Selling Short as Ijarah with Istisihan and Its Ethical Implication

By: Sifat, IM (Sifat, Imtiaz Mohammad) 
Mohamed, A (Mohamed, Aqeel)

ARAB LAW QUARTERLY
Volume: 38 Issue: 4 Pages: 307-377
DOI: 10.1191/15730025-12341324
Published: 2006

Abstract
For most scholars, the concept of selling short, where financial assets are sold without prior possession or ownership, transgresses Islamic principles. However, the Shariah Advisory Council of the Securities Commission of Malaysia (SAC) saw it as against the majority by permitting short selling in 2006. Conventional finance points out that short selling increases liquidity, facilitates price discovery, and enhances institutional efficiency. Modern scholars are facing a dilemma: on the one hand, Shariah principles dictate that Islamic capital market transactions and instruments should remain devoid of elements of ambiguity and prohibited characteristics; but on the other hand, the Shariah also demands that the transactions be of social utility to the participating parties. It appears that the SAC allowed regulated short selling on the basis of ijara with istisihan. This article strives to highlight the jurisprudential issues regarding short selling and contribute to an Islamic angle on the ethical implications affecting this phenomenon.

Keywords
Author Keywords: short selling; Islamic finance; regulation; ijrah; istisihan
KeyWords Plus: MARKET EFFICIENCY

Author Information
Reprint Address: Sifat, IM (reprint author)
Address: 
- Int Islamic Univ Malaysia, Business Adm, Kulliyah Econ & Management Sci, Kuala Lumpur, Malaysia
- Int Islamic Univ Malaysia, Business Adm, Kulliyah Econ & Management Sci, Kula Lumpur, Malaysia
- Int Islamic Univ Malaysia, Dept Finance, Kulliyah Econ & Management Sci, Kuala Lumpur, Malaysia
E-mail Addresses: imtsifat@gmail.com, m.aqeel@isum.edu.my

Publisher
BRILL ACADEMIC PUBLISHERS, PLANTUNSTRAAT 2, P O BOX 900, 2300 PA LEIDEN, NETHERLANDS

Categories / Classification
Research Areas: Government & Law
Web of Science Categories: Law

Document Information
Document Type: Article
Language: English
Accession Number: WOS:000390911700003
ISSN: 0288-9956
eISSN: 1973-6255

Other Information
DOI Number: 10.1191/15730025-12341324
Cited References in Web of Science Core Collection: 27
Times Cited in Web of Science Core Collection: 0
Selling short as ijarah with istisna' and its ethical implication (Article)

Siti, M. 1, Mohamad, A. 2
1 International Islamic University Malaysia; Kulliyyah of Economics and Management Sciences, Kuala Lumpur, Malaysia
2 Department of Finance, Kulliyyah of Economics and Management Sciences, International Islamic University Malaysia, Kuala Lumpur, Malaysia

Abstract

For most scholars, the concept of selling short, where financial assets are sold without prior possession or ownership, transgresses Islamic principles. However, the Shariah Advisory Council of the Securities Commission of Malaysia (SAC) went against the majority by permitting short selling in 2006. Conventional finance points out that short selling increases liquidity, facilitates price discovery, and enables informational efficiency. Muslim scholars are facing a dilemma: on the one hand, Shariah principles dictate that Islamic capital market transactions and instruments should remain devoid of elements of ambiguity and prohibited characteristics; but on the other hand, the Shariah also demands that the transactions be of social utility to the participating parties. It appears that the SAC allows regulated short selling on the basis of ijarah with istisna'. This article strives to highlight the jurisprudential issues regarding short selling and contribute to an Islamic angle on the ethical implications affecting this phenomenon.

Author keywords

Fiqh; ijarah; Islamic finance; Regulation; Short selling

Cited by 0 documents

Related documents

- Indexing and Stock Price Efficiency
- Assessing the information content of short-selling metrics using daily disclosures
- A positive econometric view of short selling

Find more related documents in Scopus based on:

- Authors
- Keywords

Metrics

- 1 Tweet

View all metrics