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Journal of International Trade Law and Policy
Volume 13, Issue 3, 9 September 2014, Pages 198-214

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 defaults](#)

ISSN: 14770024

Source Type: Journal

Original language: English

DOI: 10.1108/JITLP-12-2013-0034


Document Type: Article

Publisher: Emerald Group Publishing Ltd.

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