, which must be approved by the CBB, to ensure that all existing outstanding financing contracts will continue to be administered if the platform collapses or goes out of business.
- C.15 The CBB has the right to impose additional requirements on certain SCF Crowdfunding Platform Operators, as and when it deems necessary.
- C.16 SCF Crowdfunding Platform Operators must clearly and publicly disclose their fees, charges and commissions.
- C.17 SCF Crowdfunding Platform Operators must have adequate financial resources, i.e. they must meet the minimum capital requirements specified by the CBB and make sure that at all times they have adequate financial resources to run their business and take on the needed risks.
- C.18 SCF Crowdfunding Platform Operators must have adequate non-financial resources (e.g. efficient management with sufficient knowledge of the business and adequate experience, IT systems, etc.).
- C.19 SCF Crowdfunding Platform Operators must appoint an MLRO who must be approved by the CBB (the MLRO function may be combined with any other function, subject to the CBB's approval<sup>3</sup>).
- C.20 SCF Crowdfunding Platform Operators must ensure cyber-security at all times including the conduct of IT security penetration testing semi-annually by an independent consultant.
- C.21 SCF Crowdfunding Platform Operators must maintain relevant systems in place for mitigating and managing operational and other risks.

**D. Arrangement with a of a Shari'ah Scholar**

- D.1 SCF Crowdfunding Operators must make an arrangement with one independent Shari'ah Scholar to monitor, review and verify that the crowdfunding transactions, including documentation, structuring, financing as well as other administrative, marketing and operational matters are in full compliance with Shari'ah rules and principles. The Shari'ah Scholar to be appointed must fulfill the eligibility criteria outlined in the CBB's Shari'ah Governance module.
- D.2 The name of the Shari'ah Scholar appointed, along with his brief profile, must be disclosed to the public.

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<sup>3</sup> Must meet the CBB's minimum Training & Competency requirements for the controlled function of an MLRO As outlined in the Training & Competency module of Rulebook Volume 5 for Ancillary Service Providers (yet to be issued).

D.3 Alternatively, the SCF Crowdfunding Operator may use the services of a third party Shari'ah advisory firm on an outsourced basis. The name of the outsourced Shari'ah advisory firm, along with its credentials, must be disclosed to the public.

D.4 The Fatwa of the Shari'ah Scholar/Shari'ah Advisory firm, confirming that the crowdfunding transaction is in full compliance with Shari'ah rules and principles, must be made available to financiers/investors before the crowdfunding transaction offer in order to enable them to make an informed decision.

#### **E. Financing Thresholds**

E.1 Under a SCF Crowdfunding agreement, the amount of financing provided must be less than or equal to BD 50,000 in aggregate, per fundraiser, within a 12-month period. Additionally, the tenor of the financing contracts under SCF Crowdfunding agreements must not exceed 5 years. The maximum number of financiers/investors per transaction is 100.

E.2 Under a SCF Crowdfunding agreement, financiers/investors are restricted to financing not more than 10% of their net assets to any individual fundraiser. All financiers/investors intending to participate in a SCF Crowdfunding Platform must fill out the 'Self Declaration Form' declaring that they meet this threshold requirement.

E.3 The minimum subscription to be received in a SCF crowdfunding offer must not be less than 80% of the crowdfunding offer size. In the event that the fundraiser is unable to receive the minimum required finance subscription, all subscription monies received must be refunded to the financiers/investors no later than 15 calendar days of the closing date of the crowdfunding offer.

E.4 Where the crowdfunding offer is not fully subscribed but meets the minimum 80% subscription requirement specified in E.3 above, the fundraiser must contribute the remaining 20%.

#### **F. Financier/Investor and Fundraiser Definition**

F.1 For SCF Crowdfunding agreements, the CBB only authorizes P2B crowdfunding, where the financier/investor is an Accredited/Expert individual and the fundraiser is a small sized business with paid-up capital not exceeding BD 250,000.

#### **G. Minimum Capital Requirements**

G.1 The minimum capital requirement for SCF Crowdfunding Platform Operators is BD 50,000 to be maintained on an on-going basis.

#### **H. Cessation of Business<sup>4</sup>**

H.1 In cases where a SCF Crowdfunding Platform Operator decides to voluntarily exit the business, the CBB must be notified at least six months prior to the closure of business. During this time period the operator must make suitable arrangements with a relevant CBB licensee to run the platform.

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<sup>4</sup> In case a platform operator does not comply with providing the required notice to the CBB with regards to cessation of their business, the CBB has the power to hand over the platform to another existing platform operator, and to take any other necessary actions it sees fit against the exiting platform operator for its non-compliance to the notification requirement.