

Legal Guarantees for Bank Financing Contracts in Algerian Legislation: A Comparative Study between the Traditional and Islamic Systems

PhD. Zerouala Senoussi ¹, Mohamed Reggab ²

¹ Cherif Boucheoucha University Center – Aflou, Algeria. Email: s-zerouala@cu-aflou.edu.dz

² Cherif Boucheoucha University Center – Aflou, Algeria. Email: m-reggab@cu-aflou.edu.dz

Received: 25/08/2025 ; Accepted: 27/02/2026 ; Published: 18/04/2026

Abstract:

This study examines the legal guarantees system for bank financing contracts in Algerian legislation from the perspective of monetary and banking law, with a focus on the role of the Bank of Algeria as a regulatory and supervisory authority. The study is based on the analysis of relevant legal and regulatory texts, particularly Monetary and Banking Law No. 23-09, as well as the regulations and instructions of the Bank of Algeria, including Regulation No. 14-01 on solvency ratios, Regulation No. 25-09 on accounting and valuation rules for Islamic banking operations, and Instructions No. 01 and 02-25 of 2025. The study also provides a comparison between the provisions of guarantees in the conventional banking system and their Islamic counterpart, in light of the regulations issued by the Algerian monetary authority.

Keywords: Legal Guarantees, Bank Financing, Bank of Algeria, Islamic Finance, Basel Standards.

Introduction

The regulation of bank guarantees is a fundamental mechanism within the framework of monetary policy and banking supervision, given their contribution to mitigating credit risks that could threaten the soundness of banks and the stability of the financial system as a whole. The stronger and faster the guarantees are implemented, the lower the risk of borrower defaults and the greater the banks' ability to extend credit.

In Algeria, the banking sector witnessed a significant legislative development with the enactment of Monetary and Banking Law No. 23-09 of June 21, 2023¹, which repealed the previous Law No. 90-10 and, for the first time, explicitly enshrined the possibility of practicing Islamic banking.^[2] However, this legislative shift raises fundamental questions regarding the adequacy of the current regulation of bank guarantees and its capacity to accommodate the specificities of the Islamic banking system, while simultaneously maintaining the prudential supervision requirements imposed by the Bank of Algeria in accordance with international Basel standards.

Based on the foregoing, the central problem addressed by this study is the following question: **How effective is the monetary and banking regulation of legal guarantees for bank financing contracts in Algeria, and what are the similarities and differences between the guarantee standards adopted in the conventional and Islamic systems, in light of the role of the Bank of Algeria?**

To answer this question, the study adopted a descriptive-analytical approach, which allows for the description and analysis of the texts of Law 23-09 and the Bank of Algeria's regulations and instructions related to bank guarantees, and a comparative approach, which allows for a comparison between the guarantee system in conventional banking and its counterpart in Islamic banking.

This study is divided into two main sections. The first section examines the legal framework for bank guarantees in Algerian legislation by presenting the role of the Bank of Algeria, the provisions of Law 23-09, and the adopted evaluation criteria. The second section focuses on guarantees in both conventional and Islamic banking systems through a comparative study. The study concludes with a summary of the most significant findings and recommendations.

¹ Law No. 23-09 relating to money and credit, dated 3 Dhu al-Hijjah 1444 corresponding to 21 June 2023, Official Gazette of the People's Democratic Republic of Algeria, No. 43, issued on 27 June 2023.

Section 1: The Legal Framework for Bank Guarantees in Algerian Legislation

The regulation of bank guarantees in Algeria is based on interconnected legislative and regulatory levels. The first level is the Monetary and Banking Law, which establishes the general principles. The second level comprises the regulations and instructions of the Bank of Algeria, which elaborate on these principles and define the practical procedures.

This section will examine these levels, with a focus on the role of the Bank of Algeria as the cornerstone of the regulatory system. The first requirement: The role of the Bank of Algeria in regulating bank guarantees

The regulation of bank guarantees in Algeria is based on three interconnected legislative and regulatory levels: The first level is the Monetary and Banking Law, which establishes the general principles. The second level consists of the regulations and instructions of the Bank of Algeria, which elaborate on these principles and define the practical procedures. The third level comprises the supporting laws (such as the Civil Code and the Code of Civil Procedure) that regulate the judicial enforcement aspect. This section will analyze these levels, focusing on the role of the Bank of Algeria as the cornerstone of the regulatory system.

First: The Legal Basis of the Bank of Algeria's Powers

-1The Legislative Basis Through Historical Development

The Bank of Algeria did not emerge spontaneously, but rather underwent significant stages of legal development. Its most prominent milestones can be summarized as follows:

.1Law 62-144 (December 13, 1962): The founding law established the central bank as "a national public institution with legal personality and autonomy" (Article 1 of Law No. 62-144), and "a merchant in its dealings with third parties" (Article 2 of the same law). This law established the principle of the monopoly on currency issuance and its role as the treasury's bank¹.

2. Law 86-12 (August 19, 1986): This law defined the central bank as "a public institution with legal personality and financial autonomy... whose capital is owned by the State..." (Article 15 of Law No. 86-12 of August 19, 1986). It further linked the bank to the State, considering it a public institution under its jurisdiction.²

3. Law 88-06 (January 12, 1988): It brought about a fundamental change by considering the Central Bank as a "public economic institution" (Article 02 of Law No. 88-06 dated January 12, 1988). This description was considered unsuccessful because it does not correspond to the sovereign nature of its functions and created confusion with other public economic institutions, according to what Attallah Baït mentioned in his thesis "The Legal Status of the Bank of Algeria".³

.4Law 90-10 (April 14, 1990) – The Monetary and Credit Law: This law reinstated the central bank, defining it as a "national institution with legal personality and financial autonomy" (Article 11 of Law 90-10). It clearly separated the

¹ alqanun raqm 62-144 almuarikh fi 13 disambir 1962, yatadaman 'insha' albank almarkazii aljazayirii watahdid qanuniha al'asasii, aljaridat alrasmia liljumhuriat aljazayiriati, aleudadu10 alsaadir bitarikh 28 disambir 1962. alqanun 86-12 almuarikh fi 19 ghisha 1986 almutaaliq binizam almunuk walqarda, aljumhuriat aljazayiriati aldiymuqratiat alshaebiati, aleadadi34, alsaadir bitarikh 20 'uwt 1986. alqanun raqamu88-06 almuarikh fi12yaniri1988, yueadil wayutamim alqanun raqama86-12almuarikh fi 19 ghisht 1986 almutaaliq bialnizam almunuk walqarda, aljumhuriat aljazayiriataldiymuqratiat alshaebiata, aleudadu02 alsaadir bitarikh 13ynayar 1988. qanun raqm 90-10 muarikh fi 6 fibrayir sanat 1990, yataealaq bialnaqd walqardu, aljaridat alrasmia, aleudadi16, sadir bitarikh 18 'afiril1990 mulghan bimujib al'amr raqama09-11. 2 al'amr raqm 03 -11 muarikh fi 26 'uwt sanatan 2003, yataealaq bialnaqd walqardu, aljaridat alrasmia liljumhuriat aljazayiriati, aleadadi25, alsaadir bitarikh27 ghishat sanat 2003 almulghaa.

Afficher plus

824

Law No. 62-144 of December 13, 1962, establishing the Central Bank of Algeria and defining its statutes, Official Gazette of the People's Democratic Republic of Algeria, No. 10, dated December 28, 1962

² Law No. 86-12 of August 19, 1986, concerning the banking and credit system, People's Democratic Republic of Algeria, No. 34, dated August 20, 1986.

³ Law No. 88-06 of January 12, 1988, amending and supplementing Law No. 86-12 of August 19, 1986, concerning the banking and credit system, People's Democratic Republic of Algeria, No. 2, dated January 13, 1988.

Bank of Algeria's activities as a monetary authority from those of commercial banks, reinforcing its role as the "bank of banks" and lender of last resort¹.

.5Ordinance 03-11 (August 26, 2003): This law definitively established the name "Bank of Algeria." It maintained its definition as a national institution with legal personality and financial autonomy, and as a merchant in its dealings with third parties, while also exempting it from registration in the Commercial Register (Article 9 of Ordinance 03-11).²

.6Law 23-09 (June 21, 2023) – Current Monetary and Banking Law: This law retained the same definition as in Ordinance 03-11 without substantial modification, thus confirming the legislator's consistency with this concept of the bank as an independent national entity with a dual nature (commercial and administrative) depending on the nature of its relationships.³

From the above, we find that the Bank of Algeria derives its powers in the area of bank guarantees from the provisions of Monetary and Banking Law No. 23-09. Article 91 of this law requires banks to "take the necessary measures to cover credit risks, including requiring sufficient and acceptable guarantees in accordance with the conditions set by the Bank of Algeria."⁴ It is noteworthy that this text delegates the details of guarantees to the regulatory authority of the Bank of Algeria, granting the latter considerable flexibility.

Article 115 also stipulates that "the Monetary and Credit Council, upon the proposal of the Bank of Algeria, determines the terms and procedures for granting financing, the nature of acceptable guarantees, and their coverage ratios." Here, the Bank of Algeria's role is evident as the body proposing the rules, which are then approved by the Monetary and Credit Council.

Secondly: Guarantee Control Mechanisms

The Bank of Algeria exercises its control over bank guarantees through three main mechanisms, all based on the provisions of Bank of Algeria Regulation No. 14-01 concerning solvency ratios:

1.Remote Control: This relies on analyzing periodic reports submitted by banks regarding their loan portfolios and associated guarantees, including reports assessing the quality of guarantees, coverage ratios (LTV), and their compliance with the standards stipulated in Articles 17 and 18 of the aforementioned regulation, which define the conditions for accepting financial guarantees as a factor in reducing loan risk.

2. On-site Inspection: This is carried out through field visits conducted by Bank of Algeria inspectors to verify the integrity of the guarantee evaluation procedures, their compliance with the instructions issued by the Bank, and to ensure that the guarantees meet the conditions stipulated in Article 18 of the regulation. Which requires that the deposits, values and bonds received as collateral be liquid and free of any obligation, subject to a valid written contract that can be invoked against third parties, unconditional and verifiable on first demand⁴.

.Linking Collateral to Solvency Ratios (Managing Weighted Credit Risks): According to Bank of Algeria Regulation No. 14-01, Weighted Credit Risk (RWA) is calculated based on the quality of collateral. Article 17 of the regulation specifies varying thresholds for reducing loan risk depending on the nature of the collateral. A 100% threshold applies to cash deposits and security deposits held with the lending bank, guarantees obtained from the Algerian state or its public institutions, and debt securities issued by the Algerian state. An 80% threshold applies to security deposits and time deposits held in Algeria with a bank other than the lending bank, and guarantees obtained from banks, financial institutions, and

¹ Law No. 90-10 of February 6, 1990, concerning currency and credit, Official Gazette, No. 16, dated April 18, 1990, repealed by Ordinance No. 09-11. ² Order No. 03-11 dated August 26, 2003, relating to money and credit, Official Gazette of the People's Democratic Republic of Algeria, No. 25, issued on August 27, 2003, repealed.

² 2 الأمر رقم 03-11 مؤرخ في 26 أوت سنة 2003، يتعلق بالنقد والقرض، الجريدة الرسمية للجمهورية الجزائرية، العدد 25، الصادر بتاريخ 27 غشت سنة 2003 الملغى.

³ Law No. 23-09, previous reference.

⁴ .Regulation No. 14-01 dated 16 Rabi' al-Thani 1435 AH, corresponding to 6 February 2014, concerning the solvency ratios applicable to banks and financial institutions, is available on the Bank of Algeria's website: <https://www.bank-of-algeria.dz/ar/> (Regulatory and Legislative Framework section). Accessed: 22 September 2025, at 19:22..

credit insurance companies authorized in Algeria. A 50% threshold applies to debt securities issued by a bank or financial institution resident in Algeria, and debt securities traded on an organized market in Algeria¹.

1 Article 18 stipulates the conditions for accepting guarantees, the most important of which are: that the deposits, securities, and bonds received as collateral be liquid and free from any encumbrance; that they be the subject of a valid written contract enforceable against third parties; and that the guarantees be unconditional and enforceable on first demand²

4. Addressing Maturity Discrepancies: Article 19 of the regulations stipulates that in the event of a discrepancy in the maturity dates between the loan cover and the covered exposure, the loan cover shall only be considered valid if the cover's maturity date is equal to or less than the exposure's maturity date³

.5Weighting of Secured Receivables: Article 16 of the regulations specifies the weightings applied to portions of receivables classified as net of collateral. For residential mortgage loans, a 100% weighting applies when the provisions are less than or equal to 20% of the total outstanding receivable, while a 50% weighting applies when the provisions exceed 20%. For other classified receivables, a 150% weighting applies when the provisions are less than or equal to 20%, a 100% weighting applies when the provisions exceed 20% but are less than or equal to 50%, and a 50% weighting applies when the provisions exceed 50% of the total outstanding receivable.

Third: Instructions 01-25 and 02-25 of 2025 issued by the Bank of Algeria

On March 2, 2025, the Bank of Algeria issued two important instructions to strengthen prudential supervision of banks and financial⁴ institutions,1 in accordance with the provisions of Regulations No. 24-01 and 24-04 relating to the conditions for licensing the establishment and accreditation of banks and the operation of digital banking activities.

A. Instruction No. 01-25 relating to the conditions for licensing the establishment of a bank and a financial institution

This instruction aims to define the information and documents required for the application file to establish a bank or financial institution, open a branch of a foreign bank or financial institution, and obtain their accreditation.

Applicants are required to provide proof of an internal system for managing credit risks and guarantees. According to Article 4 of this instruction, the file must include several elements, among them:

-A brief project overview that includes the vision and strategic objectives, highlighting the main drivers related to growth potential, expected profitability, contribution to economic growth and sustainable development, and the role of financial inclusion.

-The draft articles of association for the company.

-The status of the founders, capital providers, and beneficial owners, specifying the source of funds.

-A techno-economic feasibility study of the project, including market research, competitive analysis, and a marketing strategy.

-The planned regulatory framework, including a manual of accounting and management procedures.

B. Instruction No. 02-25 concerning the special conditions for licensing the establishment, accreditation, and operation of a digital bank:

¹ Article 17: Ibid.

² Article 18: Ibid.

³ Article 19: Ibid.

⁴ .1 Bank of Algeria Instruction No. 01-25 dated March 2, 2025, concerning the conditions for licensing the establishment of a bank and financial institution, and Bank of Algeria Instruction No. 02-25 dated March 2, 2025, concerning the specific conditions for licensing the establishment, accreditation, and operation of a digital bank. Available on the Bank of Algeria website: <https://www.bank-of-algeria.dz/ar/> (Regulatory and Legislative Framework - Instructions), accessed September 23, 2025, at 12:22.

This instruction specifies the information and documents that must be included in the application for a license to establish and accredit a digital bank. Article 4 stipulates a number of essential elements, most notably: a brief project overview, the draft articles of association of the company, a statement of the status of the founders and beneficial owners, a techno-economic feasibility study of the project, and the framework.

The planned regulatory framework includes a brief description of the specific systems: the information and disclosure system, the internal control and risk management system, the accounting system, the prudential system, the anti-money laundering and counter-terrorism financing system, and the confidentiality policy and protection of data, funds, and values.¹

Article 6 of the same directive also requires the applicant, after obtaining the license, to submit an application for digital bank accreditation to the Governor of the Bank of Algeria within a maximum period of twelve (12) months, to enable it to commence its activities.²

Second requirement: Provisions on guarantees in the Monetary and Banking Law No. 23-09

First: Key developments related to guarantees

This law included several fundamental developments that directly affect the banking guarantee system, which can be summarized as follows:

- Recognition of Islamic banking: Article 12 explicitly stipulates the possibility for banks to conduct Islamic banking operations.³

- Strengthening oversight of the quality of guarantees: Articles 91 to 95 detail the requirements for covering credit risks.¹

Stricter penalties: Articles 150 to 165 impose strict financial and administrative penalties for violating the safeguards rules².

The legal provisions regulating bank guarantees in Law 23-09 are distributed across three main articles that complement each other to form a general framework, leaving the details to the regulatory authority. Article 91 stipulates that banks must establish an internal system for assessing credit risk, including criteria for accepting guarantees, methods for evaluating them, and the frequency of their re-evaluation. However, it does not mandate a specific type of guarantee, granting banks freedom of choice within the framework of the Bank of Algeria's standards. Article 115 represents an explicit legislative mandate for the Monetary and Credit Council (upon the proposal of the Bank of Algeria) to determine the conditions and procedures for granting financing, the nature of acceptable guarantees, and minimum coverage ratios.³ This legislative approach aims to keep pace with rapid developments in the banking sector. Article 142 reinforces the legal link between guarantees and the protection of depositors' funds, obligating banks to allocate sufficient guarantees for granted loans in a manner that does not jeopardize depositors' deposits.⁴ This underscores the paramount importance of the guarantee system within the framework of monetary policy and banking supervision.

Second: The Relationship Between Law 23-09 and Basel III Standards

Article 93 stipulates that "The Bank of Algeria shall determine the solvency ratios applicable to banks in accordance with internationally recognized standards."⁵

Pursuant to this, Bank of Algeria Regulation No. 14-01 was issued, which applies the Risk-Weighted Assets (RWA) methodology in accordance with Basel standards⁶

Mechanisms for Implementing Basel III Standards in Algerian Banking Legislation (Law 23-09)

¹ Law No. 90-10 of February 6, 1990, concerning Money and Credit, Official Gazette, No. 16, issued on April 18, 1990, repealed by Ordinance No. 09-11.

² Article 91, *ibid*.

³ المادة 91 المرجع نفسه.

⁴ Article 115, *ibid*.

⁵ Article 142, *ibid*.

⁶ Article 91/2, same reference.

The Algerian legislator was not isolated from global economic transformations, recognizing that the stability of the national banking system inevitably depends on adopting international prudential standards. This approach culminated in the issuance of Law No. 23-09 on Monetary and Banking Regulations, which replaced Ordinance 03-11, establishing new supervisory foundations in accordance with Basel III requirements. The mechanisms of this implementation can be detailed in the following points:

A. Strengthening the Regulatory and Supervisory Authority of the Bank of Algeria¹

Law 23-09 designated the Bank of Algeria as the primary guarantor of prudential standards and granted it broad powers of intervention, including:

- Issuing technical regulations that define capital adequacy ratios, liquidity standards, and leverage ratios, in line with the Basel Committee's recommendations.

- Strengthening the role of the Banking Commission in periodically monitoring the compliance of banks and financial institutions with these ratios, while obligating them to submit transparent reports reflecting their true financial position.

- Granting the Banking Commission the authority to impose strict penalties in cases of non-compliance with prudential ratios, ranging from warnings to prohibitions on certain operations, and ultimately to the appointment of a temporary manager or the withdrawal of accreditation.

B. Subjecting Collateral to the Risk-Weighted Asset System

Under Regulation 14-01, Risk-Weighted Assets (RWA) are calculated based on the quality of collateral provided by borrowers. High-quality collateral (such as cash and treasury bills) reduces the risk weight and, consequently, lowers the bank's precautionary capital requirements.²

When low-quality guarantees (such as unsecured personal guarantees) retain a high risk weight, the bank is obligated to allocate more capital against the same loan³

C. Activating the Role of the Banking Commission as an Independent Supervisory Authority

Law 23-09 granted the Banking Commission broad powers in the area of guarantee supervision. It can request all information and documents from banks, conduct on-site inspections, and impose the penalties stipulated in Article 121 of the law. It can also request any concerned person to report any document or information to it, and professional secrecy is not invoked against the Commission.²

It is clear from the above that Law 23-09 established a comprehensive legal framework regarding bank guarantees in terms of general principles, by obligating banks to cover credit risks (Article 91), referring the details to the regulatory authority (Article 115), linking guarantees to deposit protection (Article 142), and adopting Basel III standards in calculating solvency ratios (Article 93). However, this framework remains incomplete with regard to guarantees in Islamic banking. Law 23-09 did not include detailed provisions on this matter, leaving it to the implementing regulations issued by the Bank of Algeria.

Based on the provisions of Bank of Algeria Regulation No. 14-01 and its internal instructions, the criteria for accepting guarantees are defined by four main pillars: the stable market value of the guarantee, meaning it is not subject to sharp and unexpected fluctuations; liquidity, meaning the guarantee can be converted into cash quickly and at a low cost; independence from the borrower's risk, meaning the value of the guarantee is not affected by the same factors that affect the borrower's ability to repay; and legal guarantee, which requires the soundness of the procedures.

The legal framework for establishing a guarantee includes registration and documentation. The Bank of Algeria, in its internal memoranda, sets maximum loan-to-value (LTV) ratios that vary depending on the type of guarantee. These range from 70% to 80% for officially mortgaged real estate (residential use), from 50% to 60% for goods held under possessory lien, and from 80% to 90% for listed securities, while they reach 100% for a bank guarantee issued by an authorized bank.

¹ Article 121 of Law No. 23-09 relating to Money and Credit, previous reference.

² Article 5 et seq. of Bank of Algeria Regulation No. 14-01 of February 16, 2014, concerning solvency ratios applicable to banks and financial institutions, op. cit.

³ Article 121 of Law No. 23-09 relating to money and credit, op. cit.

Furthermore, the Bank of Algeria requires banks to periodically re-evaluate guarantees: annually for real estate and quarterly for securities, recording any decrease in value as additional provisions.

It is evident that the Bank of Algeria plays a pivotal role in regulating bank guarantees by establishing precise criteria for their acceptance, evaluation, and linking them to solvency ratios. However, this regulation remains incomplete with regard to Islamic banking, a topic we will address in the following section.

Section Two: Guarantees in the Conventional and Islamic Systems

Having reviewed the legal framework for bank guarantees in Algerian legislation, this section begins a comparative analysis of guarantees between the conventional and Islamic systems, using the current regulations of the Bank of Algeria as a primary basis for demonstrating how they are addressed in regulatory practice.

First Requirement: Guarantees in the Conventional Banking System

First: Types of Accepted Conventional Guarantees

Within the framework of prudential supervision, the Bank of Algeria accepts the following types of conventional guarantees:

- .1Cash guarantees: such as cash deposits or treasury bills (the strongest)
- .2Mortgages on real estate: the most common, but their execution procedures are lengthy.
3. Pledges on goods and securities: relatively quick to execute.

Bank Guarantee (Letter of Guarantee): Strong but costly.

- .5Personal Guarantee: The least strong, used as additional collateral.

Second: Addressing Credit Risks in Regulation 14-01

Bank of Algeria Regulation No. 14-01 adopts the Risk-Weighted Assets (RWA) methodology. High-quality collateral (such as cash, treasury bonds) reduces the risk weight, thus lowering the bank's capital adequacy requirements. Low-quality collateral (such as a personal guarantee) retains a high risk weight.

Third: Applied Legal Issues in the Conventional System

Algerian banks face practical challenges:

- Slow judicial procedures related to mortgage execution.
- Weak legal protection for movable collateral (goods in warehouses) in the event of the depositary's bankruptcy.
- Lack of effective legal mechanisms for monitoring personal guarantees.
- Absence of a comprehensive legal framework for measuring operational and market risks, despite its mention in legislation.

Second Requirement: Guarantees in the Islamic Banking System

First. The Legislative Framework for Islamic Banking

A. Regulation 18-02 Concerning Participatory Finance

-This is the first legal framework for Sharia-compliant transactions in Algeria.

-Objective (Article 1): To define the rules applicable to participatory products that do not involve the collection or payment of interest.

-1Operations: These include receiving funds (deposits), investing funds, financing, and investment, in accordance with Articles 66-69 of Ordinance 11-03, provided that they do not involve interest.

-2Products (by way of example and not limitation): Murabaha, Musharaka, Mudaraba, Ijara, Istisna, Salam, Investment Account Deposits.

-3Prior authorization procedures from the Bank of Algeria: Submission of a product description, a compliance officer's opinion, and procedures to ensure the administrative and financial independence of the "Participatory Finance Window".

-Participatory Finance Window: A department within an authorized bank that exclusively offers participatory services and products. Accounting must be segregated from other activities, and its clients' accounts must be independent.

- 4Sharia compliance certificate: This must be obtained from a legally qualified national body, but the regulations do not specify the issuing authority.

-Reason for non-implementation: Political changes (2019 elections) and then the COVID-19 pandemic, but this did not prevent the issuance of Regulation 20-02.

B. Regulation 20-02 Specifying Banking Operations for Islamic Banking

- It superseded all provisions of Regulation 18-02.

Definition of Islamic Banking Transaction (Article 2): Any banking transaction that does not involve the collection or payment of interest, and must comply with Articles 66-69 of Order 03-11. 1- Limitation of Products (Article 4): Exclusively (not illustratively): Murabaha, Musharaka, Mudaraba, Ijara, Salam, Istisna, Deposit Accounts, Deposits in Investment Accounts.

-Islamic Banking Windows: Explicitly stipulated, these are structures within banks that specialize exclusively in Islamic services and products.

-The Qualified Sharia Compliance Authority: This is specified in Article 15 of Regulation 20-02 as the "National Sharia Authority for Fatwas in the Islamic Financial Industry".

-Comparison between the two regulations: Regulation 20-02 did not differ significantly from its predecessor, only clarifying some ambiguities. It replaced the term "participatory" with "Islamic" (while maintaining the same concept), specified the Sharia Authority, and changed the term "participatory windows" to "Islamic windows." The remaining provisions are almost identical. The two systems represent the sole legal framework for Islamic banking in Algeria. However, System 20-02 superseded its predecessor and refined the wording by limiting the products and specifying the Sharia Supervisory Board. Nevertheless, it remains a general framework lacking the precise procedural details governing the practical implementation of these products.

Law 23-09 enshrined Islamic banking in Article 12, but the Bank of Algeria has yet to issue detailed instructions regarding Islamic guarantees.

Bank of Algeria¹ System No. 25-09, dated 2025, concerning the accounting and valuation rules for Islamic banking operations, aims to define how assets are valued in the main Islamic finance contracts: Murabaha, Ijara, Salam, Istisna, and Mudaraba.

Among its key provisions are:

-Murabaha (Article 7): Inventory is valued at the lower of cost and net realizable value².

-Ijara (Article 26): Assets are valued at cost less depreciation. - Salam (Article 42): The delivered item is valued at its market value or, in some cases, its fair value.³

-Investments (Articles 99-107): Sukuk and shares are valued at fair value, either through the profit and loss account or through equity.⁴

¹ Regulation No. 25-09 dated 28 Muharram 1447 AH, corresponding to 24 July 2025, establishing the accounting and valuation rules for banking operations related to Islamic banking, available on the Bank of Algeria website: <https://www.bank-of-algeria.dz/ar/> (Regulatory and Legislative Framework section), accessed on 22 September 2025 at 11:55 PM.

² Article 7, *ibid.*.

³ Article 42, *ibid.*.

⁴ Articles 99-107, *ibid.*.

- Fines and late payment penalties (Articles 155, 157, 159): These are subject to special accounting treatment, whereby they are not recorded as bank revenue except with the approval of the Sharia Supervisory Board and are directed to charitable causes.¹

Regulation No. 25-09 represents an important step in regulating Islamic accounting; however, it remains insufficient because it does not independently and directly address the rules for accepting and evaluating guarantees (such as mortgages and sureties) in Islamic transactions.

Second: The Distinctive Nature of Islamic Guarantees

Islamic guarantees are distinguished by characteristics that differentiate them from conventional guarantees:

In Murabaha contracts: The bank's retention of ownership of the financed commodity until full payment constitutes a strong self-guarantee, requiring no additional collateral.

In Musharaka and Mudaraba contracts: There is no guarantee on capital in the event of ordinary loss, but guarantees can be stipulated against mismanagement or negligence.

In Kafala: It is without explicit charge (a donation contract), and administrative costs can be covered from the contract's gross profit margin.

Third: Existing Regulatory Gaps

The application of Islamic guarantees in Algeria faces several challenges:

- The absence of instructions from the Bank of Algeria regarding appropriate LTV ratios for Islamic guarantees.
- The lack of specific treatment for Islamic credit risks in Regulation 14-01.
- The absence of a Sharia supervisory mechanism within the Bank of Algeria.

Third Requirement: Evaluating the Effectiveness of the Two Systems

First: Points of Agreement and Difference Between the Conventional and Islamic Systems

•The treatment of guarantees differs between the conventional and Islamic banking systems in several key aspects, while there are points of agreement on some fundamental principles.

•**Guarantee Acceptance Criteria:** The conventional system applies fully defined criteria according to the instructions of the Bank of Algeria, while the Islamic system operates according to the same criteria but with consideration for Sharia principles that prohibit interest and other prohibited practices.

•**Guarantee Coverage Ratio (LTV):** This ratio is clearly defined in the Bank of Algeria's directives for conventional banks, while it remains undefined for Islamic banking operations.

•**Periodic Revaluation:** Both systems require periodic revaluation of guarantees, but the Islamic system stipulates that no late payment interest may be charged on guarantees or overdue debts.

Risk Management in Risk-Weighted Assets (RWA): The treatment of risks in the conventional system is defined by Bank of Algeria Regulation No. 14-01, while this treatment remains undefined for Islamic operations.

The Conventional System: It is characterized by significant regulatory maturity and clear standards, but it suffers from slow judicial enforcement and weak monitoring of some guarantees. **The Islamic system:** It enjoys stronger guarantees in Murabaha contracts (due to the bank retaining ownership of the financed commodity until full payment), but it lacks a supportive regulatory environment, making it not widely applicable until detailed instructions are issued by the Bank of Algeria.

Secondly, the regulatory challenges facing the Bank of Algeria:

The Bank of Algeria faces various challenges, including:

¹ Articles 155, 157, 159 of the same reference.

The absence of Sharia expertise within its inspection bodies.

Reconciling Basel standards (which permit late payment interest) with Sharia principles.

The lack of judicial precedents in disputes concerning Islamic guarantees.

Both systems have strengths and weaknesses. The conventional system is more regulatoryly mature, while the Islamic system inherently offers stronger guarantees. The optimal solution is to develop a dual regulatory framework that recognizes the specific characteristics of each system.

Conclusion

Bank guarantees are a cornerstone of the Bank of Algeria's prudential policy, aimed at mitigating credit risks and strengthening the stability of the financial system. This study has shown that Algerian legislation, particularly Law 23-09 (Article 12), has enshrined the practice of Islamic banking and granted the Bank of Algeria the authority to regulate guarantee standards and link them to solvency ratios in accordance with Basel III. However, the effectiveness of this regulation varies between the conventional and Islamic systems.

First: The Conventional System

This system enjoys relatively comprehensive regulation under Regulation 14-01 and internal instructions (precise guarantee standards, LTV ratios, periodic reassessment), but it suffers from structural challenges: slow real estate registration, weak monitoring of movable collateral, and the difficulty of enforcing personal guarantees.

Second: The Islamic System

Despite its legal recognition (Regulations 18-02 and 20-02), it suffers from a clear regulatory gap. These two systems established general rules and limited the products (Murabaha, Musharaka, Mudaraba, Ijara, Salam, Istisna, and deposit and investment accounts) and stipulated the necessity of a Sharia compliance certificate from the National Sharia Authority for Fatwas. However, they lacked specific details regarding Islamic guarantees, such as: guarantee acceptance criteria, appropriate coverage ratios, handling credit risks in the absence of late payment interest, and the mechanism for Sharia oversight of guarantees.

Results:

The Bank of Algeria is the de facto regulator of bank guarantees through its authority to issue instructions and link them to solvency ratios.

Law 23-09 represents legislative progress but postponed the essential details related to Islamic guarantees.

Regulation 14-01 successfully implemented the Risk Weighted Assets (RWA) methodology, making the quality of guarantees a direct factor in capital requirements.

Islamic guarantees suffer from a clear regulatory gap; apart from a passing reference in Regulation 25-09, no detailed instructions have been issued regarding them. Instructions 01 and 02-25 of 2025 mandated internal risk management systems for banks, but they overlooked the specificities of Islamic finance.

Recommendations:

1. Issue detailed instructions for Islamic guarantees** including acceptance criteria, coverage ratios, and enforcement procedures in case of default.

2. Amend Regulation 14-01** to include specific treatment of credit risks in Islamic finance with varying risk weights.

3. Establish a Sharia Supervisory Unit** within the Bank of Algeria, comprising Sharia scholars and banking experts.

4. Launch mandatory training programs** for Bank of Algeria inspectors on the principles of Islamic finance and its guarantees.

The reviewer:

Law No. 23-09 relating to money and credit, dated 3 Dhu al-Hijjah 1444 corresponding to 21 June 2023, Official Gazette of the People's Democratic Republic of Algeria, No. 43, issued on 27 June 2023.

i. alqanun raqm 62-144 almuarikh fi 13 disambir 1962, yatadaman 'iinsha' albank almarkazii aljazayirii watahdid qanuniha al'asasii, aljaridat alrasmiat liljumhuriat aljazayiriati, aleudadu10 alsaadir bitarikh 28 disambir 1962. alqanun 86-12 almuarikh fi 19 ghissha 1986 almutaealiq binizam albnuk walqarda, aljumhuriat aljazayiriati aldiymuqratiat alshaebiati, aleadadi34, alsaadir bitarikh 20 'uwt 1986. alqanun raqamu88-06 almuarikh fi12yaniri1988, yueadil wayutamim alqanun raqama86-12almuarikh fi 19 ghisht 1986 almutaealiq bialnizam albnuk walqarda, aljumhuriat aljazayiriataldiymuqratiat alshaebiata, aleudadu02 alsaadir bitarikh 13ynayar 1988. qanun raqm 90-10 muarikh fi 6 fibrayir sanat 1990, yataealaq bialnaqd walqardu, aljaridat alrasmiati, aleudadi16, sadir bitarikh 18 'afiril1990 mulghan bimujib al'amr raqama09-11. 2 al'amr raqm 03 -11 muarikh fi 26 'uwt sanatan 2003, yataealaq bialnaqd walqardu, aljaridat alrasmiat liljumhuriat aljazayiriati, aleadadi25, alsaadir bitarikh27 ghishat sanat 2003 almulghaa.

2. Afficher plus

3. 824

4. Law No. 62-144 of December 13, 1962, establishing the Central Bank of Algeria and defining its statutes, Official Gazette of the People's Democratic Republic of Algeria, No. 10, dated December 28, 1962

i. Law No. 86-12 of August 19, 1986, concerning the banking and credit system, People's Democratic Republic of Algeria, No. 34, dated August 20, 1986.

ii. Law No. 88-06 of January 12, 1988, amending and supplementing Law No. 86-12 of August 19, 1986, concerning the banking and credit system, People's Democratic Republic of Algeria, No. 2, dated January 13, 1988.

iii. Law No. 90-10 of February 6, 1990, concerning currency and credit, Official Gazette, No. 16, dated April 18, 1990, repealed by Ordinance No. 09-11. 2 Order No. 03-11 dated August 26, 2003, relating to money and credit, Official Gazette of the People's Democratic Republic of Algeria, No. 25, issued on August 27, 2003, repealed.

5. الأمر رقم 03-11 مؤرخ في 26 أوت سنة 2003، يتعلق بالنقد والقرض، الجريدة الرسمية للجمهورية الجزائرية، العدد 25، الصادر بتاريخ 27 غشت سنة 2003 الملغى.

1. Law No. 23-09, previous reference.

6. Regulation No. 14-01 dated 16 Rabi' al-Thani 1435 AH, corresponding to 6 February 2014, concerning the solvency ratios applicable to banks and financial institutions, is available on the Bank of Algeria's website: <https://www.bank-of-algeria.dz/ar/> (Regulatory and Legislative Framework section). Accessed: 22 September 2025, at 19:22..

1. Article 17: Ibid.

2. Article 18: Ibid.

3. Article 19: Ibid.

1. Bank of Algeria Instruction No. 01-25 dated March 2, 2025, concerning the conditions for licensing the establishment of a bank and financial institution, and Bank of Algeria Instruction No. 02-25 dated March 2, 2025, concerning the specific conditions for licensing the establishment, accreditation, and operation of a digital bank. Available on the Bank of Algeria website: <https://www.bank-of-algeria.dz/ar/> (Regulatory and Legislative Framework - Instructions), accessed September 23, 2025, at 12:22.

i. Law No. 90-10 of February 6, 1990, concerning Money and Credit, Official Gazette, No. 16, issued on April 18, 1990, repealed by Ordinance No. 09-11.

4. Article 91, *ibid*.

7. المادة 91 المرجع نفسه.

1. Article 115, *ibid*.

2. Article 142, *ibid*.

i. Article 91/2, same reference.

i. Article 121 of Law No. 23-09 relating to Money and Credit, previous reference.

ii. Article 5 et seq. of Bank of Algeria Regulation No. 14-01 of February 16, 2014, concerning solvency ratios applicable to banks and financial institutions, *op. cit*.

iii. Article 121 of Law No. 23-09 relating to money and credit, *op. cit*.

iv. Regulation No. 25-09 dated 28 Muharram 1447 AH, corresponding to 24 July 2025, establishing the accounting and valuation rules for banking operations related to Islamic banking, available on the Bank of Algeria website: <https://www.bank-of-algeria.dz/ar/> (Regulatory and Legislative Framework section), accessed on 22 September 2025 at 11:55 PM.

ii. Article 7, *ibid*..

8. 4Article 42, *ibid.*.
- a. Articles 99-107, *ibid.*.
9. Articles 155, 157, 159 of the same reference.