



INTERNATIONAL ISLAMIC UNIVERSITY MALAYSIA
COURSE OUTLINE

Kulliyah:	Ahmad Ibrahim Kulliyah of Laws		
Department:	Law Center		
Programme	Certificate in Islamic Law (CIL)		
Course Title	Islamic Banking Law		
Course Code	-		
Status	Core Course		
Level	Certificate		
Credit Hours	-		
Contact Hours			
Pre-requisites (if any)	-		
Co-requisites (if any)	-		
Instructional Strategies	Lectures and class discussions		
Method of Evaluation-weightage of each type of assessment.	Participation	:	10%
	Assignment	:	30%
	Final Examination	:	60%
	Total	:	100%
Instructor			
Semester Offered	-		
Course Objectives	The objectives of this course are to: 1) Study the historical development of Islamic banking system, its sources		

	<p>and restriction.</p> <ol style="list-style-type: none"> 2) Discuss various concepts of Islamic law of contract and relate such concepts with relevant Islamic banking products. 3) Be on familiar terms with relevant laws pertaining to Islamic banking applicable in Malaysia.
Learning Outcomes	<p>Upon completion of this course, students should be able to:</p> <ol style="list-style-type: none"> 1) Outline the development of Islamic banking system, its sources and restrictions. 2) Specify the Islamic banking products those are truly <i>Shari'ah</i> compliant. 3) Identify relevant laws and jurisdictions of court as regard to Islamic banking in Malaysia. 4) Evaluate differences and similarities between Islamic banking law and Conventional practices.
Course Synopsis	<p>This course deals with the general discussion on the historical development of Islamic banking system, its sources and restrictions that Islamic law provides. It also discusses various types of contract that Islamic law recognizes and their applications to the current Islamic banking practices. It also explains about the relevant laws and jurisdiction of court pertaining to Islamic banking in Malaysia.</p>
Three Hours	<p>1.0 Islamic banking: developments, sources and restrictions</p> <ol style="list-style-type: none"> 1.1 Introduction 1.2 Definition of Islamic banking 1.3 General characteristics of Islamic banking 1.4 Historical development of Islamic banking 1.5 Sources of Islamic banking 1.6 Restrictions in Islamic banking 1.7 Countries practice Islamic banking 1.8 Conclusion
Three Hours	<p>2.0 <i>Al-bay'</i> (contract of sale) vs. Islamic banking products</p> <ol style="list-style-type: none"> 2.1 Introduction 2.2 <i>Bay'</i> <ol style="list-style-type: none"> 2.2.1 Legality of <i>bay'</i> 2.2.2 Essential elements of <i>bay'</i> 2.2.3 Conditions of <i>bay'</i> 2.3 <i>Bay' al-mur•ba'ah</i> <ol style="list-style-type: none"> 2.3.1 Conditions of <i>al-mur•ba'ah</i> 2.3.2 Additional rules of <i>mur•ba'ah</i>

- 2.3.3 Modern *mur•baʿah*
- 2.3.4 *Mur•baʿah* in modern financial system
- 2.3.5 Issues on application of *al-mur•baʿah* in Islamic bank
- 2.4 ***Bayʿ al-salam***
 - 2.4.1 Legality of *salam*
 - 2.4.2 Subject matter of *salam*
 - 2.4.3 Price
 - 2.4.4 Additional rules of *salam*
 - 2.4.5 Parallel *salam* (*salam muwāzī*)
- 2.5 ***Bayʿ al-istiṣnāʿ***
 - 2.5.1 Legality of *istiṣnāʿ*
 - 2.5.2 Subject matter of *istiṣnāʿ*
 - 2.5.3 Price in *istiṣnāʿ*
 - 2.5.4 Legal effect of *istiṣnāʿ*
 - 2.5.5 Additional rules of *al-istiṣnāʿ*
 - 2.5.6 *Istiṣnāʿ* as investment tool
 - 2.5.7 Parallel *istiṣnāʿ*
- 2.6 ***Bayʿ bi thaman •jil***
 - 2.6.1 Legality of *bayʿ bi thaman •jil*
 - 2.6.2 Conditions of *bayʿ bi thaman •jil*
 - 2.6.3 *Bayʿ bi thaman •jil* in practice
- 2.7 ***Bayʿ al-ʿarf***
 - 2.7.1 Conditions of *bayʿ al-ʿarf*
- 2.8 ***Bayʿ al-dayn***
 - 2.8.1 Sale of debt on deferred payment
 - 2.8.2 Sale of debt on cash
 - 2.8.3 *Bayʿ al-dayn* in practice
- 2.9 ***Bayʿ al-ʿīnah***
- 2.10 Conclusion

3.0 *Al-ij•rah* and its application in Islamic banking industries

- 3.1 Introduction
- 3.2 Definitions *al-ij•rah*
- 3.3 Legality of *al-ij•rah*
- 3.4 *Ij•rat al-aʿy•n*
- 3.5 *Ij•rat al-ashkh••*
- 3.6 ***Manfāʿah***
- 3.7 Consideration
- 3.8 Legal consequences of *ij•rat al-aʿy•n*
- 3.9 Legal consequences of *ij•rat al-ashkh••*
- 3.10 Additional rules of *ij•rat al-aʿy•n*
- 3.11 Application of *al-ij•rah* in Islamic banking
- 3.12 Conclusion

Three Hours	<p>4.0 <i>Qar•</i> (loan) and <i>wadī'ah</i> [<i>al-īd•</i>] vs. Islamic banking practices</p> <p>4.1 Introduction</p> <p>4.2 <i>Qar•</i></p> <p>4.2.1 Definitions of <i>qar•</i></p> <p>4.2.2 Legality of <i>qar•</i></p> <p>4.2.3 Legal consequences of <i>qar•</i></p> <p>4.2.4 Time of payment</p> <p>4.2.5 Place of payment</p> <p>4.2.6 Letter of credit/<i>suftajah</i></p> <p>4.2.7 <i>Qar• jarra manfa`ah</i> (loan draws benefit)</p> <p>4.2.8 Using <i>qar• ʿasan</i> in banking & finance</p> <p>4.2.9 <i>Qar• ʿasan</i> in practice</p> <p>4.3 <i>Wadī'ah</i></p> <p>4.3.1 Definitions of <i>al- wadī'ah</i></p> <p>4.3.2 Legality of <i>al- wadī'ah</i></p> <p>4.3.3 <i>Wadī'ah</i> as trust</p> <p>4.3.4 <i>Wadī'ah</i> cum guarantee</p> <p>4.3.5 Additional rules of <i>wadī'ah</i></p> <p>4.3.6 Destruction of deposited property</p> <p>4.3.7 <i>Wadī'ah</i> in Islamic banking</p> <p>4.4 Conclusion</p> <p>5.0 <i>Al-mush•rakah</i> and <i>al-mu••rabah</i> in banking industries</p> <p>5.1 Introduction</p> <p>5.2 <i>Al-mush•rakah</i></p> <p>5.2.1 Definitions of <i>al-mush•rakah</i></p> <p>5.2.2 Legality of <i>al-mush•rakah</i></p> <p>5.2.3 Classifications of <i>al-mush•rakah</i></p> <p>5.2.4 Capital in <i>sharikat al-amw•l</i></p> <p>5.2.5 Legal consequences of <i>al-mush•rakah</i></p> <p>5.2.6 Modern application of <i>al-mush•rakah</i></p> <p>5.2.7 <i>Mush•rakah mutan•qisah</i></p> <p>5.3 <i>Al-mu••rabah</i></p> <p>5.3.1 Definitions <i>al-mu••rabah</i></p> <p>5.3.2 Legality of <i>al-mu••rabah</i></p> <p>5.3.3 Types of <i>al-mu••rabah</i></p> <p>5.3.4 Legal consequences</p> <p>5.3.5 Modern application of <i>al-mu••rabah</i></p> <p>5.4 Conclusion</p>

Three Hours	<p>6.0 <i>Al-wak•lah</i> (agency) and its application in Islamic banking</p> <p>6.1 Introduction 6.2 Definitions of <i>al-wak•lah</i> 6.3 Legality of <i>al-wak•lah</i> 6.4 Classifications 6.5 Agent is a trustee 6.6 <i>Wak•lah</i> with fee 6.7 Additional rules of <i>al-wak•lah</i> 6.8 Application of <i>wak•lah</i> in Islamic banking 6.9 Conclusion</p> <p>7.0 Application of <i>al-Ḥw•lah</i> (transfer of debt) in Islamic banking system</p> <p>7.1 Introduction 7.2 Definitions of <i>al-Ḥw•lah</i> 7.3 Legality of <i>al-Ḥw•lah</i> 7.4 Classifications of <i>al-Ḥw•lah</i> 7.5 Consent in <i>al-Ḥw•lah</i> 7.6 Additional rules of <i>al-Ḥw•lah</i> 7.7 Legal consequences of <i>al-Ḥw•lah</i> 7.8 <i>Al-Ḥw•lah</i> and its modern application 7.9 Conclusion</p> <p>8.0 Islamic banking in Malaysia: laws and jurisdictions</p> <p>8.1 Introduction 8.2 Islamic Banking Act 1983 8.3 Banking and Financial Institution Act 1989 8.4 Central Bank of Malaysia Act 1958 8.5 <i>Shariah</i> Advisory Council 8.6 Federal Constitution 8.7 Conclusion</p>
MAIN TEXTBOOKS AND BASIC REFERENCES	
ENGLISH	<p>ᶜAbdull•h ᶜAlwi •assan, <i>Sales and Contracts in Early Islamic Commercial Law</i>, Islamic Research Institute, Pakistan, 1993.</p> <p>Adnan Yusoff, <i>Defective Contract in Islamic Commercial Law with Special Reference to al-Ghabn, al-Istigl•l and al-Gharar</i>, Univision Press, Kuala Lumpur, 2001.</p>

al-Amine, Muhammad al-Bashir Muhammad, *Istisnā' (Manufacturing contract) in Islamic Banking and Finance Law & Practice*, A.S.Noordeen, Kuala Lumpur, 2001.

Coulson, N.J., *Commercial Law in the Gulf States*, Graham and Trotman, London, 1984.

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Iqbal, Zamir & Mirakhor, Abbas, *An Introduction to Islamic Finance Theory and Practice*, Wiley & Son, Singapore, 2007.

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Kamal Khir, Gupta, Lokesh & Shanmugam, Bala, *Islamic Banking: A Practical Perspective*, Pearson Longman, Selangor, 2008.

Kamali, Mohammad Hashim, *Islamic Commercial Law An Analysis of Futures and Options*, Ilmiah Publishers, Kuala Lumpur, 2002.

Kharofa, Ala' Eddin, *Transactions in Islamic Law*, A.S.Noordeen, Kuala Lumpur, 1997.

Mohammad Deen Mohd Napiah, *The Theory of the Contract of Agency (al-Wak•lah) in Islamic Law*, Unpublished Thesis Ph.D, Glasgow Caledonian University, 1995.

Mei Pheng, Lee & Ivan Jeron, Detta, *Islamic Banking & Finance Law*, Pearson Longman, Selangor, 2007.

Nik Norzrul Thani, Mohamed Ridza Mohamed Abdullah & Megat Hizaini Hassan, *Law and Practice of Islamic Banking and Finance*, Sweet & Maxwell Asia, 2003.

Nor Mohamed Yakcop, *Teori, Amalan dan Prospek Sistem Kewangan Islam di Malaysia*, Utusan Publication, Kuala Lumpur, 1996.

Nyazee, Imran Ahsan Khan, *Islamic Law of Business Organization Partnerships*, Islamic Book Trust, Kuala Lumpur, 2002.

Qadri, Ahmad Anwar, *Islamic Jurisprudence in the Modern World*, 2nd. ed./2nd. impr., Sh. Muhammad Ashraf, Lahore, 1981.

al-Q^oṣī, ^cAbd al-Mun^cīm, *Rib• Islamic Law and Interest*, University

	<p>Microfilms International, U.S.A, 1982.</p> <p>Rayner, S.E., <i>The Theory of Contracts in Islamic Law</i>, pp. 118-121 & 134-138.</p> <p>Razali Nawawi, <i>Commercial Transactions: Islamic Law Perspective</i>, CT Publications, Malaysia, 1999.</p> <p>Saleh, Nabil A., <i>Unlawful Gain and Legitimate Profit in Islamic Law</i>, Graham & Trotman, London, 1992.</p> <p>Siddiqi, M.N., <i>Partnership and Profit-Sharing in Islamic Law</i>, The Islamic Foundation, Leicester, 1985.</p> <p>Wan Ab. Rahman Wan Abdullah, <i>The Law Relating to al-Rahn in Islam: A Comparative Study of the Operational of al-Rahn in Terengganu, Kelantan and Bank Rakyat</i>, Unpublished MCL Dissertation, International Islamic University Malaysia, 1995.</p>
ARABIC	<p><i>Majallat al-Aḥkām al-ʿAdliyyah</i>, translated by C.R. Tyser into English “<i>The Mejellé</i>”, Law Publishing Company, Lahore, 1967.</p> <p>al-Nawāwī, Yaḥyā b. Sharaf, <i>Minhaj al-Ṭālibīn</i>, Al-Haramain, Singapore-Jeddah, n.d. [translated by E.C. Howard into English “<i>Minhaj et-Talibir</i>” from Van den Berg’s French translation, Lahore, Law Company: 1977].</p> <p>al-Zuhaylī, Wahbah, <i>Al-Fiqh al-Islāmī wa Adillatuh</i>, vol. 4 & 5, Dār al-Fikr, Damascus, 3rd. ed., 1984 [translated by Mahmoud A. El-Gamal into English “<i>Financial Transactions in Islamic Jurisprudence</i>”, vol.1 & 2, Dār al-Fikr, Damascus, 1st. ed. 2003]</p>