

## **Decision of the Council of Ministers**

### **No. (519) for the year 2013**

#### **Creation of entrepreneurship fund for small and medium enterprises**

##### **Council of Ministers**

- After reviewing the constitutional declaration and its amendments.

Law No. (1) of 2005 AD regarding banking and its amendments.

Law No. (12) of 2010 AD regarding the issuance of the Labor Relations Law, and its executive regulations.

And Law No. 23 of 2010 regarding commercial activity.

- And General National Congress Resolution No. (10) of 2012 AD regarding granting confidence to the Interim Government.

- And the decision of the Ex. General People's Committee No. (65) for the year 2008 AD regarding the reorganization of the employment fund.

- And the decision of the Ex. General People's Committee No. (73) for the year 2011 AD regarding the organization of the national program for small and medium enterprises.

- And the decision of the Minister of Economy No. (99) for the year 2013 AD regarding the formation of the committee to develop a vision for the establishment of an Islamic financing fund for small and medium enterprises, and define its tasks.

- And what was presented by the Minister of Economy in his memorandum regarding the establishment of funds for small and medium enterprises.

And on the letter of the Secretary-General of the Council of Ministers No. (3164) dated July 18, 2013 AD, and his letter No. (3194) dated July 21, 2013 AD.

And what was decided by the Council of Ministers in the nineteenth and twentieth ordinary meetings of the year 2013 AD.

#### **Decided**

##### **Article (1)**

In applying the provisions of this resolution, the following words and expressions shall have the meanings shown against each of them, unless the context requires another meaning: -

Fund: ENTERPENOURSHIP Fund for Small and Medium Enterprises.

Minister: The Minister of Economy.

Board of Directors: The Board of Directors of the Fund.

The Chairman: The Chairman of the Fund's Board of Directors.

Director: The Executive Director of the Fund.

Projects: Small and medium enterprises.

Members: projects registered with the Fund.

Grant: the material value determined by the Board of Directors for the beneficiaries.

The Authority: The legitimacy Supervisory Board of the Fund.

Incubators: Entities that aim to support, develop and advance small and medium-sized enterprises by providing an integrated framework of places, equipment, services, facilities, support mechanisms, advice, and regulation designated to assist the owners of such projects, whether they are production, service or specialized, for a limited period.

Business Centers: Support and support units concerned with spreading the culture of leadership and innovation in society and assisting young people wishing to establish small and medium enterprises. These services include training, feasibility studies, and accompanying during the period of establishment, launch, and operation, and linking them to the concerned authorities.

## **Article (2)**

A fund called (ENTERPENOURSHIP Fund for Small and Medium Enterprises) shall be established under the Ministry of Economy and shall have legal personality and independent financial disclosure. The capital of the fund shall be (200,000,000,000) two hundred million dinars to be paid by the state. It is permissible, by a decision of the Council of Ministers, based on a proposal from the Minister of Economy, to increase the fund's capital with contributions from specialized local and international institutions, bodies and banks.

## **Article (3)**

The headquarters of the Fund shall be in (Tripoli). It may establish other branches within the country in the areas served by the fund.

## **Article (4)**

The fund aims to support, DEVELOP AND ADVANCE and support projects, fund members in all Sharia-compliant methods, whether directly or indirectly, and work to increase project contributions to the gross domestic product, in accordance with the state's general policies. It also aims in particular to achieve what follows:

- 1- Participation in the preparation of a unified comprehensive strategy to support, develop and develop projects, and link them to the development plans and objectives of the state.
- 2- Spreading the culture of leadership and creativity, raising the spirit of entrepreneurship and individual investment, raising awareness of its value, encouraging innovative ideas for young people, researchers, and entrepreneurs, and providing them with incentives, in a way that contributes to refining their talents and experiences.
- 3- Contribute to supporting the national economy by diversifying its sources, reducing dependence on imports of foreign goods, and bringing about comprehensive economic and social development, by providing the appropriate environment for creating investment opportunities for projects.
- 4- Contribute to increasing investment opportunities and raising the level of income of individuals for all segments of Libyan society, especially the youth.

- 5- Reducing dependence on pickup as a primary source of income, and providing alternative sources for it.
- 6- Achieving spatial and qualitative balance in development between the various regions and segments of Libyan society, and increasing attention to the neediest and remote areas.
- 7- Supporting the competitiveness of existing projects, and coordinating awareness and spatial among them to ensure the integration of the services and activities they provide.
- 8- Finding the appropriate mechanisms to ensure coordination and cooperation between the projects and the concerned local, regional, and international bodies and institutions.
- 9- Establishing a network of incubators and business centers, while ensuring that they are distributed geographically and qualitatively in a fair and balanced manner.
- 10- Coordination and unification of efforts among all working parties concerned with supporting, developing, and advancing projects.
- 11- Providing data and information on projects and preparing the necessary databases for this.

#### **Article (5)**

To achieve its objectives, the Fund will undertake the following tasks and functions:

- 1- Providing financial support to members in the form of providing financing or guarantees to them, or by contributing to them, or creating investment portfolios, in coordination with financial and banking institutions operating in the country, and in accordance with the provisions of Sharia.
- 2- Concluding contracts, agreements, and memoranda of understanding with entities and institutions related to the support, development, and advancement of projects, inside or outside the country, in coordination with banks and financing institutions, to facilitate members' access to a variety of appropriate financing options.
- 3- Develop policies and operational plans that enhance the provision of programs and initiatives necessary for the advancement of projects, and evaluate and assess them periodically.
- 4- Studying, proposing, and expressing an opinion on the legislative tools related to the projects and taking any legal measures necessary for the exercise of his powers and authorities.
- 5- Establishing companies or creating investment projects alone or with others, or contributing to companies or projects existing inside or outside the country, and owning and leasing real estate and movables.
- 6- Setting the necessary criteria for classifying and evaluating projects, the necessary conditions and areas available for their support, and the ways and priorities for that.
- 7- Preparing, sponsoring, and implementing training and raising awareness programs to encourage the establishment and development of projects, and providing technical, advisory, organizational, administrative, logistical, informational, technical, and legal support

to those in charge of them, to prepare qualified national cadres to lead and develop the project sector.

8- Preparing studies, research, and guides on products and projects that can be financed, and holding and sponsoring conferences, seminars, workshops, and local and international exhibitions, to serve the objectives of the Fund.

9- Investing its funds and recycling the proceeds of its activities, within the framework of the purpose of its establishment, and by the provisions of Sharia.

10- Studying the status of existing projects, identifying the main obstacles and difficulties to carrying out their tasks, and preparing an integrated package of practical solutions to address them, in coordination with the concerned authorities.

11- Suggesting and developing the necessary plans and mechanisms for marketing the services and products provided by the projects, inside or outside the country.

12- Participation in delegations representing the state in international or regional conferences, symposiums, meetings, or forums concerned with the support and development of projects.

13- Any other tasks or competencies required for the Fund to achieve its objectives and manage its affairs, by the law.

#### **Article (6)**

The fund is managed by a board of directors consisting of a chairman, a vice-chairman, and several members, not less than five and not more than nine, with experience and competence.

#### **Article (7)**

The term of office of the Board of Directors shall be three years, renewable for a similar period or periods.

#### **Article (8)**

The Board shall have the necessary powers and authorities to manage the affairs of the Fund and achieve its objectives, in particular, the following:

1- Developing and approving the general strategy of the Fund within the framework of the general policy of the State, as well as developing and approving the plans, programs, and mechanisms necessary to put this strategy into practice, and supervising its implementation.

2- Approval of one or more banks operating inside the country to deposit the funds of the Fund with it.

3- Approval, follow-up, and evaluation of all plans and programs related to the support, development, and advancement of projects, and access to data, reports, and periodic information submitted to it by the Executive Director to indicate the activities of the Fund and to evaluate its business and financial position

4- Determining the areas of activities and investments of the members, and the controls and procedures governing the financing of the Fund for them.

5- Establishing project service units, which, at the request of their owners, undertake all procedures related to registration and issuance of licenses and approvals required by law to carry out their work.

6- Ratification of the agreements and treaties concluded by the Fund.

7- Accepting gifts, bequests, and grants, provided that the Minister approves them if they are from a non-Libyan source.

8- Appointing auditors and determining their fees at the beginning of each fiscal year.

9- Approval of the fund's organizational structure.

10- Approving the internal bylaws and regulations that regulate the workflow of the fund.

11- Determining the fees for services rendered by the Fund.

12- Approving the annual budget and the final account of the fund.

13- Approving the establishment of companies alone or with others, or owning or contributing to existing companies, whether at home or abroad, to carry out the work that falls within the scope of the fund's competencies.

14- Studying periodic reports and follow-up reports related to the progress of work, and taking the necessary measures in this regard.

15- Submit an annual report on the achievements and work programs of the Fund to the Ministry at the end of each fiscal year.

16- Adopting the articles of association of companies wholly owned by the Fund by the legislation in force.

17- Any other work assigned to it by the legislation in force.

The resolutions of the Board of Directors stipulated in Clauses (1), (9), (10), (11), (12), (13) shall not be effective until they are approved by the Minister.

#### **Article (9)**

The Board of Directors meets at the invitation of its chairperson at least once a month, or based on a decision of the Board of Directors, and whenever the need arises. The meeting of the Board of Directors shall be valid if attended by the majority of its members, provided that it is from among them are the president or his deputy, and its decisions are issued by the majority of the votes of the members present. In the event of equal votes, the side of the president shall prevail, and the vice president shall replace the president in the event of his absence or vacancy of his position.

#### **Article (10)**

The Board of Directors may invite to its meetings whoever it deems necessary to seek assistance from among the Fund's employees or others who are qualified and experienced, to provide the required data or clarifications, and they may participate in the discussions, without having the right to vote.

#### **Article (11)**

The minutes and decisions of the Board of Directors' meetings shall be recorded in a special register with numbered pages, signed by the Chairman, the Secretary, and the members who attended the meeting.

#### **Article (12)**

The Board of Directors may establish permanent or temporary committees or working groups from among its members or from others to study the topics presented to it, and it may assign expert firms or independent experts from inside or outside the country to carry out some of the studies necessary to perform its tasks.

#### **Article (13)**

The president represents the fund before the courts, and in its relationship with others.

#### **Article (14)**

The chairman shall have the right to sign on behalf of the fund in all matters related to its affairs, and the board of directors may authorize one or more of its members, the manager, or one or more of the fund's employees to sign, individually or jointly, in matters determined by the board of directors. The seal of the fund on its papers shall be considered valid unless it is accompanied by the signature of the president or the person authorized to sign.

#### **Article (15)**

The chairman, any member of the board of directors, the manager, or any of the fund's employees may not have a direct or indirect personal interest in contracts concluded with or for the fund.

#### **Article (16)**

The Fund shall have an Executive Director, appointed by a decision of the Board of Directors, based on a proposal from the Chairman, and he shall manage the Fund's technical, financial, and administrative affairs, within the framework of the Fund's general strategy set by the Board of Directors. In particular, he shall have the following:

- 1- Supervising the work of the fund's administrative units, and managing its day-to-day activities.
- 2- Implementing the general policy of the fund, the decisions issued by the board of directors, as well as the decisions, bylaws, regulations and instructions related to the fund's activity.
- 3- Suggesting the Fund's plans and programs for the advancement of projects.
- 4- Preparing periodic and follow-up reports related to the work progress in the Fund and presenting them to the Board of Directors.
- 5- Preparing an annual report on the Fund's work programs and its achievements, and presenting it to the Board of Directors at the end of each fiscal year.
- 6- Preparing the annual draft budget of the fund and its final account

7- Reviewing the annual plan for financial and direct investments and ensuring that it is consistent with the strategy and general policy of the Fund.

8- Propose draft legislative tools related to the Fund's work, and present them to the Board of Directors.

9- Proposing internal policies and regulations that enhance the implementation of programs and initiatives related to supporting, developing, and supporting projects.

10- Follow up on the latest methods in the world to advance the project sector, and issue directives to the concerned departments for rapid response to them.

11- Collecting data and statistics related to the Fund's contributions in the field of project development, support and development.

12- Any other tasks assigned to him by the Board of Directors by the provisions of this resolution.

The manager may delegate some of his powers to whomever of the fund's employees he chooses. In all cases, the manager may not be a member of the board of directors of any financial or banking institution.

#### **Article (17)**

An independent body called the "Shari'a Supervisory Board" shall be formed in the fund to monitor the fund's activities. The number of its members shall not be less than three, appointed by the minister upon a proposal from the board of directors, from among the scholars specialized in jurisprudence, Sharia, banking, investment and financial operations, in coordination with the relevant authorities. Their appointment is for a period of three years, subject to renewal.

#### **Article (18)**

The Authority is entrusted with the following tasks: -

- Conducting Shariah supervision over the fund's activities in terms of their compliance with Shariah provisions.

- Expressing a binding opinion on the extent to which the Fund's transactions, activities and contracts comply with the provisions of Sharia.

- Considering any matters assigned to it by the Board of Directors.

#### **Article (19)**

The authority meets at the invitation of its chairman, or upon a decision of the board of directors, or at the request of two of its members. Its meeting is valid in the presence of the majority of its members, and its decisions are taken by the majority of its members.

#### **Article (20)**

The Authority may submit a report of its opinion to the Board of Directors, and it may also, on its own initiative, suggest to the Board of Directors what it deems useful for the Fund to achieve its objectives in a sound and legitimate manner.

#### **Article (21)**

The Authority shall submit an annual report to the Board of Directors that includes its opinion on the extent to which the Fund's business is in compliance with the provisions of Sharia for the period under review, and any observations and recommendations it may have in this regard.

#### **Article (22)**

The fund consists of the departments shown in the organizational chart attached to this resolution, which as -

- 1- Internal Audit Department.
- 2- Legal administration.
- 3- Department of Finance and Investment Strategy.
- 4- Department of Financial and Administrative Affairs.
- 5- Small projects management.
- 6- Medium projects management.
- 7- Management of incubators and business centers.
- 8- Technical management.
- 9- Commercial administration.

The Internal Audit Department reports directly to the Board of Directors, and the rest of the department's report to the Executive Director of the Fund.

The board of directors, upon the proposal of the director, determines the functions of the departments that make up the fund, as well as amending their organization by adding, deleting, or merging, provided that the definition of competencies, modification, deletion and merger is approved by the minister.

By a decision of the Chairman of the Board of Directors, departments may be established in the departments that make up the fund, as required by the public interest, and he may also cancel or merge them and assign and amend their functions.

#### **Article (23)**

The Fund shall have an annual estimated budget in accordance with the rules in force in the State, and it shall also have one or more bank accounts with banks operating in Libya. The fund's fiscal year begins with the beginning of the state's fiscal year and ends with the end of it.

#### **Article (24)**

In regulating its accounts, records and financial transactions, the Fund adheres to the accepted and generally accepted accounting standards, in accordance with Sharia.

**Article (25)**

The Fund may request from any party related to its competence the documents or data that it deems necessary to carry out its legally entrusted tasks. All ministries, other government agencies and public bodies and institutions must provide the Fund with the data and information it requests, and cooperate with it within the scope of its competence.

**Article (26)**

The fixed and movable assets, as well as the rights, obligations and financial appropriations allocated to the National Program for Small and Medium Enterprises, shall devolve to the Fund as of the date of enforcement of this decision. .

**Article (27)**

The Minister shall submit to the Council of Ministers a comprehensive and detailed report on the Fund's activities, progress of work, and its financial position, no later than three months from the end of the fiscal year, including its suggestions and recommendations.

**Article (28)**

The Council of Ministers may request the Minister to submit reports on aspects of the Fund's activity, and any information related to it, and it may issue general directives regarding what the Fund must follow in any of the matters related to its activities.

**Article (29)**

The Minister shall issue the financial, technical, and administrative decisions and regulations necessary to implement the provisions of this resolution in a manner that does not conflict with the legislation in force.

**Article (30)**

Every provision that contradicts the provisions of this resolution shall be repealed, and in the absence of a text, the Fund shall be subject to the provisions of the relevant legislation in force.

**Article (31)**

All competent authorities, each within its jurisdiction, shall implement this decision, and it shall be enforced from the date of its issuance, and shall be published in the Official Gazette.

**Council of Ministers**

**Issued on: 27 / Shawwal / 1434 AH.**

**Corresponding to: September 3, 2013 AD.**