



الجامعة الإسلامية العالمية ماليزيا
INTERNATIONAL ISLAMIC UNIVERSITY MALAYSIA
بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

INTERNATIONAL
CONFERENCE ON
ISLAMIC
& FINANCE:
CROSS BORDER
PRACTICES & LITIGATIONS

15 & 16 JUNE, 2010
INTERNATIONAL ISLAMIC UNIVERSITY MALAYSIA
KUALA LUMPUR, MALAYSIA

Organizers

ISLAMIC LAW DEPARTMENT
AHMAD IBRAHIM KULLIYAH OF LAWS



HARUN M. HASHIM LAW CENTRE
AHMAD IBRAHIM KULLIYAH OF LAWS
INTERNATIONAL ISLAMIC UNIVERSITY MALAYSIA



THE UNIVERSITY
OF
WISCONSIN
MADISON

In Collaboration With

IUM INSTITUTE OF ISLAMIC BANKING AND FINANCE (IIBF)



INTERNATIONAL
CONFERENCE ON
**ISLAMIC
BANKING
& FINANCE:**

CROSS BORDER
PRACTICES & LITIGATIONS

15 & 16 JUNE, 2010

INTERNATIONAL ISLAMIC UNIVERSITY MALAYSIA
KUALA LUMPUR, MALAYSIA

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PROGRAMME SUMMARY

DAY 1 : 15th June 2010 (Tuesday)

8.00 am	-	8.45 am	:	Conference Registration / Breakfast
8.45 am	-	10.45 am	:	PARALLEL SESSION 1
10.45 am	-	11.00 am	:	Refreshment
11.00 am	-	1.00 pm	:	PARALLEL SESSION 2
1.00 pm	-	2.00 pm	:	Lunch & Zuhr Prayer
2.00 pm	-	2.15 pm	:	Arrival of Invited Guest and VVIP
2.15 pm	-	2.30 pm	:	Arrival of Guest of Honor
2.35 pm	-	2.40 pm	:	Opening Remarks by Master of Ceremony
2.40 pm	-	2.45 pm	:	Recitation of verses from Al-Qur'an
2.45 pm	-	2.55 pm	:	Welcoming Remarks by Dean, AIKOL
2.55 pm	-	3.05 pm	:	Officiating Speech by Y. Bhg Prof. Dato' Seri Dr. Syed Arabi Idid Rector, IIUM
3.05 pm	-	3.40 pm	:	Keynote Address by Guest of Honour
3.40 pm	-	3.50 pm	:	Presentation of Souvenir
3.50 pm	-	4.20 pm	:	Refreshment
4.20 pm	-	5.20 pm	:	PANEL DISCUSSION I : Cross Border Litigation in Islamic Banking and Finance (PLENARY DISCUSSION)
5.20 pm			:	Disperse

DAY 2 : 16th June 2010 (Wednesday)

8.00 am	-	8.30 am	:	Arrival of Participants / Breakfast
8.30 am	-	8.45 am	:	Arrival of VIP & Invited Guests
9.00 am	-	10.00 am	:	Special Address by Mr. Rushdi Siddiqui, Global Head of Islamic Finance, Thomson Reuters
10.00 am	-	10.30 am	:	Refreshment
11.00 am	-	1.00 pm	:	PARALLEL SESSION 3
1.00 pm	-	2.00 pm	:	Lunch & Zuhr Prayer
2.00 pm	-	3.00 pm	:	Cross Border Practices: Roles and Responsibilities of Islamic Financial Centers and Alternative Dispute Resolution Institution (PLENARY DISCUSSION)
3.00 pm	-	4.00 pm	:	PANEL DISCUSSION II : Shariah Governance and Auditing in Islamic Banking and Finance Practices (PLENARY DISCUSSION)
4.00 pm	-	4.15 pm	:	Presentation of Resolution
4.15 pm	-	4.30 pm	:	Closing Remark by - Director of HMHLC - Dean of University of Wisconsin, USA - Dean of IIBF
4.15 pm			:	End of IBAF Conference & Refreshment

DAY 01
5 June 2010
Tuesday

VENUE : AIKOL FOYER

8.00 a.m. – 8.30 a.m. Conference Registration/Breakfast
8.45 a.m. – 10.45 a.m. PARALLEL SESSION 1

VENUE

PAPER

ROOM NO.
MM 17

PAPERS (1.A)

Theme : Islamic banking regulations and cross border litigation : issues and challenges

Legal and Shari'ah Issues in Cross-Border Islamic Financial Instruments,
Azman Ismail, MALAYSIA

Extra Cost of Litigation Versus Hurdles Upfront in the Court System in Islamic Finance Cases,
Hakimah Haji Yaacob, MALAYSIA

Cross Border Litigation in Islamic Banking and Finance,
Md. Abdul Jalil, Abdul Haseeb Ansari & AKM Akhratul Kabir, MALAYSIA

Islamic Banking Law in Cross Border: Between Centralization and Decentralization,
Souleymane Kane, MALAYSIA

International Regulation of Islamic Banks with Regard to Money Laundering,
Norhashimah Mohd Yassin, MALAYSIA

A framework for Analysing the Regulatory Development in Islamic Banking in Application of Global Financial Integration,
Muhammad Muhaizam Musa, MALAYSIA

ROOM NO.
MM 18

PAPERS (1.B)

Theme : Choice of law and alternative dispute resolution in cross border transactions

Singapore as an International Islamic Finance Arbitration Centre,
Andrew White, Muhamad Iskandar Abdul Kadir, Shahidah Mohamed Said, SINGAPORE & MALAYSIA

Legal Implications of Deciding Islamic Finance Matters Within the Conventional Justice System: A Theoretical Framework,
Hakimah Haji Yaacob & Ani Munirah Mohamad, MALAYSIA

Viability of Extra Judicial Dispute Resolution Clauses in Cross Border Practices of Islamic Finance,
Khaled Mohammed Aman, MALAYSIA

A Critical Analysis of the Application of Choice of Law and Choice of Forum Clauses in Islamic Banking and Financial Cross Border Transaction,
Kyaw Hla Win @ Md. Hassan Ahmed, MALAYSIA

Islamic Finance and Cross Border Transactions-Observatuion from A U.S Lawyer,
Kenneth B. Davis, Jr, UNITED STATES OF AMERICA

Islamic Banking Disputes: Between Judicial Pluralism and ADR,
Abdulqadir Ibrahim Abikan, NIGERIA

ROOM NO.
MM 19

PAPERS (1.C)

Theme : Development and enhancement of shari'ah compliant financing products for optimum efficiency

Achieving Maqasid Al-Shariah in Islamic Banks through Islamic Micro - financing,
Aliyu Dahiru Muhammad, MALAYSIA

The Application of Build, Operate and Transfer (BOT) Contracts in Waqf Institution:
Majlis Agama Islam Wilayah Persekutuan (MAIWP), Azman bin Mohd Noor & Saidatolakma Mohd Yunus, MALAYSIA

Islamic Banking Practice and Power Reduction: Any connections?,
Kolawole Kazeem, NIGERIA

Commodity Murabahah as Offered by Bursa Malaysia; A Critical Analysis from Fiqh Perspective Transaction,
Nur Farhah Mahadi & Azman Mohd Noor, MALAYSIA

Issuance of Islamic Credit Card in Malaysia: A Critical Analysis,
Rafidah Mohd Azli & Azman Mohd Noor, MALAYSIA

Cross Border Sukuk Structuring: Legal and Shari'ah Considerations,
Younes Soualhi, MALAYSIA

The Implications of Al-Ghubn in Islamic Contracts: An Analysis of Current Practices,
Mahamad Ariffin, Mohammad Deen Mohd Napiah, Muhammad Naim Omar & Mohammad Asmadi Abdullah, MALAYSIA

Contemporary Fatawa of Muslims Jurists on Bai Bithaman Ajil Products: A Comparative Study between Theory and Practice,
Abdul Fatah Sheikh Mohammad, Rusni Hassan, MALAYSIA

PROGRAM DAY 1 [Parallel Session 1] on next page

DAY 01
[cont'd]
15 June 2010
Tuesday

VENUE

PAPER

ROOM NO.
MM 110**PAPERS (1.D)****Theme : النقاضي والتحكيم عبر الحدود، وحالات دراسة في العمل المصرفي الإسلامي**

تسوية المنازعات المصرفية الإسلامية من خلال التحكيم
Abdul Rahman Asad Raihan Ahmad Ibrahim, MALAYSIA

تجربة صناعة المصرفية الإسلامية في تايلاند: الإجارة المنتهية بالتمليك نموذجًا
Mohammad Laeba & Zakaria Hama, MALAYSIA & THAILAND

مدى تأثير قانون غسل الأموال الليبي بالاتفاقيات والجهود الدولية لمكافحة الجريمة عبر الحدود دراسة تأصيلية شرعية وقانونية
Abdul Mageed Qasim Abdul Mageed, MALAYSIA

النزاعات عبر الحدود في الخدمات المصرفية الإسلامية
Sultan Ibrahim Al-Hashimi, QATAR

أثر المخاطر المصرفية على تخصيص الأصول لدى المصارف الإسلامية الأردنية
Sufian Tsa Hariz, JORDAN

ملخص البحث التحكيم في منازعات العمليات المصرفية الإسلامية في القانون الليبي الواقع والآفاق
عز الدين البوبكر علي, MALAYSIA

ROOM NO.
MM 111**PAPERS (1.E)****Theme : Risk and liquidity management in the contemporary financial scenario: challenges and solutions**

Credit Crunch, Renaissance of Gold: The Islamic Monetary System and Sukuk Success So Far,
Adesina-Uthman Ganiyat Adejoke & Ibrahim Olatunde Uthman, NIGERIA

Issues of Liquidity Management in Islamic Banking Operation System: Malaysian Case Study,
Md. Saifur Rahman & Farihana Shahari, MALAYSIA

Financial Risks Underlying Sukuk Structures,
Nico Swartz, SOUTH AFRICA

Islamic Securitization : Risk Factors in Shari'ah view ,
Nidal Alsayyed, MALAYSIA

Effect of Sub-Prime Crisis on the Global Economy and How Such Crisis should Have Been Averted
in an Islamic Finance Environment, Oladokun Nafiu Olaniyi & Mohammad Firdaus Mohammad Hatta, MALAYSIA & UK

Clustering – An Approach for Development of a New Financial System Based on
Islamic Concept of Equal Settlement and Creating Value, Shaukat Amer, PAKISTAN

Significant Rules of Murabahah Contract in Islamic Banks,
Ahmad Abdulkadir Ibrahim, MALAYSIA

Discriminant Factors in Indonesian Bank Selection,
Muhamad Abduh & Mohd Azmi Omar, MALAYSIA

CAFE
FOYER

10.45 a.m. – 11.00 a.m. Refreshment

PROGRAM DAY 1 [Parallel Session 2] on next page

DAY 01
[cont'd]
15 June 2010
Tuesday

11.00 a.m. – 1.00 p.m.

PARALELL SESSION 2

VENUE

PAPER

ROOM NO.
MM 17

PAPERS (2.A)**Theme : Corporate governance and the role of *Shari'ah* boards in cross border practices**

Islamic Banking and Finance Today: Professional Ethics and Cross Border Practice and Litigation,
Adeyemo, Lateef Kayode & Mobolaji, Hakeem Ishola, MALAYSIA & NIGERIA

Corporate Governance for Islamic Financial Institutions,
M. Javeed Mansoor, SRI LANKA

The Application of *Fatawa* / Resolutions by the Judge in Contemporary Islamic Finance in Malaysian Civil Justice System,
Mohd Zakhiri Md Nor, MALAYSIA

Shari'ah Advisory Board of Islamic Financial Institutions - Cross Border Practices,
Rusni Hassan, Uzaimah Ibrahim, Nurdianawati Irwani Abdullah, Akhtarzaita Abd Aziz & Mohd Fuad Md Sawari, MALAYSIA

Towards Islamic Worldview based Corporate Governance Framework,
Sheila Nu Nu Haty Muhammad Akhyar Adnan, Hafiz Majdi Abd Rashid & Shahul Hameed Hj Mohamed Ibrahim, MALAYSIA

Corporate Governance of Australian Banking : A lesson in Law Reform or Good Fortune,
Michael Peters, AUSTRALIA

ROOM NO.
MM 18

PAPERS (2.B)**Theme : The economic connotations of Islamic banking and customer acceptance**

Customer Satisfaction of Islamic Banking Products in Pakistan,
Faisal Karim & Irfa Ejaz, PAKISTAN

The Role of *Hajj* in the Growth of the Islamic Banking and Finance: A case study of *Tabung Haji* (Malaysian *Hajj* Fund) ,
Ibrahim Olatunde Uthman, NIGERIA

Economic Role of Islamic Banks: Obstacles and Possible Solutions,
Rasem N. Kayed & Ahmed A. Ibrahim, PALESTINE & BAHRAIN

The Financial Implications of Globalization on the Islamic Banking System: Facts and the Events,
Torki Al-Fawwaz & Khalid Lafy Al. Naif, JORDAN

ROOM NO.
MM 19

PAPERS (2.C)**Theme : Advancement of Islamic banking in new jurisdictions: challenges and perceptions**

Legal Obstacles in Establishing Islamic Banking in Maldives,
Aishath Muneeza & Ismail Wisham, MALAYSIA

Islamic Finance in the US: What Are the Challenges to Overcome in order for the Industry to
Subsist Viably under Secular Regulation?, Fatimah S. Baeshen, USA

Accomodating Islamic Banking and Finance in New South Wales,
Salim Ali Farrar, AUSTRALIA

Banking Sector Consiladation Crisis: Islamic Banking as a Credible Alternative System in Nigeria,
A.S Santhapparaj & Muhammad Yusuf, MALAYSIA

Islamic banking in Sri Lanka And Malaysia: Choice of Laws, Conflict of Laws And Court Jurisdiction,
Rusni Hassan & Mohamed Nafees, MALAYSIA

PROGRAM DAY 1 [Parallel Session 2] on next page

DAY 01
[cont'd]
15 June 2010
Tuesday

VENUE

PAPER

ROOM NO.
MM 1.10**PAPERS (2.D)****Theme : قضايا الديون وإدارة المخاطر في المشهد المالي المعاصر**

علاقة القرض بالقواعد الفقهية وأثر ذلك على المعاملات المالية المعاصرة
Ahmad Asad Mahmood Ibrahim, KINGDOM OF BAHRAIN

منهج الشيخ محمد تقي العثماني في التعويض ضرر المظلم
Nor Naema Abdul Rahman & Isaa Khan, MALAYSIA

النظام المصرفي الإسلامي وتحديات الأزمة المالية الراهنة
Raed S. A Faqir, JORDAN

مخاطر الصكوك الإسلامية طرق معالجتها
Ziad J.K. Aldammagh, MALAYSIA

أحكام فوائد البنوك الربوية في منظور القواعد الفقهية الإسلامية
Yusuf Abas Abafogi, MALAYSIA

مقاصد الشريعة وتطبيقاتها في المعاملات المصرفية المعاصرة
Abdel Wadoud Moustafa Moursi, MALAYSIA

لحيل بين الإمام تقي الدين السبكي والشافعي والإمام ابن قيم الجوزية الحنبلي: دراسة تحليلية مقارنة: بيع العينة أمودجا
Anwar Mustapha, MALAYSIA

ROOM NO.
MM 1.11**PAPERS (2.E)****Theme : Standardization of Islamic banking practices in cross border transactions**

Hilah in the Islamic Banking instruments in Malaysia with reference to the banking practices in other jurisdictions: Is there a need to standardize Islamic banking instruments used in all the jurisdictions?
Aishath Muneeza, Nik Nurul Atiqah Nik Yusuf, Norariefah binti Mohd Iqbal & Juyda bt. Noor Mohamad, MALAYSIA

Cross-Border Banking Transactions: Is There a Need to Uniform Stock Screening Procedures,
Korimbocus Janick Marie Christine, Aishath Muneeza, Nik Nurul Atiqah Nik Yusuf & Sooraiya Capery, MALAYSIA

An Analysis of Global trends and Regional Pockets in the Application of Islamic Financial Contracts in Malaysia and Gulf Cooperation Council, Anne-Sophie Gintzburger, AUSTRALIA

Towards a global standard in Islamic Banking and finance practices: a review of the principles, products and regulatory organs of banking under Islamic Law, Ibrahim Fofana, MALAYSIA

Rationality and its Role in the Standardization of Islamic Banking and Finance Practices in Cross Border,
Jilani Ben Touhami Meftah, MALAYSIA

Islamic Banking and Finance beyond Borders: Issues of Standardisation,
Edib Smolo & Elmin Habibovic, MALAYSIA

Principle Of Autonomy In Letter Of Credit : Malaysian Practice,
Rosmawani Che Hashim, Ahmad Azam Othman and Akhtarzaita Abdul Aziz, MALAYSIA

FOYER
CAFE

1.00 p.m. – 2.00 p.m. Lunch & Zuhr Prayer

MOOT
COURT

2.00 p.m. – 2.15 p.m. Arrival of Invited Guest and WWIP
2.15 p.m. – 2.30 p.m. Arrival of Guest of Honor
2.35 p.m. – 2.40 p.m. Opening Remarks by Master of Ceremony
2.40 p.m. – 2.45 p.m. Recitation of verses from Al-Qur'an
2.45 p.m. – 2.55 p.m. Welcoming Remarks by Dean, AIKOL
2.55 p.m. – 3.05 p.m. Officiating Speech by Y. Bhg Prof Dato' Seri Dr. Syed Arabi Idrid Rector IIUM
3.05 p.m. – 3.40 p.m. Keynote Address by Guest of Honor

FOYER,
MOOT
COURT

3.40 p.m. – 3.50 p.m. Presentation of Souvenir

MOOT
COURT

3.50 p.m. – 4.20 p.m. Refreshment
4.20 p.m. – 5.20 p.m. Panel Discussion I :
Cross Border Litigation in Islamic Banking and Finance (PLENARY DISCUSSION)
Moderator : Dr. Norhashimah Mohd Yassin, IIUM
Speakers : Mr. Megat Hizaini Hassan, Zaid Ibrahim & Co
: Assoc. Prof. Dr. Engku Rabiah Adawiyah Engku Ali, IIUM
: Mr. Mohamed Ismail Shariff, SKRINE

05.20 p.m. Disperse

DAY 02
16 June 2010
Wednesday

VENUE : MOOT COURT

8.00 a.m. – 8.30 a.m.	Arrival of participants / Breakfast
8.30 a.m. – 8.45 a.m.	Arrival of Invited Guest
8.30 a.m. – 8.45 a.m.	Arrival of Mr. Rushdi Siddiqui, Global Head of Islamic Finance, ThomsonReuters
9.00 a.m. – 10.00 a.m.	Special Address by Mr. Rushdi Siddiqui, Global Head of Islamic Finance, ThomsonReuters
10.00 a.m. – 10.30a.m.	Refreshment
11.00 a.m. – 1.00 p.m.	PARALELL SESSION 3

VENUE

PAPER

ROOM NO.
MM 1.7

PAPERS (3.A)

Theme : Islamic and conventional banking systems: conversion, dual systems, and common issues

Shari`ah Transmission Mechanism in Indonesia Dual Banking System,
Aam Slamet Rusydiana, INDONESIA

Islamic Banks vis-à-vis Conventional Banks: A Constructive Analysis of Payment of *Zakat* and Corporate Tax,
Adnan Trakic & Sheikh Mahfuz Sanyang, MALAYSIA

Conversion Effects from Islamic Units into Full Fledged Systems for Islamic Banks in Indonesia,
Dodik Siswanto, INDONESIA

Transition of Islamic Banking from Debt-Based Modes to Equity-Based Financing: Issues and Prospects,
Muhammad Abdurrahman Saddique, MALAYSIA

Sharing of underwriting Surplus in *Takaful* Operation: Practical Perspective,
Salim Ali Al-Ali, MALAYSIA

Are Profit Rate of Islamic Banks and Interest Rate of Conventional Banks Cointegrated?: The Case of Indonesia,
Mohamad Fany Alfariis & Mohd Azmi Omar, & MALAYSIA

ROOM NO.
MM 1.8

PAPERS (3.B)

Theme : Ensuring shari'ah compliance in cross border banking practice: issues and concerns

Islamic Preference Shares: An Analysis on Light of *Tanazul* Concept,
Ahmad Basri Ibrahim, MALAYSIA

Factors Influencing the Involvement in *Shubuhah* Activities: The Case of *Shari`ah*-Complaint in Bursa Malaysia,
Essia Ries Ahmad, MALAYSIA

Issues in Foreign Exchange and its Implication for Cross Border Trading: An Islamic Perspective,
Gapur Oziev & Mustafa Omar Mohammed, MALAYSIA

Legal Maxims and Islamic Financial Transactions: A Case Study of Mortgage Contract and its Dilemma to the Muslims in Britain and the United States of America, Luqman Zakariyah, UNITED KINGDOM

Peningkatan Dana (Fundraising) Dalam mempromosikan *Waqaf*: Analisa dari Perspektif Prospek dan Cabaran,
Mohammad Tahir Zinuddin, Hisham Sabri, MALAYSIA

The Dilemma of Substitution in Islamic Finance: The Case of Substituting Gold and Silver by Banknotes by the Contemporary Islamic Jurists, Olorogun Lukman Ayinde, MALAYSIA

Signifikasi Konsep *Istibdal*: Anjakan Paradigma Dalam Sistem Pengurusan Pembangunan Wakaf,
Hisham Sabri, MALAYSIA

ROOM NO.
MM 1.9

PAPERS (3.C)

Theme : تطوير المنتجات للاستثمار والتمويل : القضايا والاتجاهات

التمويل الشخصي وتطبيقاته العامة في البنوك الإسلامية والتقليدية
Mohammad Abdullahi Ishak, MALAYSIA

الإجارة كصيغة استثمارية متجددة
Mohyi Aldin Abu Alhoul, MALAYSIA

صكوك الاستصناع من البدائل الشرعية لسندات القروض الربوية
Musa Bala Mahmud Ahmad Ibrahim, MALAYSIA

مقاصد الشريعة وأثرها في العقود: عقد الإجارة المنتهية بالتملك نموذجاً
Yusuf Adam Al-Badani, MALAYSIA

دور الصكوك الإسلامية في دعم الموازنة العامة من منظور تمويل إسلامي
Ziad J.K. Aldammagh, MALAYSIA

المشاركة المتنافسة لاقتناء الأصول كما تجرّيها المصارف الإسلامية: تجلية بعض الجوانب الشرعية،
والمقترحات لتفعيل التطبيق،
Abdullahi Mohammad & Abdurrahman Sadique, MALAYSIA

PROGRAM DAY 2 [Parallel Session 3] on next page

DAY 02
16 June 2010
Wednesday

VENUE PAPER

ROOM NO.
MM 1.10

PAPERS (3.D)

Theme : الضوابط الشرعية للقضايا المصرفية عبر الحدود ودور المجالس الشرعية

ضوابط الشريعة لعمل المصاريف الإسلامية
Abdul Azeez bin Saud Ad- dhowaihy, SAUDI ARABIA

ضوابط الشريعة في خدمة الاعتماد المستندي
Anisur Rahman Manzoorul Haq, MALAYSIA

ضوابط الهيئات الشرعية في المصارف الإسلامية
Abdul Mageed Ad-darwish, KINGDOM OF SAUDI ARABIA

قرارات الهيئات الشرعية والإفادة منها عبر الحدود المعوقات والمقترحات
Abdul Rahman Ibn Othman Ibn Rashid Al-Jaloud, SAUDI ARABIA

المصارف الإسلامية وإدارة مخاطر فقدان الثقة
Salih Zinki, QATAR

المعاملات المصرفية والمالية الإسلامية وأثرها في المقاصد الشرعية بين الماضي والحاضر
Ahmad Muhammad Husni Al-Jafri, MALAYSIA

معايير نجاح البنوك الإسلامية: تحليل متعدد المعايير
Kamal Boussafi & Faisal Sha'yad, ALGERIA

الحل الشرعي للتأمين على الحياة: دراسة في ضوء مقاصد الشريعة
Mukhtar Abubacar, MALAYSIA

FOYER
CAFE

1.00 p.m – 2.00 pm Lunch & Zuhr Prayer

MOOT
COURT

2.00 pm – 3.00 pm Cross Border Practices: Roles and Responsibilities of Islamic Financial Centers and Alternative Dispute Resolution Institutions (PLENARY DISCUSSION)
Moderator : Dato' Yasmeeen Muhammad Shariff, Hajar & Hairuddin
Speakers : Mr. Mohd Illiyas b. Seyed Ibrahim, Illiyas Advocate & Solicitor
: Assoc. Prof. Andrew White, Singapore Management University
: Mr. Rushdi Siddiqui, Thomson Reuters

3.00 pm – 4.00 pm Panel Discussion II:
Shariah Governance and Auditing in Islamic Banking and Finance Practices (PLENARY DISCUSSION)
Moderator : Dr. Rusni Hassan, IIUM
Speakers : Dr. Syed Musa Al Habshi, UNIRAZAK
: Prof. Dato' Dr. Sano Khotoub Moustapha, Republic of Guinea
: Dr. Aznan Hassan, IIUM
: Mr. Musa Abdul Malek, HSBC Amanah Malaysia Berhad

4.00 pm – 4.15 pm Presentation of Resolutions
4.15 pm – 4.30 pm Closing Remark by
- Director of Harun M. Hashim Law Centre
Dr. Ghazali Haji Jaapar
- Dean of Wisconsin Law School, USA
Kenneth B. Davis, Jr.
- Dean of IIUM Islamic Banking & Finance Institute
Prof. Dato' Dr. Mohd Azmi Bin Omar

FOYER,
MOOT COURT

4.15 pm End of IBAF Conference & Refreshments

ISLAMIC BANKS VIS-À-VIS CONVENTIONAL BANKS: A CONSTRUCTIVE ANALYSIS OF PAYMENT OF ZAKAT AND CORPORATE TAX

Adnan Trakic & Sheikh Mahfuz
Ahmad Ibrahim Kulliyah of Laws
International Islamic University Malaysia
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Abstract

This analytical research will evaluate the so called 'double taxation' duty of the Islamic banks in relation to payment of zakat as an Islamic obligation and corporate tax as an obligation towards the State. The incentive for the double taxation definitely finds its support in the concept of public interests whereby the corporate bodies are obliged to actively participate in wealth distribution through eradication of poverty and promotion of welfare and social responsibilities. However, from practical point of view, the double taxation of Islamic banks could put them in a very unfavorable position compared to conventional banks since they are obliged to pay only corporate tax. Moreover, the conventional banks are given right to engage into Islamic banking by operating Islamic divisions established under Banking and Financial Institutions Act (BAFIA) 1989 and yet many of them do not pay zakat because some of their shareholders are non-Muslims. This inequality has got to be changed. This policy will definitely harm the future implementation of Islamic banking and finance. The payment of zakat cannot be compromised as it is the core principle of the religion of Islam and thus, as such it should be enforced and duly paid by the banks in any circumstances. On the other hand the payment of corporate tax is the obligation made by the legislative body that could amend certain portions of it in order to ensure effective and prosperous implementation of both banking systems in the country. This research will propose the mechanism by which certain rebate in relation to corporate tax could be given to the Islamic banks that pay both, zakat and corporate tax. In addition, Islamic financial institutions whose shareholders might not be Muslims, should be obliged to pay ushur, as was the practice during the Caliphate Umar r.a.

THE CONVERSION EFFECTS OF ISLAMIC UNIT TO FULL FLEDGED SYSTEM ISLAMIC BANKS IN INDONESIA

Dodik Siswanto
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Abstract

The development of Islamic banks in Indonesia has a heartwarming story. It started from the establishment of Bank Muamalat Indonesia in 1992. This bank also faced a severe monetary crisis in 1998, in fact it could survive when many Islamic rural banks collapsed due to lack of management system and less government interferences. After Banking Act No. 10/1998 which permitted conventional banks to open an Islamic bank unit was issued, some conventional banks run the Islamic bank in units. After these units grew in a quite big size, some tried to convert into full fledged system. The process was the conventional banks as the owner spin their ownership off as a new subsidiary. Then, to boost the growth, they acquired existing conventional banks as an Islamic bank. This result is quite promising in the future. The paper tries to analyze the effects of this process to some proxies. They are deposits, total asset, the number of branches and stock price movement. Thus, the growth of these new full fledged Islamic banks may decelerate at the beginning phase but they can adapt and compete to the industry level after all. However, it needs a systematic and comprehensive education in Indonesia to be aware of Islamic bank so it can grow faster.

Keywords

Islamic bank, conversion, full fledged

TRANSITION OF ISLAMIC BANKS FROM DEBT-BASED MODES TO EQUITY-BASED FINANCING: ISSUES AND PROSPECTS

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Abstract

Equity financing seeks to achieve mutual sharing of risks pertaining to the enterprise and an equitable distribution of the return. Application of equity financing modes in Islamic banking is seen to be less developed, and configured in a manner that downplays their true potential. Some equity modes in vogue embody aspects more reflective of debt financing. Continued operation of these modes could not be expected to realise the fruits of Islamic economic ideals. To promote equity modes, some restriction should be introduced on the proliferation of debt-based schemes in areas of financing. Equity modes currently utilised could be further upgraded to ensure shar'ah compliance while realising their socioeconomic objectives. The aspect of existence and availability of capital at the formation of equity partnership should be reassessed, as considerable emphasis has been placed on it in Shari'ah. The mechanism employed by Islamic banks in deciding the ratio of profit sharing may require further refinement. Adopting an equity format could solve problems faced in debt-based project financing from an Islamic perspective, in addition to realising justice and fair play.