



CODEN [USA]: IAJPBB

ISSN: 2349-7750

**INDO AMERICAN JOURNAL OF
PHARMACEUTICAL SCIENCES**<http://doi.org/10.5281/zenodo.1001021>Available online at: <http://www.iajps.com>

Research Article

**JURISPRUDENTIAL AND LEGAL REVIEW OF
TRANSACTIONS AND COMPARING IT TO SALE'S
PREDECESSOR AND SELLING CREDIT TO CREDIT**Somayeh Vaezi¹ and Nayeb Ali Khalil^{2*}¹Department of Law, Islamic Azad University, Bandar Abbas Branch, Bandar Abbas Iran²Assistant Professor, Department of Law, Islamic Azad University, Bandar Abbas Branch, Bandar Abbas Iran**Abstract:**

Derivatives are one of the new financial tools designed to control the risk of fluctuations in prices, "Future Agreements" are a widely used form of derivatives, these contracts are stock-driven and standardized, The existence of specific rules of the stock exchange and its standards, and the room for payment, and the guarantee of the form, have reduced the investor's concern and welcomed it. The official use of futures contracts has begun in accordance with the Securities Market Act in 1384, but these new contracts, which are the primary source of the West in Muslim countries, should also be examined in terms of Islamic rules and standards. According to the definition of future contracts, two important questions arise in the minds of the first in terms of credibility and, secondly, the legal form of these contracts, which in this paper addresses the first question, legal and juridical validity, when we consider the definition of future contracts, the defects Including: the lack of intent, the intent to be proven, the departure of its proprietary philosophy, its illegitimate use, its propriety and gambling. In the present article, the future contracts will be described and explained, and then the proposed question will be considered and the deficiencies will be announced and the forthcoming contracts will be announced. In addition to the arguments put forward to reject the objections, the universality of the laws of Islam and the main goal of religion, which is to facilitate human life, must be carefully considered, and the widespread use and rationality of the new contracts should be considered among the people.

Key words: Futures, Stock Exchanges. Derivatives**Corresponding Author:****Nayeb Ali Khalil,**

Assistant Professor,

Department of Law,

Islamic Azad University,

Bandar Abbas Branch,

Bandar Abbas Iran

QR code



Please cite this article in press as Somayeh Vaezi and Nayeb Ali Khalil, *Jurisprudential and Legal Review of Transactions and Comparing It to Sale's Predecessor and Selling Credit to Credit*, Indo Am. J. P. Sci, 2017; 4(10).

INTRODUCTION:

Today, financial markets and the world of economics are vastly diverse and diverse, and this development and the abundance of financial instruments have led to an increase in investment and, in another direction, has led to complexities in economic transactions, and the importance of tools that It can be used to manage the risk of price fluctuations. It should be said that financial instruments are referred to by any means and instruments that can be used to facilitate operations related to financial management tasks, and include documents for which the holder is entitled [1] today Financial instruments have a wide variety and do not give them the same variety and scope to all of them and their brief introduction. One of the most widely used financial instruments in the stock market is derivative instruments whose purpose is to establish risk management in activities It is economical because prices are highly volatile due to supply and demand.

Derivative instruments secure the dominant competitive environment in global markets and markets, and are therefore of great interest to investors. The reason for naming derivatives is that their value is derived from the base asset price [2] (Derakhshan, 2004) These tools can be divided into four main categories: (a) Forwards; B) Future futures contracts; c) options; d) swams; Mir Motahari, 2002.

This paper examines the same futures, describes its dimensions, then examines the bugs and answers to them. This paper examines the same futures, describes its dimensions, then examines the bugs and answers to them. It should be noted that given the newness of the subject of future contracts and its recent arrival to the financial markets of Iran and the fact that in Islamic countries should consider and explain new financial instruments and contracts, then investigate and investigate This will be fruitful.

Problem statement:

In this article, we first describe and designate the future agreement and review its features, and then we will consider in this paper: to consider this hypothesis that future contracts, despite their similarity to the contract, and Other issues, such as gambling and chance, pride, lack of surrender, and lack of intent on finalizing the contract, are legal and legal in the right way and can be cited in the Islamic markets. We know that in Muslim countries that only the contracts are based on the needs and needs It's not enough that people have in their lives, but they also have to make new and new contracts from the religious point of view.

Definition of future contracts:

Linguistic Meaning: Future contracts, or future contracts, mean future contracts, because the word "contract" means a contract, contract, or transaction, and the word "future" also means a direct and future meaning. (Arianpour 2009).
Terminal: A futures contract is an agreement whereby the vendor undertakes to sell a certain amount of specified commodity at a price that is set by the seller at the specified time and undertakes to buy the item with that

specification against the other party to the contract. In these contracts, in order to prevent the parties from refusing to enter into a contract, the parties undertake to make a deposit at the time of the contract and pay a deposit in the form of a guarantee.

Subject to changes in the price of the future, the price of the guarantee is adjusted and the room of the bourse on behalf of them has the right to make a change in proportion to the amount of guarantee each party as a token of seizure to the bargaining party and he will have the right to use it. Had to settle together at maturity. (Iran Stock Exchange, 2012).

RESULTS:

Who are the giants in the upcoming market?

There are three categories of traders who enter the future market:

1. Market risk takers 2. Market traders simultaneously 3. Investors,

1. Hedger co-holders: According to the futures definition, whose philosophy is to cover the risk of price fluctuations, it is natural for a group of market participants to use the futures market to protect their assets against price risk.

2-Arbitrage traders: Arbitrage is a tradesman who, when trading in several markets and using different sizes, gains profits; in fact, arbitrageers are willing to buy and compare prices in different markets. From a market and selling it on another market, this will immediately eliminate the mismatches in the various markets, bringing the prices and prices of different markets to different market participants (Hassan Nejad , 2004).

3. Speculators: Another name for this group of traders is risk takers because they predict future incoming and outgoing deals, but may sometimes be affected, risk averse in If the stock market forecasts that future commodity prices will increase, it will buy futures, and if it is predicting that prices will go down, it will move towards future sales, in fact, to sellers who do not need to Fundamental assets to maximize profitable earnings are risk-averse. The term implicitly refers to those who are at risk of being warm and upbeat. The deals help because they increase the volume of trading with active presence in the market (Derakhshan, 2010).

Futures contract on stock index:

Indices that indicate a change in the average stock price or a stock category are referred to as stock indexes. (Khalatbari, 1992,). It is not possible to own a base asset in the stock index because the stock index is hypothetical; it is also possible to say about the equivalence of the future stock index, although in this type of future, by defining the monetary coefficient, the contract is expressed in monetary terms, but it must be It is noteworthy that the asset in the name of the index cannot be considered objectively or as an asset in any way; there is a serious controversy about the ability to deliver in the future. Because the stock index is not able to deliver and deliver, and the seller is not able to deliver it. (Masoumi Nia et al., 2015).

Introducing and responding to future contract failures

Concerns about future contracts and the timeliness of defining and how to do it on the secondary market and that the parties do not need a deal that would definitely have basic assets include ambiguities in the mind, including:

Failure to deal with future contracts:

In terms of surrendering time, they are divided into four categories: 1, Criticize, 2-credit selling 3- Predecessor selling 4- selling credit to credit

Criticism: There is no one in which there is no deadline and no critique

Selling credit to credit: a term that is a deadline

Selling leads: on the contrary, selling credit to credit, in the sense that it is a cash back, and it is a deadline

But the fourth case is a transaction that is set for the surrender of a large amount and the payment of a deadline, and if both the general and the financial statements are both general and financial, they are called sale credit to credit (Katozian2008)

Review of legal and legal situation selling credit to credit:

In civil law as well as other laws, references to sales credit to credit have not been verified or invalidated. In spite of the legal silence, it is possible to cite generalities, while considering the necessity of selling credit to credit in today's global communications, but In jurisprudential texts, selling credit to credit has a long history and jurists consider it to be null and void, some jurists consider Article 363 of the Civil Code as an endorsement of this jurisprudential consensus, and emphasize that their dignity cannot be both of them (Jafari Langroudi- 1999,). In the preliminary review, it is understood that future contracts are an example of selling credit to credit and are therefore void, but in a number of ways this problem can be overcome as follows:

A: Some of the rationales have not been present in time and are not the result of the truth of the law and are created in accordance with the growing needs of man and changes in life. According to the spirit of Islamic law, we cannot consider the contracts incorrect, and we must consider the general view of Islam about new contracts A detailed study of the teachings of Islam shows that not only Islam has not confined Muslims to Muslims in the framework of special treaties, and that all rational contracts are permissible according to standards and norms, but beyond that, by presenting general lines of thought to think, Thinking and designing new financial tools and inventing Matt's contracts Horse with its time evening calls. (Mousavian 2011) It should be noted that in the past, trade and international relations between societies have been very small, and the economy of the world today is very reasonable in the past, and this type of contract is used and welcomed by traders in the way that the parties initially negotiate and then Moreover, it is difficult and uncertain whether the large volume of fast-moving and fast-moving trades is uncertain, and it must be said that new institutions and treaties and international treaties can obstruct the parties, if they want to sell those transactions that appear to be selling credit to Credit is false, it will cause chaos and the economy will be

jeopardized We ignore the general view of Islam, and only proclaimed at the very beginning of Islam cannot respond to today's far more complicated treaties. Another point is that wisdom does not rule out intellectual innovations that help to facilitate human life; these conventions are in accordance with the needs of the day in the modern world and are intellectual inventions (Al-Khouei 1998). But scholars and scholars have spoken to religion in the meaning of the term "religion" and "religion". It is said that selling credit to credit is void when it comes to religion, that is, at the time of the conclusion of the contract for each individual There are two religions, but if there is one or both widths with the concluding concurrency, such a statement is true (Al-Hubei al-Ameli2001). In the examination of the documents mentioned for refusal, it should be said that the Prophetic hadith put forward by the public itself, they cite it as weak. For example, Saheb Javaher believes that the prohibition of selling credit to credit, though not proven through us, is through The public has been proven, but its followers have acted. (Najafi2008).

Concluding comments on contributors to future contracts:

In recent years, the exchanges between people have been very simple and small. Due to human advancements and the transformation and variety of needs, many contracts have been established under the title of "Contractor's contracts that have not been established at the time, and based on the veracity of the verdict To their credibility and accuracy. Contracts such as insurance, the lock futures contract, options, etc. Another point is that issues that canonical truth, forged legislator, but other titles are forged legislator not like a lot of titles contracts, the categories established but the signatures are and legislator only a supervisory role in these categories need to obtain the main components of the legislator not only to the terms of contracts, general trading from religious sources obtaining new contracts with them implemented, and if the conflict they had decreed the legitimacy of contract Because of the mutual need of humans to each other In order to live a life and to meet the personal and collective needs, he has made humans invent (Hosseini,2002). In addition to the point of view of Islam, from the legal point of view, the same results are obtained in article 72 of the Constitution. The approval of the Islamic Consultative Assembly should not be contradictory to the Islamic law. This principle is used in such a way that full compliance with Islamic law is not necessary and not incompatible with the principles The basic point is enough, this issue is in a negotiable deal, it seems that it is possible to conclude a contract with a new contract as a subcategory of article 10 of the civil law contract, as well as social requirements, which are to simplify the contracts The community has been invented and their growing use has confirmed this, so it is in the face With the new contracts in the Islamic countries, we should see them correct, unless the reason for their illegitimacy is verifiable and, conversely, this is not correct.

CONCLUSION:

One of the consequences of the transformation and expansion of the economy is the creation of new financial instruments, which certainly raise questions about these financial instruments. In this paper, one of these new tools, the future contract, has been studied, and about the background and characteristics of those who Derivative markets are explored. The reason for the creation of futures is risk management against fluctuations in prices. Futures are divided into two distinct categories, the futures are the same stock exchange-based, and have distinguished and utilized the special rules of the stock exchange, including the guarantee deposit and the existence of a continuation of the contracts. In general, we can say that future contracts are ceremonial, covenant and necessary. In the following, one of the important challenges of the future contracts is the question of their legitimacy, including the mistakes that the jurists have made to the future contracts: whether they are worthy, gamble and chance, pride, lack of surrender, and submission to and departure from philosophy. Innovative, but these are accountable; it does not seem to be in conflict with the public order in terms of selling credit to credit, and the growing needs of societies for these types of contracts should be taken into account, and the other is the fact that the term There is a difference between religion and religion, in relation to gambling, the nature and motivation Gambling is different from future contracts. Due to the lack of submission and surrender, it should be noted that it is possible to make a surrender and the various methods for termination of the contract with the consent of the parties do not mean that there is no incentive to surrender, the failure to leave the innovative philosophy Given the fact that this objection does not understand the nature of the contract and it is natural that people use financial instruments for different reasons, they can be resolved. In addition to the above, the use of Islamic principles and the principle of authenticity can also be exploited in the face of new contracts, it should also be noted that the elimination of the rational and used contracts of the people and the rigorous treatment of them with the spirit of Islamic teachings of consistency does not have.

ACKNOWLEDGEMENT

This article is extracted from my thesis under the title of "Jurisprudential and legal review of transactions and comparing it to Sale's predecessor and selling credit to credit". Hereby, I extend my sincere appreciation to Islamic Azad university of Bandar Abbas for the efforts and supports they provided to me.

REFERENCES

1. Abbas Mosavian, Tehran Stock Exchange Brokers' Club, Preparation Period of the 18th Examination of Professional Capital Markets, Principles of the Islamic Capital Market, Autumn 2011.
2. Amani, Masoud, Kohan Hosh Nejad, Rohallah, Summer 94, "Reviewing the Commitments of Commodity Futures Trading Contracts to Monitor and Control Market Manipulation in Future Energy Contracts". International Law Journal, No. 50.
3. Bodie, Zvi & Kane, Alan J., 2004, Invest ment, McGraw, Hill, 1015 pages.
4. Downesoj, Dictionary. Finance and Investment Terms Barrons Educational series.
- Eugene, A. Diolo, 1995, Money and Banking, translated by Hossein Heshmati Molaei, Institute of Banking, Tehran, First Edition.
5. Esmat Pasha, Obeidullah, Spring 2003, The Philosophy and Evolution of Derivative Financial Instruments and the Practical Islamic Viewpoint, The Translation of Ali Saleh Abadi, Quarterly Journal of Islamic Economics, No. 9.
- Hosseini, Seyyed Mohammad, Fall and Winter 2009, Future Contracts and its Legal Challenges, Two Quarterly Journal of Islamic Studies, Second Year, No. 1.
6. Hossein Zadeh, Javad, 2012, "Legal Analysis of the Structure and Credit of the Future Contract", Journal of Legal Justice, No. 80.
- Jafari Langroudi, Mohammad Jafar, Extensive Legal Terminology, Tehran, Ganj Danesh Publication, 1999
7. Kamali M. Islamic commercial law, an analysis of futures and options Islamic Texts Society, Cambridge, UK, 2003.
8. Katouzian, Naser, Foundation for Civil Rights, Property and Property, Tehran, Yalda Publishing, 1995.
9. Moeen, Mohammad, 2001, Farsi Culture, Tehran, Amir Kabir Publications.
10. Masoumi Nia, Gholamali, 1999, Jurisprudence and Legal Review of Derivative Instruments, First Edition, Tehran, Publishing Organization, Research Center for Islamic Culture and Thought, 2008.
11. Nemati, Mohammad, 2005, Future Contracts in Islamic Economics, Master's thesis, Economics, Imam Sadegh University.
12. Rouholamini, Mosa, 2005, Golden Stock Exchange, Tehran, Atlas Publishing.
13. Rafiei, Mohammad Taghi, 1999, A Comparative Study of Gharr in Transaction, Qom, Islamic Propagation Office.
14. Rezaei, Majid, 2010, jurisprudential review of derivative instruments, Journal of Islamic Economics, No. 11.