ISLAMIC BANKING & FINANCE

PRINCIPLES, INSTRUMENTS & OPERATIONS

Adnan Trakic &
Hanifah Haydar Ali Tajuddin

CLJ Publication
Islamic banking & finance: principles, instruments & operations /
general editors: Adnan Trakic & Hanifah Haydar Ali Tajuddin
Includes index
   II. Hanifah Haydar Ali Tajuddin.
332.1088297

Published by
The Malaysian Current Law Journal Sdn Bhd
E1-2, Jalan Selaman 1/2,
Dataran Palma, 68000 Ampang,
Selangor Darul Ehsan, Malaysia
[Co No 51143 M]
Tel: 603-42705400 Fax: 603-42705401

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Edited by Baizura Abd Razak


Printed by
Printmate Sdn Bhd
No. 14 & 16, Jalan Industri P.B.P. 7,
Taman Industri Pusat Bandar Puchong,
47100 Puchong, Selangor Darul Ehsan.
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CHAPTER 26

IBRA’ AND ITS PRACTICE BY THE ISLAMIC BANKS: WITH REFERENCE TO MALAYSIA*

by Adnan Trakic** & Norhashimah Mohd Yasin***

26.1 Introduction

The ibra’ (rebate) is a term used in the Islamic banking and finance literature which denotes granting of the rebate by Islamic banks at their discretion, to the client in cases of prepayment by the customer or in some situations in premature termination of contract. Ibra’ for the purpose of this chapter will be approached and discussed from two angles. The first approach taken is in relation to the conceptual meaning of the term in its original sense, in the spirit of Islam. The basic and conceptual meaning of the word ibra’ will be analysed and explained in the light of sources of Shari’ah. Therefore, before embarking on further practical discussion of the term, a specific reference will be given to its understanding through basic sources of Shari’ah. The second angle from which the term ibra’ will be approached, is the practical framework within which it is practiced nowadays by the Islamic banks. This chapter will be limited to the practice of ibra’ by the Malaysian Islamic banks only. The practical aspect of ibra’ deployed by the Islamic banks will be discussed with specific reference to Malaysian decided cases. The Court of Appeal decision in the case of Lim Kok Hoe,1 where the obligation to pay the full sale price by the client

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* Paper presented at Inaugural ISRA Colloquium, 'Innovation in Islamic Finance: Sharī'ah Driven or Market Driven', organized by International Shari'ah Research Academy for Islamic Finance (ISRA), held on 28 June 2011, Kuala Lumpur, Malaysia.

** LL.B (Hons), MCL (IIUM), PhD Candidate in (AIKOL)(IIUM), Lecturer, School of Business, Sunway University, Malaysia.

*** LL.B (Hons), MCL, Post-grad. Diploma in IBF (IIUM), LLM, Ph.D (Warwick), Advocate & Solicitor, High Court of Malaya (non-practising), Professor in Comparative Banking Law, Ahmad Ibrahim Kulliyyah of Laws, International Islamic University Malaysia (IIUM).

1 Bank Islam Malaysia Bhd v. Lim Kok Hoe & Anor and Other Appeals [2009] 6 CLJ 22.