

SALAM

Salam: Forward Sales

How does Salam financing work?

A Salam transaction is a means by which party A advances money, in full and on spot, to party B, and party B promises to deliver an item on a specified date in the future. The Prophet (Allah bless him and give him peace) said: "Whoever wishes to enter into a contract of Salam, he must effect the Salam according to the specified measure and the specified weight and the specified date of delivery."

A Salam is the exception to the Islamic rule forbidding forward sales and stipulating that party B possess the item to be sold in the present. The Salam agreement has the dual benefit of providing liquidity to party B, who normally would not realize any income until he invests large sums of capital in advance over extended periods of time, like farmers preparing seasonal crops; and benefiting party A because the Salams are priced lower than spot sales because the money is paid in advance.

When entering into a Salam, there should be certainty about the item's quantity, quality, deliverability and availability at the time of delivery, including agreement on the date and location of delivery; quantitative descriptions should be specified in a manner proper to the item, whether by weight, volume, size or count (ie. it would be impermissible to sell in volume something customarily sold in weight); in the Hanafi school it is a condition of a valid Salam agreement that the item be readily available in the market at the time of contracting and expected to be readily available at the time of delivery; in the Shafi'i, Maliki and Hanbali schools it is sufficient that the item be readily available in the market at the time of delivery only.

Permissibility Of Providing Security In Salam Contract

Is the buyer permitted to ask the borrower to provide security in a Salam contract?

The buyer in a Salam contract may ask the seller to provide security.

Buy-Backs In Salam

May the seller buy back the Salam commodity from the buyer?

The seller may not buy back the commodity from the buyer. This effectively creates riba, in which one amount of money is exchanged for a higher amount of money at a later date.

Salam For Items Permitted Only For On-Spot Sales

May one create a Salam agreement for items that are only meant to be sold on spot?

It is impermissible to create a Salam agreement for items that are only permissible to sell on spot, such as silver for gold.

Considering A Previous Loan As Price For Salam

Is it permissible to consider a previous loan as the sale price for the Salam sale?

In case a loan has been advanced from one party to another, it is permissible for the Salam purchaser to agree with the Salam seller that the received loan amount be considered as Salam price.

Price Hike At Time Of Delivery In Salam Contract

Does the seller have any recourse in case the price of items contracted for in a Salam sale increase between the time of the contract and the date of delivery?

The seller is bound to deliver the goods without demanding any excess money, since the contracted item becomes the property of the purchaser once the contract is signed.

Default In Delivery Of Contracted Item In Salam Sale

What recourse is available to the buyer in a Salam sale in case of default in delivery of contracted goods?

In such a case, the buyer has the right to rescind the contract and receive the contract price from the seller without there being any increase or decrease in the contract price. The buyer also has the option to carry on with the contract for future delivery of goods.

Selling Goods Bought Under Salam Contract Before Delivery

Is it permissible for the buyer of goods in a salam contract to sell the goods before their delivery?

It is not permitted for the buyer of goods under a Salam contract to sell goods before their delivery, as it is not permissible to sell what one does not constructively possess.

Subject Matter Of Salam

Which items qualify as possible kinds of subject matter for a Salam?

The subject matter of a Salam must be a fungible commodity a substitute for which is readily available in the market.

The following items do not qualify as the subject matter for a Salam:

- Items that have specific, unique attributes that make them different from one another. For instance, with livestock, no two animals are alike and can only be compensated for by a payment of price. Or with precious stones, each possesses unique, irreplaceable characteristics.
- The yield of a particular piece of land or the fruit of a particular tree. The quantity in a Salam may be specified but the place from where it is to be obtained may not be specified.
- For any kind of property, including a house, a building, or a particular piece of land.
- Items produced in small quantities that may not be available at the time of the contract's maturity.
- Currency, gold and silver are classified as mediums of exchange since they cannot be specified in terms of their physical characteristics, a Salam cannot be executed for an exchange between them.

Delivery Of Salam Subject Matter

What are the requirements for the delivery of the subject matter of a Salam?

The time and place of the delivery of Salam goods must be clearly specified. In case the place of delivery is not established, Salam goods must be delivered at the place of the contract's execution.

Additionally, it is not permissible to sell the subject matter of a Salam before its constructive possession. The subject matter cannot be short sold, forward sold or discounted either. For instance, if a person is to receive a quantity of wheat after one month, he may not sell it or have it discounted. He may, however, execute a parallel Salam for it with a third party. The actual sale may take place once the subject matter is in the seller's possession.

Change In Subject Matter Of Salam

Can the subject matter of the Salam be changed?

The subject matter may be changed at the time of the contract's maturity and not before based on the following conditions:

1. Provided the *option of change* is not stipulated as a condition at the time of the contract's execution.
2. The replacement commodity is permissible to establish as the subject matter of the Salam.
3. The market value of the replacement commodity is equivalent to or less than that of the original subject matter.

A Salam contract may be cancelled based on mutual agreement between the contracting parties, and the price of the subject matter may be returned to the buyer.

A partial cancellation of a Salam is also possible, where the delivery of the remaining quantity of the subject matter is cancelled and the remaining price is paid back.

Quality Of Salam Subject Matter

What happens if the Salam goods surpasses the specifications established at the time of the contract's execution? What if they fail to meet expectations?

If the subject matter surpasses the specifications, the seller may not charge a higher price and the goods must be accepted by the buyer. If the buyer does not require goods of a higher quality than specified within the contract, he is within his rights to refuse them. Similarly, if the goods do not meet specifications, the buyer is within his rights to refuse them unless the seller agrees to reduce the price.

Delay In Delivery Of Salam Subject Matter

How is a delay in the delivery of the subject matter dealt with in a Salam?

If the seller is unable to deliver the subject matter at maturity, the buyer may grant him respite. A penalty may not be charged against a delay. The bank may enforce a pre-agreed charity clause in which the seller pays a designated charity.

Default In Delivery Of Salam Subject Matter

How is a default in the delivery of the subject matter dealt with in a Salam?

If at maturity the seller is unable to deliver the subject matter, the buyer may exercise one of the following three options:

1. Wait until the seller is able to make the delivery.
2. Cancel the sale and ask for a refund of the original price.
3. Agree to a change of subject matter based on certain conditions.

If the buyer wishes to cancel the contract and the seller defaults in refunding the price, the bank liquidates the security and recovers its costs.

Salam For Precious Metals

Is a Salam for gold and precious stones permissible?

Salam transactions are typically for fungible items. According to AAOIFI Shariah Standard No. 10 "Salam and Parallel Salam," section 3/2/4: "It is not permissible for al-Muslam fihi to be an amount of currency or gold or silver, if the capital of the Salam contract was paid in the form of currency or gold or silver." This is because the rulings pertaining to the exchange of currency, gold, and silver stipulate that amounts be exchanged at spot, and Salam entails deferment.