2ND QUARTER 2011 VOL 6 NO 2

Suruhanjaya Sekuriti
Securities Commission
Malaysia

malaysian ICM

Quarterly Bulletin of
Malaysian Islamic Capital Market
by the Securities Commission Malaysia

Contents

Leading Through Change

The resilience of Islamic finance has been a topic of discussion at many Islamic finance conferences, forums, workshops or media interviews. Many of the discussions go only as far as explaining that Islamic finance transactions are free from *gharar* (ambiguity), *maisir* (gambling), speculation and leverage. Are these values truly intrinsic to Islamic financial institutions (IFIs) or rather generic to financial institutions at large? Let us do a brief examination to understand the present Islamic finance landscape better.

In the period immediately following the global financial crisis of 2008/2009, Islamic banks generally performed better than their conventional counterparts. One may conclude that this was largely due to the business model of Islamic banks that precludes them from offering or having exposure to certain types of instruments which had adversely affected conventional banks.

On the other hand, the relatively higher exposure of Islamic banks in general to the construction-property sector and those relating to technology, in part due to the exclusion of certain Shariah non-compliant sectors such as gaming, tobacco and liquor, which are relatively more `defensive', would somewhat counteract the seemingly `greater resilience' of Islamic banks.

In fund management, when comparing Islamic funds to their conventional counterparts, there would be instances where one outperforms the other – like during an economic downturn, Islamic funds tend

page 6 ▶▶

Capital Market Masterplan 2: Widening Islamic Capital Markets International Base[1]

Malaysia is among the pioneers in Islamic finance and has a successful track record in innovating and commercialising many Shariah-compliant products. Arising from this, Malaysia's sukuk market has evolved into the world's largest with Bursa Malaysia as the leading exchange for listed sukuk in terms of value. Malaysia is also among the global leaders in the Islamic fund management industry.

Growth prospects for Islamic capital market to 2020

The sukuk market, where Malaysia is a global leader, represents an attractive international value proposition. There is a need to strengthen the capacity to structure multi-currency and cross-border transactions, and to build greater scale to enable Malaysian intermediaries to make further inroads into the international market.

Malaysia has a strong base in equity and equity-related products and services. In this regard, the SC will collaborate with industry players to expand the range of Shariah-compliant stockbroking and portfolio products and services. At the current stage of development, there is also a need to strengthen the service and operational infrastructure so that domestic Islamic products and services can be effectively marketed to global customers. This requires a widening of international distribution channels coupled with intensified profiling of Malaysia's ICM.

ICM by segments

Market segments	2000 (RM bil)	2010 (RM bil)	CAGR % (2000-2010)	2020 (RM bil)	CAGR % (2010–2020)
Market cap of Shariah-compliant companies	254.1	756.1	11.5	1,551.1	7.4
Sukuk	39.6	294.0	22.2	1,331.5	16.3
Total	293.7	1,050.1	13.6	2,882.6	10.6
Shariah-compliant unit trust NAV	1.7	24.0	30.3	158.0	20.7

Source: Securities Commission Malaysia estimates

Malaysia already has the advantage of having a capital market where the majority of assets are Shariah-compliant, which therefore attracts participation of both Shariah and conventional investors. The broad customer demand and liquidity provide positive reinforcement while Islamic products and services also benefit from the advantages of the broader investor protection framework with the additional assurance of greater consistency and clarity in Shariah governance.

Greater internationalisation of the capital market is a critical aspect of the strategy to strengthen Malaysia's positioning as a global ICM hub. This will be complemented by strategies to strengthen the distinctive value propositions offered by Malaysia for a broad range of Islamic intermediation activities.

There is also a need to accelerate the building of critical mass for the onshore portfolio management. The development of a significant Islamic fund management industry is critical to build domestic take-up capabilities for innovative domestic and international Islamic products. In this regard, widening the range of Shariah-compliant products – in the form of collective investment schemes, indices, ETFs and REITs – and

[1] The article is extracted from *Capital Market Masterplan 2*, a strategic blueprint for the development of the Malaysian capital market over the next 10 years. The Masterplan was published in April 2011.

the diversity of their investments by sector and by geography, can attract more domestic and international investors. Mutual regulatory arrangements to facilitate cross-border distribution will be expanded.

A seeding strategy will be developed to increase the diversification of Islamic investment strategies and styles. Priority will be placed on nurturing Islamic fund management services with high value-add such as the Shariah-compliant venture capital and private equity industries that invest based on the principles of active partnership and risk-taking, and socially responsible investing based on Islamic principles. In this context, the Islamic fund management industry will play a key role in developing products and services that not only generate economic returns but also comply with universal ethical standards to strengthen the distinctive value proposition of Malaysia's ICM.

In order to further facilitate internationalisation of the ICM, the SC will promote a shift from a Shariah-compliant approach to a Shariah-based approach where the underlying structures of products such as *mudarabah* and *musharakah* would originate from risk-sharing principles and offer significantly different pricing and returns characteristics. There is a need therefore to focus on product innovation and development efforts that will provide a comprehensive array of Shariah-based products for the industry. Towards this end, there will be further development of the Shariah legal, regulatory and governance framework.

The shift to a Shariah-based approach will require a higher level of risk tolerance and acceptance of the longer gestation arising from participating in business ventures with more direct linkages between risk and returns.

> *"...SC will also collaborate with the industry to identify potential hub opportunities in ICM-related services, particularly in the provision of middle and back-office functions."*

The SC will also collaborate with the industry to identify potential hub opportunities in ICM-related services, particularly in the provision of middle and back-office functions. This will be supported by initiatives to ensure a facilitative operational, tax and human capital infrastructure to enhance the attractiveness of Malaysia as a base for regional and international operations.

The depth and width of Malaysia's ICM has broadened the base of intermediation capabilities in terms of Shariah research, advisory and compliance expertise. Further efforts will be made to enhance Malaysia's contribution to Shariah research through increased international collaboration on Shariah research and product development to sustain the rapid pace of innovation. The SC will also develop a code of conduct for Shariah advisers and further strengthen training and professional education to increase the supply of Shariah experts on a broad range of capital market activities and to maintain Malaysia's position as a leading centre for ICM.

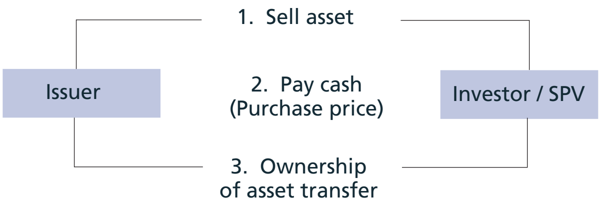
Update List of Shariah-Compliant Securities

The SC released an updated list of Shariah-compliant securities approved by its SAC. The updated list which took effect on 27 May 2011, featured a total of 847 Shariah-compliant counters which constitute 89% of the total 957 listed securities on Bursa Malaysia. The list includes 24 newly-classified Shariah-compliant securities and excludes five from the previous list issued in November 2010.

Encumbered Asset as an Underlying Asset For Sukuk Structuring

The main characteristic in a sukuk structuring especially sukuk based on *'uqud mu`awadah* (contracts of exchange) such as *bai' bithaman ajil, murabahah, ijarah* and *istisna'* is the transfer of ownership of the underlying asset through sale. This characteristic distinguishes sukuk from conventional bonds as the latter merely involves exchanging of certificates with money.

In structuring a sukuk using *'uqud mu`awadah*, the issuer must first have an underlying asset. Issuers who need funding will sell the asset by cash (through a sale and purchase agreement) to investors or special purpose vehicle (SPV) before the next transaction is executed. As a result of this transaction, the issuer will receive cash while the ownership of the asset will be transferred to the investors or the SPV. This is described in the diagram below:



The issuer must have complete ownership over the asset. In other words, the asset must be free from any encumbrances before it can be sold to investors or SPV in the structuring of sukuk. However, there are cases where the asset intended to be used as the underlying asset in the structuring of sukuk is encumbered. This is common in the following two scenarios:

Scenario 1: Asset charged to financial institution

This situation commonly occurs in financing a purchase of an asset. For example, a buyer who purchases an asset via financing from a financial institution. The buyer will then charge the asset to the financial institution. In other words, the buyer who wishes to obtain the financing will act as chargor and will create a legal charge on the asset by naming the financial institution as the chargee. When the charge on the asset has been registered, the asset will become a security to the chargee, where it can sell off the asset if the chargor fails to settle his/her loan.

The encumbrance in this context exists due to the fact that the asset has been charged to a financial institution and the owner intends to use the asset for another purpose. Therefore, from the Shariah perspective, this issue is viewed from the context of charge (*al-rahn*). The Shariah Advisory Council (SAC) of the SC also agreed with the views given by all four *mazhab* which state that when a chargee (for example, a financial institution) permits the chargor to enter into a transaction involving the charged asset, then the chargor may execute the transaction as agreed and permitted by the chargee.[1]

Scenario 2: Jointly owned asset that cannot be divided (undivided shares)[2]

In this context, the encumbrance that exists is caused by the jointly-owned asset which cannot be divided (i.e undivided shares). All owners or partners of the asset have equal ownership or partnership over the asset. They are registered as the legal owners of the asset.

[1] For examples, please refer to: al-Kasani, *Bada'i` al-Sana'i`*, j.8, h 3740; al-Dusuqi, *Hasyiah al-Dusuqi*, j.3 ,h 242, al-Syirazi, *al-Muhadhdhab*, j.1, h.414, al-Buhuti, *Kasysyaf al-Qina`*, j.3, ,h. 278, lihat juga: Wizarah al-Awqaf wa al-Syu'un al-Islamiyyah, al-*Mawsu`ah al-Fiqhiyyah*, j.23, h. 185; al-Da`ilaj, Mubarak b. Muhammad b. Hamad, *al-Rahn fi al-Fiqh al-Islami*, h.600.,

[2] Undivided share: Term relating to property held jointly or in common (On-line Law Dictionary – CLJ Law).

If one of the owners of the asset wants to sell the jointly-owned asset to another party, then the question that arises is whether the asset can be sold without obtaining the consent of the other partners or owners?

From the Shariah perspective, whenever the partners have agreed or have given their consent willingly (*taradhi*) to the other partner to sell a jointly-owned asset, then the sale and purchase transaction is permitted. Islam has clearly stated that when a sale and purchase transaction is done willingly, then it is lawful. This is as stated in the Quran Surah 4 Verse 29.

> *"You who have believed, do not consume one another's wealth unjustly but only [in lawful] business by mutual consent."*

SAC Resolution

In the two scenarios above, the SAC has resolved that the encumbered asset such as asset charged to a financial institution or a jointly-owned asset may be used as an underlying asset in the structuring of sukuk. Nevertheless, consent and agreement must be obtained from the chargee or the partner (of the jointly-owned asset) before the asset is used as an underlying in sukuk structuring.

"In the two scenarios above, the SAC has resolved that the encumbered asset such as asset charged to a financial institution or a jointly-owned asset may be used as an underlying asset in the structuring of sukuk."

Conclusion

In structuring a sukuk, the underlying asset used must not only be Shariah-compliant but also free from any encumbrances as explained above. However, if the parties involved (for example, sukuk issuer) obtain the other party's agreement and consent should asset encumbered, then the encumbrances on the asset can be removed. As such, the asset may be sold and bought or become the underlying asset in the structuring of sukuk.

cover page ▶▶

to be more resilient whereas in an economic upturn, conventional funds would typically enjoy stronger recovery. Nevertheless, studies have shown that in the long term, the differences in performance between Islamic funds and conventional funds are insignificant.

Reflecting upon the global credit crisis, Islamic finance activities that are exposed to debt and leverage could not be more resilient than their conventional counterparts for the fact that the Islamic financial institutions are exposed to similar risk elements. This article looks at the present state of Islamic finance and also at alternative models espoused by economists.

Evolution of Islamic finance

Islamic trade-finance transactions were entrenched in Medina and later Makkah when the holy Prophet Muhammad S.A.W endorsed trading practices like the principles[1] in *murabahah, salaam, istisna`* and *ijarah* and partnership contracts of *musharakah* and *mudharabah*. Contrary to common understanding, contracts under *uqud mu`awadah* (contracts of exchange) are not credit nor financing per se but rather methods of pricing a product or service that was usually settled on spot. *Murabahah* is a pricing method which involves a mark-up and is paid upon sale; *ijarah* is a usufruct (the right of one individual to use and enjoy the property of another, provided its substance is neither impaired nor altered), and the rent is paid when due; salam and istisna' are orders for future delivery payable upon order[2]. A premium, if the payment is deferred, is generally permissible because it is premised on trade.

> *"...The architects of modern Islamic finance assert that the present platform is the `reality' required for Islamic finance to establish itself and grow, i.e. only by replicating conventional structures can Islamic finance create the breadth and depth of its finance products."*

What the present day Islamic banks have done is to embed the trade element so that settlement of cash can be made on deferred basis. This could be achieved through *tawarruq, al-inah*, among others. Further innovations were made to *ijarah, musharakah, mudharabah, wakalah* structures that enabled the legal and economic outcome to become a debt. The architects of modern Islamic finance assert that the present platform is the `reality' required for Islamic finance to establish itself and grow, i.e. only by replicating conventional structures can Islamic finance create the breadth and depth of its finance products.

Critics on the other hand view the above as back-door to riba[3]. In form and substance they assert that the concept of debt was by *qard hasan* or benevolent loan for those who could not afford to pay on spot, therefore he deferred price must be similar to avoid riba. They propagate that for those lacking capital, financing was permitted by participation in the form of uqud isytiraq (participatory contracts) of *mudharabah* or *musharakah* so that there was equitable risk sharing.

There are also those who tolerate Islamic finance but emphasise that it is currently in a state of transition. Their view is that the replication approach to Islamic finance is not in harmony with Shariah and therefore the current state of Islamic finance is a stage of progression in the overall journey towards putting Islamic finance onto the financial mainstream.

From the above, we examine the phases in the development of Islamic finance as well as the challenges and issues confronting Islamic finance today, and

1 Such practices were believed to have origins from the Babylonian civilisation.
2 Though in certain cases, deposits (*urbun* or *hamish jiddyah*) were permitted.
3 Through the mechanism of *tawarruq; musharakah* and *mudharabah* transactions with purchase undertakings at par value, *tanazul*, establisment of reserve account; and penalties on late payment;

we probe possible changes to the industry in order to differentiate Islamic finance from conventional finance.

First phase of modern Islamic bank

In the late 1940s, there were several models or writings of Islamic banking premised on *mudharabah*. This was to be the revival of Islamic finance which had been overwhelmed by *riba*-based financing after the decline of the Arab-Islamic Empire in the 14th century. Although there were several pioneering works in India-Pakistan and Egypt, the late Dr Ahmad El Naggar's Mit Ghamr Bank was to be the most profound.

For some of the early Islamic banks that operated on *mudharabah* principles, many were devoid of reality, not to mention the lack of governance and professionalism. Liquidity, capital protection, risk profiles were some of the other issues. They ploughed savings into ventures or investments that failed soon enough. This led to their ultimate demise. So the Islamic finance utopia disappeared either because it could not meet the needs of customers or due to the (lack of) system.

Second phase of modern Islamic banking

This began in 1974 where Islamic banks took a systematic approach in the form of debt-based financing via replicating conventional banking products – what is generally termed as the Shariah-compliant approach. Later the Islamic finance industry adopted the fractional banking framework. The early architects of Islamic banks realise that to be successful, Islamic banks have to offer products that meet the economic needs of their customers. By riding on the conventional banking framework, Islamic banks have more flexibility in complying with standards, regulations and legal framework. Indeed the process of replicating the *modus operandi* of conventional banks for use in Islamic banks has been an efficient approach to enable Islamic finance to be part of the banking-financial system and to play a role in the economy. Although not contrary to the Shariah, a Shariah-based approach would be more consistent with the true spirit of *maqasid* (objective) of the Shariah.

The Shariah perspective of debt

Predominantly, many IFIs adopt the debt-leverage approach because it meets the demands of customers. Another reason why sukuk and other financings are `structured' as debt instruments is to avoid the high risk weighting for capital adequacy purposes under Basel II. Also some Shariah-compliant products may be applied for speculative purposes (futures, swaps, options, hedge funds); risks being wholly transferred to the clients (debt); or money being channeled to the non-real sector (credit).

Current Islamic finance products have been designed from universally accepted financial products. Since Shariah scholars focus on the structure's compliance to Shariah, matters on actual usage become secondary in nature – the *maqasid* Shariah is therefore not achieved. Consequently, leveraging, derivatives, debt securitisation, structured products, short-selling may become permissible in the context of risk transferred (debt) products. Dr Ibrahim Warde, compares Islamic finance transactions to *contractum trinius*[4]. This is notwithstanding the fact that the Islamic finance products incorporate Shariah principles that make them Shariah-compliant.

The economic perspective of leveraged finance

The financial system is presently supported by a debt-based system and the drawback is, it produces financial instability, where risk transfer (through debt instruments) together with high leverage weakens the link between the financial and real sector. This necessitates some sort of intervention from central banks. An IFI which operates on this model would only be subservient to monetary policies and similarly exposed to risk prevalent in conventional financial institutions. Islamic finance will therefore bear little difference to conventional finance as the

[4] Ibrahim Warde, contract used by medieval Christians to circumvent the church's ban on interest. It consisted of three contracts – an investment, a sale of profit and an insurance policy – each of which was permissible on its own but when combined mimicked an interest-bearing loan.

economic outcome remains similar to interest, where IFIs are able to make money from debt and leveraged transactions without assuming the transfer of risks from the borrower.

It can be said that IFIs lag behind conventional financial institutions in terms of product sophistication as well as in their liquidity risk management and stress testing, therefore IFIs may be at a higher risk. As IFIs become more sophisticated, they would eventually assume some of the risky instruments used by their conventional counterpart. Since market discipline or rather indiscipline is not only unique to conventional financial institutions, IFIs may suffer the same economic fate.

Potential for legal conflicts and accounting issues

Another pertinent setback is that the current practice of adopting conventional finance practices into Islamic finance also creates uncertainty and problems as a result of potential and ensuing conflicts between Shariah and both the legal framework and accounting treatment.

There have been several notable cases of legal disputes in sukuk[5]. This article will not deliberate on the cases, but briefly these legal disputes arose because the sukuks were premised on the Shariah principle of *musharakah, mudharabah* or *wakalah* contracts but yet when lawyers drew up the contract, it was crafted as a debtor-creditor relationship. Naturally when in default, issuers will attempt to dodge paying up by claiming that the contract is inconsistent with Shariah principles, be it profit-loss sharing or agency contracts.

The courts have so far judged the cases strictly from the legal contractual point of view without considering the Shariah position, as the Shariah is not a governing body of law but merely embodies the Islamic religious principles.

Recognising the challenges arising from possible conflict between legal contractual laws and the Shariah[6], Malaysia has established the Law Harmonisation Committee to achieve, among others, compatibility between the existing laws and the Shariah.

> *"...The debt-fuelled model of growth pursued in Britain is fundamentally broken. We need to produce a new model that is more sustainable."*

Demands to adopt risk-sharing principles in the Islamic finance industry

Many Islamic finance practitioners understand that the present Islamic finance platform, which is debt-based, is at most only second best. This topic was deliberated during the SC-OCIS Roundtable in Kuala Lumpur in March 2010.

Among others, the fallback of Islamic finance's debt-based contracts includes the necessity for *tawarruq, tanazul,* issuer's reserve account, penalty on late payment and benchmarking. There is also oppression in lending practices (except for *qard*), where the lender has the right to claim excess or loss as well as making the person bankrupt – the evil of debt and usury. Since debt and leverage has no semblance to the real economy, what has been promoted by economists instead is the development of *uqud isytiraq* where the spread and allocation of risk amongst participants allow consumption smoothing. This can be achieved by weakening the correlation between income and consumption, that is, a reduction in economic shocks.

Undergoing change

Thus, there is a need for a new architecture of the financial system. Today's financial crises do not arise from economic instability but from the very design of

5 Beximco Pharmaceuticals Ltd vs. Shamil Bank of Bahrain; TID vs Blom Development bank; East Cameron Partners.
6 It is not that the Shariah is in conflict with the legal law but more a result of the objective of the legal documents. For example where many *musharakah* structures (profit & lost-sharing) have some elements of loss-sharing removed in order to be debt-like.

the financial markets itself. Even the IMF has thrown its weight in favour of equity financing in the form of foreign direct investments as opposed to debt-creating inflows. British Chancellor, George Osborne also said recently: "The debt-fuelled model of growth pursued in Britain is fundamentally broken. We need to produce a new model that is more sustainable."

Many of you may have read the book or seen the video 'Who Moved My Cheese'[7]. It describes how fear holds us back and impedes us from taking action because we are afraid that the outcome of the action is something bad. This simply holds us back from accomplishing new things. We resist change because we refuse to get out of our comfort zone. Similarly, our fear builds up from our notion that the present Islamic finance is already tried and tested, thus why should we discard something that is successful and go for something that is untested?

To answer this, the reward of a Shariah-based approach is that it looks to finance real economic activities with a more direct risk-return trade-off model. There should be channeling of savings into investments that create businesses and jobs, which in turn bring about socio-economic improvement. The Shariah-based approach represents diversity to the existing model and will offer various stakeholders new opportunities and choices. It is also in line with the general understanding among scholars of the essence of the Islamic economic ethics built on fairness, risk sharing, an investment orientation and reducing excessive use of leverage. Risk-sharing products would also absolve the dilemma faced by Shariah scholars since the *maqasid Shariah* is inherent in such products.

Like the characters in 'Who Moved My Cheese', we must not only be aware of the success of Islamic finance, we must also know if it is not keeping up with the times. If we merely replicate conventional finance, we cannot be oblivious to the fact that crisis is something inherent in a leverage system. Thus we need to continuously remind ourselves that it is safer to move and change with situations rather than remaining oblivious or staid. By adapting to change, we will see that change leads to something better and brings greater opportunities.

A shift to *uqud isytiraq* for medium to long term finance needs can be developed if the industry becomes more receptive to this platform. And two of the best participatory platforms, cited by Dr Abbas Mirakhor[8], that can be further developed, from the market and structural perspective would be the stock market and venture capital. A specialised fund is another platform that can be used. Notwithstanding this, there may still be a practical need for short-term instruments and low risk requirement which would be satisfied by debt-based contracts.

Taking cognisance of this, the SC has incorporated our intention to encourage a Shariah-based approach in the Capital Market Masterplan 2. With the developmental milestones in Islamic finance and maturity in the industry, Malaysia certainly has the structural advantage and resource capacity to undertake this shift especially when there is support from the government to build on the venture capital industry, innovations undertaken by Bursa Malaysia and incentives for the Islamic fund management industry.

We quote His Royal Highness Raja Nazrin Shah, the Crown Prince of Perak and Financial Ambassador to the Malaysia International Islamic Financial Centre (MIFC), "....As the Islamic finance industry advances in emerging markets, it is imperative that its developmental perspective be given greater emphasis so as to fully embrace and reflect the link between Islamic finance and societal needs. As equity-based and asset-backed financing grows, the fruits of globalisation can be distributed more widely and more equitably among participants. It is up to regulators and practitioners to fully harness this opportunity for the betterment of the people in emerging economies and the *ummah* as a whole..."[9]

---

7 A motivational book, *Who Moved My Cheese? An Amazing Way to Deal with Change in Your Work and in Your Life*, published by Spencer Johnson.

8 Whither Islamic Finance, a paper by Abbas Mirakhor.

9 Keynote speech on the theme 'Islamic Banking and Finance in Emerging Markets – Seizing Opportunities, Overcoming Challenges' to the Plenary Session 2 at the World Islamic Economic Forum (WIEF) which was held in Astana, Kazakhstan on 8 June 2011.

Strengthening Investment Ties Through Islamic Finance[1]

Introduction

Islamic finance underwent a slow growth in the 1970s and 80s. However, it has expanded rapidly, registering growth rates of 15% per annum in the last decade, with sukuk issuances growing by as much as 40% in 2009[2]. While expansion is most rapid in Asia and the Middle East, its growth has accelerated in non-Muslim-majority nations too. Developed economies like the UK and US now have licensed Islamic banks, as well as sukuk issues managed by large investments banks in London and New York.

Total Islamic financial assets is estimated to expand to US$4 trillion over the next few years from current levels of US$1.2 trillion[3]. This growth will be from across all asset classes. There is a strong upside potential for Islamic finance to play a more active role to translate global liquidity into productive investment instruments to finance global growth. This can happen not only in Asia or the Middle East, but across the globe. Opportunities exist to use Islamic finance more aggressively to develop financial sectors and deepen global business connectivity in a safe and sound financial environment.

This article focuses on two aspects of the contribution of Islamic finance in bringing about new growth opportunities. The first is the role of Islamic finance in financing global growth through mobilising and intermediating savings and improving access to finance, and the other is the challenge of turning Islamic finance into a mainstream and global financial system, thus contributing to current efforts to build resilience and stability in the financial sectors.

Islamic finance provides new options to increase savings, investments and trade

When we aspire to raise the profile and role of Islamic finance in strengthening business ties between regions, we should not merely aim to substitute conventional finance with Islamic finance. We should aim for Islamic finance to actually contribute to the growth of financial assets. In this regard, it is important to address the fundamental issue of savings and access to finance. In order to finance new businesses, and for investments and trade to expand, savings must be mobilised and intermediated. In many countries and regions, there is a need to establish Islamic financial institutions to provide financial services to those who prefer to place their funds in a financial system that is compatible with their belief system.

This will encourage a larger share of savings to be mobilised to finance economic activities, which will in turn, unleash new opportunities for Islamic investments while facilitating the funding of economic growth, closing the gap in entrepreneurial financing and making available the supply of risk capital to support the creation of new assets in the financial market.

Through collaboration and sharing of learning, countries with experience and expertise can assist in building appropriate institutional, regulatory and legal frameworks in order to develop Islamic financial markets that will support the goal of sustainable economic development. Increased liquidity in the more advanced Islamic financial markets is stimulating increased demand for Shariah-compliant assets. Such markets can benefit through offering new products, financing at competitive cost, investing in alternative modes, and helping businesses create value with new alternative financial services.

Malaysia has taken major steps in expanding the development of Shariah-compliant products and services to contribute towards building demand for Islamic finance internationally as well as developing Shariah-compliant tools that can be utilised to facilitate and support cross-border transactions.

---

1 This article is extracted from the keynote address delivered by the SC Chairman, Tan Sri Zarinah Anwar, at the 2nd Annual World Islamic Banking Conference – Asia Summit, in Singapore, on 8 June 2011.
2 'Capturing the Trillion Dollar Opportunity', *The World Islamic Banking Competitiveness Report 2007–2008*, McKinsey & Co.
3 'JEF 2011 Debates the Future Needs of Islamic Finance', *Global Islamic Finance Magazine* (2011).

Malaysia's Islamic fund management industry continues to expand as reflected by the increase in the number of Shariah-compliant funds as well as Islamic real estate investment trusts (I-REITs) and Islamic exchange-traded funds (I-ETFs). The sukuk market, which for several years now has accounted for the majority of the world's issuances of sukuk, continues to attract both issuers and investors including foreign participants, while the IPO Shariah screening process provides certainty and confidence in the Shariah-compliant nature of companies listed on the stock exchange. This includes the screening of foreign IPOs which facilitate the promotion of cross-border Shariah-compliant financing.

Additionally, the Bursa Suq Al-Sila', an international commodity trading platform managed by the Malaysian stock exchange enables liquidity management by financial institutions through cross-border, multi-currency, commodity-based Islamic financing and investment transactions pursuant to the Shariah principles of *tawarruq, murabahah* and *musawamah*.

At the end of 2010, the International Islamic Liquidity Management Corporation was established as a collaborative effort by several central banks to assist institutions offering Islamic financial services in addressing their liquidity management.

> *"...At the end of 2010, the International Islamic Liquidity Management Corporation was established as a collaborative effort by several central banks to assist institutions offering Islamic financial services in addressing their liquidity management."*

Expansion of Islamic finance is consistent with objectives of greater resilience in financial markets and global financial stability

Increasing the share of Islamic finance in funding new business opportunities will contribute to building resilience and stability in financial markets. Islamic finance offers a value proposition that is based on socially responsible and ethical practices which emphasise sound risk management principles. It is about dealing in real transactions and sharing profits and risks in an equitable manner.

Islamic finance emphasises transparency and disclosure, enhancing discipline that ensures growth with financial stability. Greater integration of Islamic finance into the global financial system therefore, can facilitate discipline and governance, with the strengthened linkage between real economic activities and the financial sector as represented by the inherent requirement that financial transactions must be backed by real assets, thus enabling Islamic finance to provide a natural hedge that will ensure greater stability.

Economic and business relationship between Asia and other Islamic financial centres

It would seem logical to enhance the cross-border connectivity of Islamic finance by involving two regions that are already adopting it on a significant scale. It is natural therefore that we should look towards Asia and the Middle East to spearhead not only further expansion of Islamic finance, but also to deepen business and investment linkages. This appears consistent with a recent World Bank study, which found that the corridor approach of agglomeration of economic activities is effective in enhancing growth. By focusing on clusters of economic activities, scale is achieved to build competitiveness and deepen business ties.

Islamic finance institutions and markets in Asia and the GCC provide opportunities for building scale to expand the growth of Islamic finance activities. This is facilitated by the growing expansion in trade and investments within this cluster, which has risen by 12% per year since 2006. There is also increasing

---

[4] 'GCC trade and investment flows' Economist Intelligence Unit (2011).
[5] *Ibid.*

Asian foreign direct investments into the oil and petrochemical sectors of GCC economies. Japanese companies have been investing in the region since the early 1960s. On the other hand, Kuwaiti and Saudi Arabian oil companies are investing in refineries in China[4]. Other GCC investments are also seen across Asia, for example in the telecommunications sector[5], driven in part by an extended period of low interest rates and low yields in the US and European markets, as well as the adoption of new policies to manage oil surpluses and to seek higher returns on investments.

There are therefore enormous opportunities to finance the expanding trade between both regions, the value of which is growing steadily, through Islamic trade instruments. At the same time, capital investments among countries in the two regions can be enhanced by the availability of Shariah-compliant structures to deepen and broaden the capital markets in this cluster which can then serve as a model for similar clusters to develop within other regions as well as across regions.

Challenges to expanding Islamic financial services to strengthen cross-border business and investments ties

Islamic finance clearly offers a unique value proposition in contributing towards financial stability and in expanding access to finance for both new and existing businesses. The challenge is in further deepening and broadening the role of Islamic finance globally and to facilitate the wider use of Islamic financial instruments for global trade and investments.

> *“To enable Islamic finance to create stronger economic and business ties between Asia and the rest of the world, the right supporting infrastructure needs to be put in place.”*

Expanding Islamic finance into new territories and across financial centres however requires addressing the legal, institutional and regulatory challenges. To enable Islamic finance to create stronger economic and business ties between Asia and the rest of the world, the right supporting infrastructure needs to be put in place. There is a need to deepen the legal and regulatory framework to ensure effective resolution of disputes and to facilitate restructuring of problem financing instruments. An important consideration in this regard is the development and availability of clear and consistent documentations that will provide a sound basis for resolving disputes and facilitating the flow of funds and ownership transfers of underlying assets.

At the same time, clarity and consistency with regards to the interpretation of the Shariah will go a long way towards assuring the confidence of issuers and investors, and preserving Shariah considerations based on the virtues of ethics, shared values and governance. In this regard, Malaysia has taken the approach of making it mandatory for the courts to refer to the rulings of the SACs of the SC and Bank Negara Malaysia (the Central Bank) on questions concerning Shariah matters. This referral system preserves the sanctity of Shariah rulings and consistency in the interpretation and application of Shariah principles for Islamic finance transactions in Malaysia. This is especially important in the light of increased product diversification and complexity.

On the regulatory front, a key agenda for Islamic finance is the development of regulatory, supervisory and risk management frameworks that will enhance the resilience and soundness of Islamic finance and strengthen investor protection; a framework that focuses on transparency, accountability, equitability, ethics and better governance. In this regard, a key aspect of Malaysia's regulatory approach is to ensure that investors in Malaysia's Islamic capital market receive the same degree of clarity, certainty and protection as an investor in the conventional market. We emphasise a common regulatory approach to regulating our Islamic capital market based on the objectives and principles of regulation by the International Organization of Securities Commissions (IOSCO).

In order to better facilitate cross-border relationships, there is a need for more intensive international co-ordination of regulatory approaches and supervisory oversights. At the core, will be co-ordinating risk management and facilitating the exchange of information to ensure satisfactory oversight of the market and the settlement of disputes.

Meeting cross-border needs also calls for a system of regulatory mutual recognition that will enable accessibility and offering of investment products across jurisdictions. Many markets recognise the importance of partnerships and have taken measures to collaborate through the establishment of mutual recognition arrangements with each other. Malaysia has been proactive in this regard and the SC has signed several mutual recognition agreements (MRAs) including those for the distribution of Islamic mutual funds.

Conclusion

There are many opportunities in expanding Islamic finance. The growing demand for Islamic finance globally and the strong interest shown by international financial markets to develop their own Islamic finance industry will help push the boundaries of Islamic finance further. For instance, the World Bank has formally recognised Islamic finance and has formally designated it as a priority area in its financial sector programme, with a commitment to help strengthen the institutional development of the industry[6]. This augurs well for efforts to promote a global approach to developing Islamic finance and integrating it into the international financial system.

Much however remains to be done by lawmakers, regulators and market participants to expand the cross-border growth of Islamic finance. Co-ordinated efforts must be put in place to overcome the challenges faced by the industry, including the need to create a wider diversity of products, enhance the availability of information and sharing of learning, develop a comprehensive and reliable Islamic finance database, and facilitate consistency in the interpretation of Shariah and the resolution of disputes. A critical area that needs attention is the shortage of skilled and experienced professionals in the industry.

The global financial crisis demonstrated the need for markets to be founded on sound business principles. In this regard, the principles of Shariah with its inherent prudent and socially-conscious orientation, are consistent with ongoing global regulatory and supervisory reforms, and will facilitate the mainstreaming and integration of Islamic finance into the global financial system.

[6] 'World Bank declares Islamic finance a priority area' Arab News (2011)

The Role of Regulation in Overcoming Challenges in Developing Islamic Markets[1]

Current state of Islamic finance

Islamic finance has achieved substantial progress, especially in the past two decades, recording annualised growth rate of about 14% over the last 15 years. It has made further headway in the so-called traditional Islamic markets such as Malaysia and the Gulf Co-operation Council (GCC) countries, while penetrating new markets such as in parts of Europe and Africa.

The Islamic finance industry is widely estimated to be worth about US$1 trillion currently. While Islamic banking assets account for a large part of this value, the segment that has enjoyed especially strong growth in more recent years is sukuk. Over the last 12 months to May 2011, the value of sukuk outstanding globally increased by 30% to slightly above US$140 billion. Meanwhile, the size of global Islamic funds was valued at US$48 billion as at May 2011.

While the facts and figures for Islamic finance are very encouraging, it is instructive for us to remain cognisant of the challenges faced by the industry which, if not overcome, may retard its growth momentum in the future.

Key challenges facing Islamic finance

One such challenge is addressing elements of uncertainty, and in some cases disparity, in the legal, regulatory and tax frameworks for Islamic finance when compared to its conventional counterpart. The challenge becomes more acute when we go into cross-border situations where multiple legal, regulatory and tax jurisdictions apply. As a result, going through the Islamic finance route may – at times – be less clear or economical than the conventional route. Until these issues are satisfactorily addressed, there will be some degree of apprehension among industry players and practitioners to fully embrace Islamic finance.

Achieving greater harmonisation in interpretation of Shariah principles also represents a major challenge for the industry. While the differences in opinion are not prevalent, the inability to achieve complete harmonisation is, to some extent, affecting efforts to build up scale in terms of product development, distribution and expertise, as well as cost efficiencies. Efforts to truly globalise Islamic finance through cross-border transactions and offering of products and services are also being hampered.

Another challenge is the development of human capital with the relevant skill sets. Financial institutions offering Islamic finance services and products, either in fund management, banking or takaful, have been facing an acute shortage of experienced and skilled personnel to fill senior positions in their respective organisations. This, in turn, has limited the pace of innovation and expansion of product range in Islamic finance.

Role of regulators and regulations in addressing the challenges

What can regulators, or authorities in general, and proper regulations do to address these challenges? Much can be done, and over recent years, much has been done. Among others, the UK government introduced several tax and legislative changes over the past decade, aimed at putting Islamic financial products on the same 'playing field' as their conventional counterparts to spur the development of Islamic finance in the country. Meanwhile, Malaysia has established the Law Harmonisation Committee in 2010 to review existing and new laws with the objective of harmonising the laws to be Shariah compatible, which in turn further facilitate and support industry development.

In addition, the roles and contributions of international bodies such as the Accounting and Auditing Organisation

[1] This article is extracted from the welcome remarks given by the SC's Executive Director of ICM Business Group, Zainal Izlan Zainal Abidin, at the 6th Islamic Markets Programme on 27 June 2011.

for Islamic Financial Institutions (AAOIFI), the Islamic Financial Services Board (IFSB), and the International Islamic Financial Market (IIFM) have been instrumental in promoting global supervisory and prudential standards and best practices for institutions that provide Islamic financial services.

Notwithstanding the wide ranging regulations that have been established within the Islamic finance sphere, there is always scope for appropriate and forward-looking regulations. Overall, regulations play a pivotal role in facilitating the growth of Islamic markets across the globe. One of the key objectives of regulations is to provide adequate level of investor protection while creating a conducive environment for the industry to operate in. Proper regulations are also important in establishing the framework to meet cross-border needs. Therefore, a constantly evolving regulatory environment that takes into account the industry dynamics is an inherent requirement for further development of Islamic finance.

The SC has been proactive in implementing various initiatives to provide a conducive environment for the adoption of Islamic capital market practices in the country. Guidelines to govern the issuance and offering of a wide range of capital market products and services have been put in place to ensure orderly development of the Islamic capital market, and these guidelines are regularly reviewed to ensure their relevance and effectiveness.

There is also a strong Shariah governance framework in the form of the SAC of the SC which evaluates and deliberates on Shariah matters in respect of capital market products and services in Malaysia. The workings of the SAC provide greater clarity and consistency on capital market issues pertaining to the Shariah.

Recently, the SC has published Malaysia's Capital Market Masterplan 2 (CMP2), which was drawn up to chart the development of the capital market from 2011 to 2020. Under CMP2, the primary objective in respect of the ICM is to widen its international base. Among the strategies identified to support this objective and which will also address some of the challenges mentioned earlier are the following:

- Strengthening training and professional development to increase the supply of Shariah experts;
- Increasing international collaboration on Shariah research and product development; and
- Strengthening service and operational infrastructure to expand ICM's international reach.

Conclusion

Various initiatives have been taken to foster further growth of Islamic finance. The task now is to be better informed about the challenges facing the industry and remain committed to efforts in overcoming these challenges.

News Round-up

Malaysia International Halal Showcase 2011

The SC participated in Malaysia International Halal Showcase 2011 (MIHAS 2011) held from 6 to 9 April 2011 at Kuala Lumpur Convention Centre. MIHAS 2011 was hosted by the Ministry of International Trade and Industry (MITI), and organised by the Malaysia External Trade Development Corporation (MATRADE). With the theme of "Expanding Your Business Horizon", the aim of MIHAS 2011 was to facilitate the sourcing and selling of quality halal consumables, products and services globally as well as to provide a platform for the largest annual gathering of halal industry players and entrepreneurs.

MIHAS 2011 embraced the *halal* concept in all its dimensions from pharmaceuticals and herbal products, cosmetics and healthcare to Islamic investment, banking and takaful. ICM was identified by the organiser as one of the key components of the exhibition, together with other Islamic financial services.

The SC booth was set up to showcase ICM development and its milestones in Malaysia. In addition, the SC distributed promotional materials to visitors on the Malaysian ICM covering market infrastructures, products and services, with the purpose of creating greater awareness on the development and regulations of the ICM.

Workshop on Islamic Finance: Structure and Instruments

The workshop was co-hosted by Islamic Development Bank and Bank Negara Malaysia from 25 to 29 April in Kuala Lumpur. The workshop highlighted key developments in Islamic finance including the governance framework, as well as risk management and liquidity management in Islamic financial institutions. The SC representatives presented three topics – `Overview and Development of Islamic Capital Market', `The Universe of Islamic Capital Market Products, Services and Structures' and `Addressing Contemporary Issues in Islamic Finance'.

Roundtable on Islamic Fund Management

In conjunction with the 8th Islamic Financial Services Board (IFSB) Summit in Luxembourg, the SC held a roundtable on Islamic fund management at the *Chambre de Commerce*, Luxembourg on 11 May. The objective of the roundtable was to enable the Malaysian Islamic fund management companies to learn about the regulatory and operating framework in Luxembourg in order to gain from potential presence and/or involvement in the Luxembourg fund management industry. In addition, the roundtable also provided opportunities for participants to discuss issues on Islamic fund management as well as facilitated networking and exploration of business opportunities between industry players in Malaysia and Luxembourg.

The speakers at the roundtable included Jean-Marc Goy from *Commission de Surveillance du Secteur Financier* (CSSF) Luxembourg; Pierre Oberlé from the Association of the Luxembourg Fund Industry (ALFI) and Rachid Ouaich from Wafra Capital Partners. Datin Maznah Mahbob of AmIslamic Funds Management Sdn Bhd, represented the Malaysian industry players to provide an overview of the Malaysian fund management industry.

The roundtable, chaired by the SC, was attended by over 30 participants, comprising regulators and industry players from Luxembourg and Malaysia.

Islamic Capital Market Graduate Training Scheme

The fifth Islamic Capital Market Graduate Training Scheme (ICMGTS) programme commenced on 3 June with the participation of 33 graduates. The programme, which was introduced in 2009, provides graduates with interactive training and on-the-job attachments in various institutions to enhance their employability and career mobility. Similar to the previous ICMGTS, the students were exposed to a combination of structured and experiential learning comprising lectures, illustrative examples, case studies, simulation, and interaction to equip them with the necessary technical knowledge and skills for the industry.

IFSB Seminar on Strategies for Development of Islamic Capital Markets

The seminar was organised by the IFSB and hosted by the Monetary Authority of Singapore on 7 June. Four sessions were presented by distinguished experts on the economy and Islamic finance. Zainal Izlan, the SC's Executive Director of ICM Business Group was one of the panelists in a discussion on the opportunities and challenges for Islamic capital markets.

2nd Annual World Islamic Banking Conference

The 2nd Annual World Islamic Banking Conference which took place from 8 to 9 June, was held in Singapore and hosted by the Monetary Authority of Singapore. Tan Sri Zarinah Anwar, the SC Chairman delivered a keynote address entitled `Enhancing the Role of Islamic Finance in Creating Stronger Business and Investment Ties between Asia and Other Key Islamic Financial Centres' at the conference.

3rd Visiting Scholar Programme – Closed Door Lecture

On 9 June, the SC hosted the closed-door lecture by Dr Volker Nienhaus, from University of Reading. Dr Nienhaus, who was invited under the SC-University of Malaya Visiting Scholar Programme, presented his views on Islamic capital markets and the public interest (*maslahah*). The closed-door lecture was attended by 32 participants comprising lawyers, practitioners, academicians, researchers, regulators, credit rating executives as well as accountants.

6th Islamic Markets Programme

The SC, through its training and development arm, Securities Industry Development Corporation, organised the 6th Islamic Markets Programme (IMP) from 27 to 29 June. Designed for senior regulators and participants in the financial industry, the IMP forms an important platform for discussion of topics related to Islamic finance and capital market.

Under the theme `The Role of Regulation in Overcoming Challenges in Developing Islamic Markets', local and international experts shared their knowledge and experience on the challenges in regulating Islamic markets and ways to overcome them from a regulatory perspective. The programme attracted more than 42 delegates from Germany, Turkey, UAE, Hong Kong, Taiwan, Brunei, Maldives and Iran.

London Sukuk Summit Awards

The SC received the prestigious `Outstanding Contribution to the Development of Islamic Capital Market' award at a dinner held in conjunction with the 5th London Sukuk Summit from 8 to 9 June. The SC's Islamic Capital Market Consultant, Wan Abdul Rahim Kamil was also conferred the `Outstanding Leadership in Islamic Finance' award at the event.

Dato Dr Nik Ramlah Mahmood, the SC Managing Director received both awards on behalf of the SC and Wan Abdul Rahim Kamil. She also gave a presentation on the growth and diversity of Malaysia's sukuk market at the forum.

Malaysia ICM – Facts and Figures

Shariah-compliant securities on Bursa Malaysia

	June 2011	June 2010
No of Shariah-compliant securities+	847	847
% to total listed securities	89%	88%
Lastest market capitalisation:		
Shariah-compliant (RM billion)	836.17	666.34
Total market (RM billion)	1,342.22	1,044.35
% of Shariah-compliant securities to total market	62%	64%

+ The SAC of SC release the updated Shariah-compliant securities list twice a year in May and November.

Islamic unit trust funds (UTF)

Number of approved funds	June 2011	June 2010
Islamic UTF	160	156
Total industry+	595	575
NAV (RM billion)		
Islamic UTF	26.18	22.69
Total industry	249.61	207.11
% to total industry	10%	11%

+ including feeder funds, fixed income funds, money market funds and structured products.

Islamic wholesale funds (WF)

Number of approved funds	June 2011	June 2010
Islamic WF	25	20
Total industry	133	104
NAV (RM billion)		
Islamic WF	6.63	4.56
Total industry	23.12	16.6
% to total industry	29%	27%

Equity market indices	30 June 2011	30 June 2010	% change
KL Composite Index (KLCI)	1,579.07	1,314.02	20%
FBM EMAS Shariah	10,517.49	8,863.39	19%
FBM Hijrah Shariah	10,995.91	9,275.39	19%
DJIM Malaysia Titans 25	891.88	745.78	20%

Islamic exchange-traded funds (ETF)

Number of approved ETF	June 2011	June 2010
Islamic ETF	1	1
Total industry+	5	3
NAV (RM billion)		
Islamic ETF	579	651
Total industry	1,194	1,169
% to total industry	49%	56%

+ including bond ETF - ABF Malaysia Bond Index Fund

Chart 1
KLCI and Shariah Index Performance

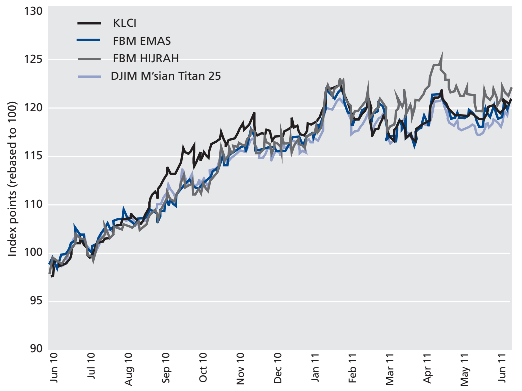
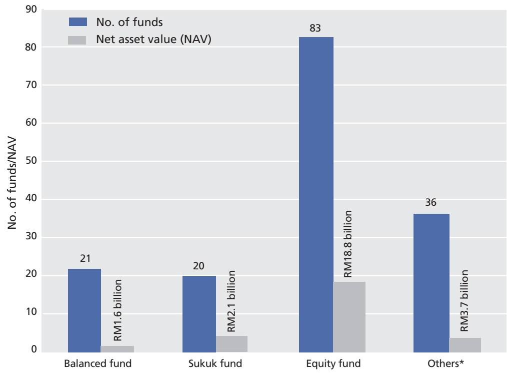
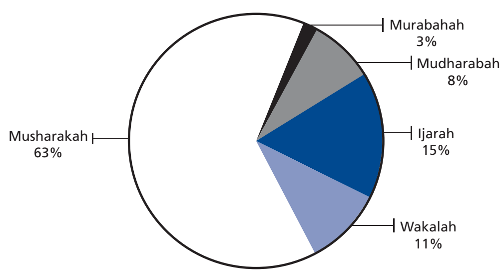


Chart 2
Islamic unit trust funds by category*



*As at June 2011

Chart 3
Size of sukuk approved based on various Shariah principles in H1 2011



Islamic real estate investment trusts (REITs)

Number of REITs	June 2011	June 2010
Islamic REIT	3	3
Total REITs	14	12
Market capitalisation (RM billion)		
Islamic REIT	2.5	1.9
Total REITs	11.5	5.6
% total industry	22%	35%

Corporate sukuk

Sukuk approved	H1 2011	H1 2010
Number of sukuk	19	9
Size of sukuk (RM billion)	32	7.4
Size of total bonds approved (RM billion)	47.9	20
% of size of sukuk to total bonds approved	68%	38%
Sukuk issued	**H1 2011**	**H1 2010**
Size of sukuk issued (RM billion)	24.6	9.6
Size of total bonds issued (RM billion)	34.1	20.4
% of sukuk issued to total bonds issued	72%	47%
Sukuk outstanding	**June 2011**	**June 2010**
Size of outstanding sukuk (RM billion)	194	170
Size of total outstanding bonds (RM billion)	336	304
% of outstanding sukuk to total outstanding bonds	58%	56%

Sukuk Listing on Bursa Malaysia's Exempt Regime (As at 30 June 2011)

No.	Issuer Name	Listing Date
1.	IDB Trust Services Limited (Islamic Development Bank)	1 Dec 10
2.	Malaysia Airports Capital Bhd	30 Nov 10
3.	AmIslamic Bank Bhd	1 Oct 10
4.	Tadamun Services Berhad (Islamic Development Bank)	24 Aug 10
5.	Nomura Sukuk Limited (Nomura Holdings PLC)	13 Jul 10
6.	1Malaysia Sukuk Global Bhd (Government of Malaysia)	8 Jun 10
7.	Sime Darby Bhd	28 Jan 10
8.	Cherating Capital Limited	31 Dec 09
9.	Paka Capital Limited	31 Dec 09
10.	Khazanah Nasional Bhd	31 Dec 09
11.	Danga Capital Bhd	31 Dec 09
12.	Rantau Abang Capital Bhd	31-Dec-09
13.	CIMB Islamic Bank Bhd	29 Dec 09
14.	G.E Capital Sukuk Limited (General Electric)	30 Nov 09
15.	Cagamas MBS	14 Aug 09
16.	Petronas Global Sukuk Limited	14 Aug 09

Source: Bursa Malaysia Bhd *(www.bursamalaysia.com)*
For more information on Sukuk listed on Bursa Malaysia, please visit: Bursa Malaysia Exempt Regime.

List of Islamic stockbroking companies as at 30 June 2011

No.	Company Type	Type
1.	BIMB Securities Sdn Bhd	Full Fledge
2.	Affin Investment Bank Bhd	Window
3.	Aminvestment Bank Bhd	Window
4.	CIMB Investment Bank Bhd	Window
5.	Maybank Investment Bank Bhd	Window
6.	Jupiter Securities Sdn Bhd	Window
7.	RHB Investment Bank Bhd	Window

Sukuk listing on LFX as at 30 June 2011

No.	Issuer Name	Listing Date
1.	MBB Sukuk Inc.	27 Apr 2007
2.	Cherating Capital Limited	6 Jul 2007
3.	Dar Al-Arkan International Sukuk Company	31 Jul 2007
4.	Paka Capital Limited	14 Mar 2008
5.	Petronas Global Sukuk	14 Aug 2009
6.	1Malaysia Sukuk Global Berhad	8 Jun 2010
7.	Danga Capital Berhad	12 Aug 2010

Source: Labuan International Financial Exchange (LFX)
For more information on sukuk listed on LFX, please visit: www.lfx.com.my

List of Islamic fund managers at as 30 June 2011

No.	Company	No.	Company
1.	Aberdeen Islamic Asset Mgmt Sdn Bhd	9.	KFH Asset Management Sdn Bhd
2.	AmIslamic Funds Mgmt Sdn Bhd	10.	Muamalat Invest Sdn Bhd
3.	Amundi Islamic M'sia Sdn Bhd	11.	Nomura Islamic Asset Mgmt Sdn Bhd
4.	Asian Islamic Investment Mgmt Sdn Bhd	12.	OSK-UOB Islamic Fund Mgmt Bhd
5.	BNP Paribas Investment Partners Najmah Malaysia Sdn Bhd	13.	Prudential Al-Wara' Asset Mgmt Bhd
6.	CIMB-Principal Islamic Asset Mgmt Sdn Bhd	14.	Reliance Asset Mgmt (M) Sdn Bhd
7.	Franklin Templeton GSC Asset Mgmt Sdn Bhd	15.	RHB Islamic Asset Mgmt Sdn Bhd
8.	i-VCAP Management Sdn Bhd	16.	Saturna Sdn Bhd

Risk Sharing: A Way Forward to Public Good

5th International Islamic Capital Market Forum

• 10 November 2011 • Kuala Lumpur

The Securities Commission Malaysia will host its 5th International Islamic Capital Market Forum in Kuala Lumpur on 10 November themed "Risk Sharing: A Way Forward to Public Good".

The global financial crisis continues to unfold and has reached a new phase. The current scenario across the globe is a mélange of financial volatility, looming default in the EU countries and uncertainty over what the US debts represent. Altogether, these circumstances are self-reinforcing to the economy and further shocks have become more real.

A large segment of Islamic finance is still based on debt and leverage; and as Islamic finance gathers momentum and expand further, it could be affected in a financial crisis as its conventional counterpart. Given this backdrop, there is a need for an intense re-examination of the current state of Islamic finance.

Islamic finance that we see today has been premised on a Shariah-compliant approach, where much of its product structures essentially replicate that of conventional finance. These structures have been based on fractional reserve banking, debt-based contracts and leverage. Replication featured strongly in the early stages of modern Islamic banking and has enabled Islamic finance to meet customer needs, achieve scale and proved its commercial viability. More often than not, *maslahah* has been used in justifying the product structures to the extent where *maslahah* has become a *raison d'être*.

Quoting Sheikh Saleh Kamel, the first recipient of the Royal Award for Islamic Finance, "the present state of Islamic finance was never intended to be a permanent feature but rather a temporary phase in establishing its foothold before embarking on a more desirable Islamic finance model".

Just as some leading economists have called for reforms to the present financial system, Islamic finance economists, academicians, scholars and practitioners too have articulated their concerns over the present state of Islamic finance. Surely the *maqasid shariah* cannot be overwhelmed by the commercial success of a debt-based system if the present Islamic finance is somewhat exposed to instability.

Greater justice in human society is only possible if the financial system contribute positively towards this end. And this could be partly achieved by a risk-sharing system as opposed to a risk-transfer system. There is therefore the need to create a conviction about the superiority in a risk-sharing system.

Mark this event in your diary now. For further details, email us at:
icmforum@seccom.com.my website: www.sc.com.my

Programme

10 November 2011 • Lanai Kijang • Kuala Lumpur
9.00 am – 5.30 pm

KEYNOTE ADDRESS

PART 1: PUBLIC GOOD

Islamic Economics and the Public Good–The Ethical and Social Dimension
Prof Mohamed Aslam Haneef
International Islamic University Malaysia

Linking Maqasid Shariah to the Economy
Prof Hashim Kamali
International Institute of Advanced Islamic Studies

PART 2: RISK SHARING: THEORY, PRODUCTS AND THE LAW

Risk Sharing and Public Policy: Theory, Applications and Instruments
Dr Abbas Mirakhor
International Centre for Education in Islamic Finance

A Legal Perspective of Risk Sharing Contracts
Mohamed Ismail Shariff
Skrine & Co

PART 3: CORPORATE GOVERNANCE AND SOCIAL RESPONSIBILITY

Corporate Governance, Ethics and Social Responsibility – Integrating Islamic Heritage with Modern Knowledge
Mushtak Parker
Editor, Islamic Banker

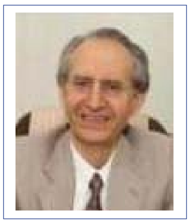
An Inter-Disciplinary Approach to Islamic Finance – Shariah and Economics
Prof Volker Nienhaus
Visiting Scholar Reading University

Tayyib though Socially Responsible Institution Screening
Omar Shaikh
Islamic Finance Council, UK

ECONOMIC PANEL DISCUSSION
How Would Risk Sharing Structure Sustain Under Current Market Conditions?

Panelists:
- *Prof Volker Nienhaus*
- *Dr Abbas Mirakhor*
- *Omar Shaikh*
- *Prof Dr Mohamed Aslam Haneef*


Prof Mohamed Aslam Haneef


Prof Hashim Kamali


Dr Abbas Mirakhor


Mohamed Ismail Shariff


Mushtak Parker


Prof Volker Nienhaus


Omar Shaikh

We appreciate your feedback and comments. If you would like to know more about the Malaysian Islamic capital market or require further information from the Securities Commission Malaysia, please contact the following persons at the Islamic Capital Market Business Group:

Mohd Radzuan A Tajuddin
Tel: 03–6204 8000 ext 8718
E-mail: Radzuan@seccom.com.my

Badlishah Bashah
Tel: 03–6204 8000 ext 8373
E-mail: badlisha@seccom.com.my

Azmaniza Bidin
Tel: 03–6204 8000 ext 8280
E-mail: azmaniza@seccom.com.my

Mohd Lukman Mahmud
Tel: 03–6204 8000 ext 8385
E-mail: lukman@seccom.com.my

Securities Commission Malaysia
3 Persiaran Bukit Kiara, Bukit Kiara
50490 Kuala Lumpur Malaysia
Tel: 03–6204 8000 Fax: 603–6201 5082
Website: www.sc.com.my