

CONTENTS

Foreword by Governor of Bank Negara Malaysia	xi
Foreword by Chairman of Shariah Advisory Council of Bank Negara Malaysia	xiii
Shariah Advisory Council of Bank Negara Malaysia	xv
Members of the Shariah Advisory Council of Bank Negara Malaysia (1997 – 2010)	xvi
Introduction	xviii

PART 1: SHARIAH CONTRACTS

IJARAH	3
1. Application of <i>al-Ijarah thumma al-Ba'i</i> in Vehicle Financing	
2. Assignment of Liabilities in <i>al-Ijarah thumma al-Ba'i</i>	
3. Ownership Status of <i>Ijarah</i> Asset	
4. Termination of <i>Ijarah</i> Contract	
5. Issuance of Bank Negara Negotiable Notes Based on <i>Ijarah</i> Concept	
6. <i>Ijarah</i> Contract with Floating Rental Rate	
7. Absorption of Costs Associated with Ownership of Asset in <i>Ijarah</i>	
8. Liability of Lessee over Third Party's Asset	
9. Lessee's Priority to Purchase Asset in the Event of Default in Rental Payment	
10. Surplus Sharing from Sale of <i>Ijarah</i> Asset between Lessor and Lessee	
11. Utilisation of Third Party's Asset Acquired Through <i>Mudarabah</i> Contract as Underlying Asset in Issuance of <i>Sukuk Ijarah</i>	
12. Application of <i>Ijarah Mawsufah fi al-Zimmah</i> Concept in Financing for House under Construction Based on <i>Musarakah Mutanaqisah</i>	
13. Deposit Payment in Islamic Hire Purchase	
14. Utilisation of Third Party's Asset Acquired Through Sale Concept in Issuance of <i>Sukuk Ijarah</i>	

	ISTISNA`	21
15.	Project Financing Based on <i>Istisna`</i> with Pledging of Conventional Bond	
	MUDARABAH	24
16.	Islamic Negotiable Instrument of Deposit Based on <i>Mudarabah</i>	
17.	Application of <i>Mudarabah</i> Contract in Current Account Product	
18.	<i>Mudarabah</i> Investment Certificate as Security	
19.	Profit Equalisation Reserve	
20.	Administrative Costs in <i>Mudarabah</i> Deposit Account	
21.	Intra-Day Transaction as an Islamic Money Market Instrument	
22.	Indirect Expenses	
23.	Assignment of Weightage	
24.	Practice of Islamic Financial Institutions in Transferring <i>Mudarabah</i> Investment Profit to Customer to Avoid Displaced Commercial Risk	
25.	Third Party Guarantee on Liability of a <i>Mudarib`</i> s Counterparty in <i>Mudarabah</i> Transaction	
26.	<i>Mudarib`</i> s Guarantee on Liability of His Counterparty in <i>Mudarabah</i> Joint Venture	
27.	Capital Contribution by <i>Mudarib</i> in <i>Mudarabah</i> Joint Venture	
28.	Third Party Guarantee for Capital and/or Profit in <i>Mudarabah</i> Transaction	
	MUSYARAKAH	40
29.	Financing Products Based on <i>Musyarakah</i>	
30.	Financing Based on <i>Musyarakah Mutanaqisah</i>	
31.	Application of <i>Wa`d</i> as a Mechanism in Dealing with Customer's Default in Financing Based on <i>Musyarakah Mutanaqisah</i>	
	QARD	47
32.	<i>Qard</i> Principles in Islamic Finance	
33.	Liquidity Management Instrument Based on <i>Qard</i>	
34.	Combination of Advance Profit Payment Based on <i>Qard</i> and <i>Murabahah</i> Contract	

RAHN**53**

35. Two Financing Facilities Secured by an Asset
36. Dealing with a Charged Asset
37. Conventional Fixed Deposit Certificate as Security in Islamic Financing
38. Islamic Debt Securities as Collateralised Asset
39. Sale of Collateralised Asset in the Event of Default by Financing Receiver to Pay the Financing Amount to Financier
40. Profit Accrued from Collateralised Asset Throughout Charge Tenure

TAKAFUL**62**

41. Takaful Model Based on *Tabarru`* and *Wakalah*
42. Application of *Musahamah* Concept in Commercial General Takaful Plan
43. Retakaful Business Model Based on *Wakalah - Wakaf*
44. Takaful Coverage for Islamic Financing
45. Takaful Coverage for Conventional Loans
46. Takaful Coverage for Conventional Credit Card Product
47. Retakaful with Conventional Insurance and Reinsurance Company
48. Retakaful Service Fee as Income for Shareholders Fund
49. Co-Takaful Agreement
50. Segregation of Takaful Funds
51. Imposition of Management Fee on Takaful Participants' Contribution
52. Distribution of Surplus from Participants' Risk Fund
53. Distribution of Investment Profit from Participants' Investment Fund and Participants' Risk Fund
54. Provision of Reserve in Takaful Business
55. Mechanism to Overcome Deficit in Participants' Risk Fund
56. *Hibah* in Takaful
57. Nomination Based on *Hibah* under Takaful Scheme
58. Principle of Utmost Good Faith in Takaful
59. "Insurable Interest" in Takaful

TAWARRUQ	94
60. Deposit Product Based on <i>Tawarruq</i>	
61. Financing Product Based on <i>Tawarruq</i>	
62. <i>Sukuk Ijarah</i> and Shariah Compliant Shares as Underlying Asset in <i>Tawarruq</i> Transaction	
63. Application of <i>Tawarruq</i> in <i>Sukuk</i> Commodity <i>Murabahah</i>	
64. Proposed Operational Model of Commodity <i>Murabahah</i> House (Now Known as <i>Suq al-Sila`</i>)	
WADI`AH	101
65. Adaptation (<i>Takyif</i>) of <i>Wadi`ah Yad Dhamanah</i> as <i>Qard</i>	
WAKALAH	103
66. Application of <i>Wakalah bi al-Istithmar</i> in Deposit Product	
BAI` DAYN	106
67. Repurchase of Negotiable Islamic Debt Certificate	
68. Sale of Debt Arising from Services	
BAI` `INAH	109
69. Application of <i>Bai` `Inah</i> in Issuance of Negotiable Islamic Debt Certificate	
70. Application of <i>Bai` `Inah</i> in Islamic Interbank Money Market	
71. Application of "Sale and Buy Back" Contract	
72. Conditions for Validity of <i>Bai` `Inah</i> Contract	
73. Stipulation to Repurchase Asset in <i>Bai` `Inah</i> Contract	

PART II: SUPPORTING SHARIAH CONCEPTS

HIBAH	117
74. <i>Hibah</i> in Interbank <i>Mudarabah</i> Investment Contract	
75. Application of <i>Hibah</i> in the Contract of <i>al-ljarah thumma al-Bai'</i>	
76. <i>Hibah</i> in <i>Wadi'ah</i> Contract	
77. <i>Hibah</i> in <i>Qard</i> Contract	
IBRA'	123
78. <i>Ibra'</i> in Islamic Financing	
79. Two Forms of <i>Ibra'</i> in a Financing Agreement	
80. <i>Ibra'</i> in Home Financing Product Linked to a <i>Wadi'ah</i> or <i>Mudarabah</i> Deposit Account	
TA`WIDH AND GHARAMAH	129
81. Imposition of <i>Ta`widh</i> and <i>Gharamah</i> in Islamic Financing Facilities	
82. Imposition of Compensation on a Customer who Makes Early Settlement	
83. Method of Late Payment Charge on Judgment Debt	

PART III: ISLAMIC FINANCIAL PRODUCTS

FINANCIAL DERIVATIVE INSTRUMENTS	137
84. Spot and Forward Foreign Currency Exchange Transactions	
85. Islamic Profit Rate Swap Based on <i>Bai' Inah</i>	
86. Forward Foreign Currency Exchange Transaction Based on <i>Bai' Mu'ajjal</i>	
87. Foreign Currency Option Based on <i>Hamish Jiddiyyah</i> , <i>Wa'd</i> and <i>Tawarruq</i>	
88. Foreign Currency Option Based on <i>Wa'd</i> and Two Independent <i>Tawarruq</i> Transactions	

ISLAMIC CREDIT CARD**148**

89. Islamic Credit Card Based on *Bai` Inah* and *Wadi`ah*
90. Islamic Credit Card Based on the Concept of *Ujrah*
91. Takaful Cover for Islamic Credit Cardholders
92. Cash Back Rebate on Credit Card Annual Fee
93. Islamic Credit Card Based on the Concepts of *Wakalah* and *Kafalah*

HYBRID PRODUCTS**155**

94. Current Account Product Based on *Wadi`ah Yad Dhamanah* and *Mudarabah* Contracts
95. Deposit Product Based on *Mudarabah* and *Qard* Contracts
96. Deposit Product Based on *Wadi`ah* and *Mudarabah* Contracts
97. Financing Product for House under Construction Based on *Istisna` Muwazi*, *Ijarah Mawsufah fi al-Zimmah* and *Ijarah Muntahia bi al-Tamlik*

SUKUK BASED ON BAI` BITHAMAN AJIL (BBA)**160**

98. *Mudarabah* Interbank Investment as Underlying Asset in a Deferred Payment Sale
99. The Existence of Underlying Asset Throughout the *Sukuk* Maturity Tenure
100. Bidding Methods for the *Sukuk* BBA

PART IV: SHARIAH ISSUES IN RELATION TO THE OPERATIONS OF SUPPORTING INSTITUTIONS IN ISLAMIC FINANCE
CREDIT GUARANTEE CORPORATION (M) BERHAD**165**

101. Shariah Concept for the Operation of Islamic Guarantee Facility by Credit Guarantee Corporation
102. Guarantee on the Sale Price

DANAJAMIN NASIONAL BERHAD **168**

- 103. Shariah Concept for the Operation of Guarantee Facility by Danajamin Nasional Berhad
- 104. Capital Segregation in the Operation of Danajamin
- 105. Scope of Danajamin's Guarantee on *Sukuk*
- 106. Guarantee on the Obligation Arising from Purchase Undertaking
- 107. Late Payment and Additional Recourse Charge
- 108. Ownership of Underlying Asset in *Sukuk* Based on *Ijarah* Contract

MALAYSIA DEPOSIT INSURANCE CORPORATION **175**

- 109. Shariah Concept for the Operation of Islamic Deposit Insurance
- 110. Commingling of Funds Contributed by Islamic and Conventional Banking Institutions in Deposit Insurance
- 111. Guarantee Limit for Islamic Banking Deposits by PIDM
- 112. Definition of Term "Deposit" in Islamic Deposit Insurance
- 113. Status of PIDM's Claim Against Depositors' Claim in the Event of Winding up of an Islamic Banking Institution
- 114. Application of *Muqasah* in Islamic Deposit Insurance

NATIONAL MORTGAGE CORPORATION (CAGAMAS) **182**

- 115. Mortgage Guarantee Facility

PART V: SHARIAH ISSUES IN ISLAMIC FINANCE

WINDING UP OF ISLAMIC BANKING INSTITUTIONS **187**

- 116. Priority of Depositors in Recovering Deposit in the Event of Winding Up of an Islamic Banking Institution
- 117. Surplus Sharing Post Liquidation and Payment of Claims between Islamic and Conventional Banking Funds
- 118. Status of Conventional Fund Placed in *Mudarabah* Special Investment Account in the Event of Winding Up of Banking Institutions

ACCOUNTING AND REPORTING STANDARDS IN ISLAMIC FINANCE

190

- 119. Method for Profit Distribution
- 120. Method for Revenue Recognition
- 121. Application of “Substance over Form” Principle in Islamic Finance
- 122. Application of Probability Principle
- 123. Application of Time Value of Money Principle

OTHER MATTERS

197

- 124. Deposit or Customer’s Investment Fund from Doubtful Sources
- 125. Financing to a Party Who Explicitly Performs Non-Shariah Compliant Activities
- 126. Application of Conventional Overdrafts to Cover Insufficiency in *Wadi’ah* Current Account
- 127. Commitment Fee on Unutilised Balance of Islamic Overdraft Facility or Revolving Credit
- 128. Islamic Financial Instrument as Underlying Asset in Conventional Transaction
- 129. Financial Market Instruments as Underlying Asset in Deferred Transaction
- 130. Mechanism in Determining the Amount of Settlement Price in Financial Market
- 131. Restructuring and Rescheduling in Islamic Financing Agreement
- 132. Bidding Concept by Principal Dealer in Islamic Money Market
- 133. Financing Settlement Through New Financing
- 134. Undetermined Sale Price in Sale and Purchase Agreement
- 135. Underlying Concept for Islamic Block Discounting Transaction

GLOSSARY

215