

# GOVERNANCE OF CORPORATION AND BUSINESS ASSOCIATION

ISSUES AND RECENT DEVELOPMENTS

AIMAN NARIMAN MOHD SULAIMAN

IIUM PRESS  
INTERNATIONAL ISLAMIC UNIVERSITY MALAYSIA



**GOVERNANCE OF CORPORATIONS  
AND BUSINESS ASSOCIATIONS -  
ISSUES AND RECENT  
DEVELOPMENTS**

GEN EDITOR

**AIMAN NARIMAN MOHD SULAIMAN**



**IIUM Press**

Published by:

**IIUM Press**  
International Islamic University Malaysia

First Edition 2011  
©IIUM Press, IIUM

All rights reserved. No part of this publication may be reproduced, stored in a retrieval system, or transmitted, in any form or by any means, electronic, mechanical, photocopying, recording, or otherwise, without any prior written permission of the publisher.

Perpustakaan Negara Malaysia

Cataloguing-in-Publication Data

Governance of Corporations and Business Associations - Issues and Recent Developments edited by Prof. Dr. Aiman Nariman Mohd Sulaiman.

ISBN: 978-967-418-109-3

Member of Majlis Penerbitan Ilmiah Malaysian – MAPIM (Malaysian Scholarly Publishing Council)

Printed by

**IIUM PRINTING SDN. BHD.**  
No. 1, Jalan Industri Batu Caves 1/3  
Taman Perindustrian Batu Caves  
Batu Caves Centre Point  
68100 Batu Caves  
Selangor Darul Ehsan

## CONTENTS

<i>Foreword</i> .....	i
<i>Biodata of Contributors</i> .....	iii
<i>Contents</i> .....	vii
<i>Table of Cases</i> .....	ix
<i>Table of Statutes</i> .....	xi

### PART A

#### ISLAMIC PERSPECTIVES: REGULATORY FRAMEWORK AND WEALTH MANAGEMENT

<b>CHAPTER 1</b> .....	1
<b>Liabilities of Partners: The Malaysian Law and the Islamic Law Perspectives</b>	
<i>Engku Rabiah Adawiah Engku Ali and Zuhairah Ariff Abd Ghadas</i>	
<b>CHAPTER 2</b> .....	17
<b>Legal Infrastructure of Islamic Capital Market in Malaysia</b>	
<i>Rusni Hassan</i>	
<b>CHAPTER 3</b> .....	37
<b>Wealth Purification and Disposition: A Special Reference to the Creation of Waqf on Land</b>	
<i>Akmal Hidayah Halim</i>	
<b>CHAPTER 4</b> .....	57
<b>Islamic Perspective on Corporate Governance: Identifying Theories and Challenges</b>	
<i>Abdul Hamid Oba Yusof</i>	

## PART B

## GOVERNANCE: THEORIES AND APPLICATION

<b>CHAPTER 5 .....</b>	<b>95</b>
<b>Recent Developments on Directors' Remuneration- Lessons for Malaysia</b>	
<i>Aiman Nariman Mohd Sulaiman</i>	
<b>CHAPTER 6 .....</b>	<b>119</b>
<b>Board Structure and Composition for Banking Institutions- An Indonesian Perspective</b>	
<i>Indira Retno Aryanti and Aiman Nariman Mohd Sulaiman</i>	
<b>CHAPTER 7 .....</b>	<b>141</b>
<b>Takeovers and Mergers: The New Landscape for Malaysia</b>	
<i>Mushera A Khan</i>	
<b>CHAPTER 8 .....</b>	<b>153</b>
<b>Financial Reporting Failures, Listing Requirements and Duty of Care</b>	
<i>Aiman Nariman Mohd Sulaiman</i>	
<b>CHAPTER 9 .....</b>	<b>165</b>
<b>Corporate Social Responsibility: Government-Linked Corporations and Government Led Initiatives in Malaysia</b>	
<i>Halyani Hassan</i>	
<b>CHAPTER 10 .....</b>	<b>181</b>
<b>Limited Liability Partnership in Malaysia with Special Reference to the Labuan Limited Partnership and Labuan Limited Liability Partnership Act 2010</b>	
<i>Zuhairah Ariff Abd Ghadas.</i>	

CHAPTER ONE

**LIABILITIES OF PARTNERS:  
THE MALAYSIAN LAW AND THE  
ISLAMIC LAW PERSPECTIVES**

ENSKU RABIAH ADAWIAH ENSKU ALI\*

ZUHAIKAH ARIFF ABD GHADAS\*\*

INTRODUCTION

The Partnership structure is one of the conventional business structures which are available in most of the countries all over the world. In Malaysia, the partnership law is based on the English partnerships law and as such it carries on the hallmark of unlimited liability regime and joint and several liabilities of partners for the business debts and obligations. Under the Islamic law, partnerships structure (Sharikah) also has an established reputation and clear recognition as a valid business vehicle. However, different from the Malaysian and the English partnerships, the application of limited liability in sharikah is well established and clearly justified. This chapter highlights the differences between the Malaysian

---

\* Assoc. Professor, Department of Civil Law, Ahmad Ibrahim Kulliyah of Laws, International Islamic University Malaysia.

\*\* Assoc. Professor, Department of Civil Law, Ahmad Ibrahim Kulliyah of Laws, International Islamic University Malaysia.