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Dispute management in Islamic financial institutions: A case study of near sukuk defaults (Article)

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Abstract

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Purpose – The purpose of this paper is to examine the vital importance of **dispute management** in cases of both near and outright sukuk defaults. With the case studies, this study examines the vital importance of **dispute management** in cases of both near and outright sukuk defaults. With a number of case studies, the study shows how debt restructuring can play a significant role as a **dispute management** procedure recognized in Islamic law. **Design/methodology/approach** – The study uses the case study methodology to determine the impact of debt restructuring in instances of near and outright sukuk default and the process taken to reach a win-win settlement among the parties. Due to some sensitive **financial** information, the study has fully anonymized the sukuk companies examined. **Findings** – The paper finds that for a more sustainable and stable and resilient Islamic finance industry, the role of law through **dispute management** cannot be ruled out, as appropriate **dispute management** mechanism facilitates the underlying contracts. **Research limitations/implications** – This study limits its focus to near and outright sukuk defaults and the need to come up with Shari'ah-based mechanisms for **dispute management** when things seem to have fallen apart. **Practical implications** – The study proposes an integrated regulatory-cum-remedial framework which may serve as sustainable mechanism for handling circumstances involving near and outright sukuk defaults with a view to protecting the rights of all the stakeholders. **Originality/value** – Though few studies have been conducted on sukuk defaults in cross-border transactions, there has not been much focus on **dispute management** of cases involving such defaults. This study seeks to fill such an important gap, which has the potential of streamlining **dispute management** practices in the sukuk industry. © Emerald Group Publishing Limited.

Author keywords

Debt restructuring; **Dispute resolution**; **Islamic financial institutions**; **Islamic investment certificates**; Sukuk defaultsISSN: 14770024 **Source Type:** Journal **Original language:** EnglishDOI: 10.1108/JITLP-12-2013-0034 **Document Type:** Article**Publisher:** Emerald Group Publishing Ltd.

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