



The Letter of Guarantee

📅 28 December, 1985 | Fiqh of Financial Transactions, Warranty Provisions

In the Name of Allāh,

the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

Resolution No. 12 (12/2) The Letter of Guarantee

The Council of the International Islamic Fiqh Academy of the Organization of the Islamic Conference, holding its 2nd session in Jeddah, Saudi Arabia on 10-16 Rabī' al-Awwal 1406H (22-28 December 1985),

Having examined the research papers submitted to the Academy concerning the *Letter of Guarantee*,

Having listened to the in-depth discussions on the subject, It became clear that:

First: Any letter of guarantee, whether initial or final, is either with or without a covering. If it is without a covering, then the guarantor is considered to have jointly pledged along with the third party, both in performance and financial terms. This type of pledge is, in fact, what is referred to as "guarantee or collateral" in Islamic Fiqh. If, on the other hand, the letter of guarantee has a cover, the relationship between the applicant of the guarantee and its issuer is that of an agency; and an agency may exist with or without a fee, tied with the bond of surety in favor of the beneficiary in whose benefit the guarantee is issued. Second: The guarantee (*kafālah*) is a benevolent contract motivated by grace and mercy. The jurists have decided against taking a fee for issuing guarantees; the reason is that, in the event of a guarantor's payment of the guaranteed sum, it will akin to a loan-generated profit to the lender, which is forbidden in Shariah.

Resolves

First: It is not permissible to charge a fee for the issuance of the letter of guarantee (in which, customarily, the amount and the period of guarantee are considered) whether it is with or without a coverage.

Second: The administrative expenses for issuing a letter of guarantee of both kinds are permissible by Shariah, provided that they do not exceed the actual costs for the services of the same kind. In the case where a partial or total coverage is presented, it is permissible to take into account - when an estimate of the expenses has been determined - the possible effort that might be required to provide the coverage.

Indeed, Allāh is All-Knowing.

