THE ISLAMIC CAPITAL MARKET
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AN OVERVIEW

On the Global Front

The Islamic Capital Market (ICM) refers to the market where activities are carried out in ways which does not conflict with the principles of Islam. The ICM represents an assertion of religious law in capital market transactions where the market is free from prohibited activities and elements such as *riba* (usury), *maisir* (gambling) and *gharar* (ambiguity).

The growing awareness of and demand for investing in accordance to Islamic principles on a global scale has created a flourishing Islamic capital market, more so today due to increasing wealth in the hands of Muslims worldwide who are actively involved in corporate and business activities.

Consider these statistics:

- The Muslim population of the world today is estimated at about 1.5 billion, representing a sizeable 24% of total world population of 6.3 billion
- Latent Islamic funds in global financial institutions is said to be at US$1.3 trillion while the Islamic financial market is estimated to be US$230 billion in size, with an annual growth rate of 12% to 15%.
- There are over 250 Islamic financial institutions currently operating in about 75 countries worldwide, with more than 100 Islamic equity funds managing assets in excess of US$5.0 billion.

Indeed, the pace of development in the Islamic financial market has gathered momentum with the formation of various international Islamic organisations to study and promote this alternative market. These organisations include the Islamic Financial Services Board (IFSB), the International Islamic Financial Market (IIFM) and the Accounting and Auditing Organisation for Islamic Financial Institutions (AAOIFI).

Today, the Islamic financial market runs parallel to the conventional financial market and provides investors with an alternative investment philosophy that is rapidly gaining acceptance. The fact that the Islamic financial market does not prohibit participation from non-Muslims creates unlimited upside to the depth and breadth of this market.
Malaysia Pioneering the ICM

The ICM functions as a parallel market to the conventional capital market for capital seekers and providers. It has played a complementary role to the Islamic banking system in creating a comprehensive Islamic financial market in Malaysia.

Malaysia has been recognised as the pioneer and at the forefront in Islamic finance. Presently, Malaysia far surpasses other Muslim countries in terms of market infrastructure with unflagging support by the Government providing the impetus for growth of the local ICM.

Milestones

Malaysia has pioneered many ‘firsts’ and the key milestones paving the way for Malaysia to be a leading ICM. Among them are:

● The establishment of the first Islamic equity unit trust fund, Arab Malaysian Tabung Ittikal (1993)
● The first full-fledged Islamic stockbroking company, BIMB Securities Sdn Bhd (1994)
● The Securities Commission formed an Islamic Capital Market Unit which later evolved into a full-fledged department (1995). The Shariah Advisory Council (SAC) was later established (1996)
● The Minister of Finance launched the Capital Market Masterplan of which 13 recommendations were formulated, establishing Malaysia as an international centre for Islamic capital market activities (2001)
● Introduced the first global corporate Sukuk*, The Guthrie Sukuk, this created a paradigm shift in the international Islamic financial market (2001)
● Introduced the first global sovereign Sukuk, The Malaysian Government Sukuk, which was more than twice over subscribed (2002)
● The Malaysian Government is actively promoting the Labuan International Offshore Financial Centre as a global centre for the ICM
● A comprehensive tax incentive package for Islamic securities similar to conventional securities was proposed under the Federal Budget 2004, and has since been implemented.

* Sukuk is a document or a certificate, which represents the value of asset.
Further progress under the current leadership

Advancement of the ICM under the current Government is greatly expected and anticipated especially with the introduction of the concept of Islam Hadhari.

In addition, Malaysia bears the testimony of being recognised as a leader by other Islamic countries, testified by its appointment to the Chairmanship of the Organization of Islamic Conference (OIC) and Non-Aligned Movement (NAM). This reaffirms Malaysia’s leadership role in the developing world generally as well as the Islamic world specifically. As a global spokesperson, it is imperative that Malaysia leads by example.

There has also been positive recent developments towards creating a more liberalised market, among these efforts include:

- Liberalisation of foreign participants. These involve:
  - Issuance of 5 new licenses to foreign stockbrokers
  - Issuance of up to 5 new licenses to foreign fund managers
  - Provision for 100% foreign ownership in futures broking industry
  - No restrictions on the number of foreign dealer representatives
- Liberalisation of foreign exchange controls allowing Malaysians to now invest abroad.

Shariah status at Pre-Listing

Previously, Shariah compliance reviews were only conducted on companies after they were listed on Bursa Malaysia. Since October 2004, however, companies applying to be listed can now request for the Shariah review process to be conducted simultaneously with the company’s application to list.

This is in line with the Government’s aim of developing the ICM and it is encouraging to note that by the end of 2004, 3 companies had requested for this review.
THE ONSHORE ISLAMIC CAPITAL MARKET

Malaysia is the first Islamic country to have demutualised its exchange, Bursa Malaysia Berhad, and list on its own bourse. Bursa Malaysia Berhad listed on 18 March 2005, represents a single consolidated group comprising equities, derivatives and offshore markets. The equities market is then subdivided into the Main Board, Second Board and a high growth market called MESDAQ.

Bursa Malaysia has several market attractions which include:

- A growing market in terms of market capitalisation and number of listed companies (The number of listed companies grew by 34% (253) to 989 as at end April 2005, compared to 736 in 1998. Market valuation touched RM689 billion (US$181 billion) as at end April 2005)
- Improving liquidity via improved “free float” – the Government’s investment arm, Khazanah is divesting RM246 billion (US$65 billion) in equities and shares in 43 Government-linked companies which it owns, accounting for 35% of the total market capitalisation
- There are 231 listed companies with market capitalisation above US$100 million, testifying to the growing depth of the market
- Active trading activity – total market transacted value is RM70 billion (US$18 billion) and total market transacted volume is 37 billion units
- Bursa Malaysia has in its “stable” almost 1000 listed companies which cuts across over 50 different economic activities
- There is diversity in investors demography. 20% of shares listed on Bursa Malaysia are foreign owned and foreign trades make up around 30% of overall trade value in daily trading
- Bursa Malaysia promotes only the best corporate governance practices. For example, there is a mandatory quarterly reporting requirements and 1/3 of the board of directors in a public listed company is required to consist of independent directors. Among the Malaysian firsts in corporate governance include:
  - First to have a comprehensive code for corporate governance in March 1999
  - First to have mandatory training for directors of listed companies
  - First in the region to set up an accounting standards board, the Malaysian Accounting Standards Board (MASB)
  - First to revamp listing requirements in the region
  - First in the region to set up Minority Shareholders Watchdog Group
  - The establishment of the Malaysian Institute of Integrity (IIM).

(Note: statistics are as at end April 2005)
With the complexities of the capital market and the various instruments on offer today, clearly an authoritative body is required to define and provide guidance on what is and is not permissible under Islamic law. It is imperative that this body must possess adequate infrastructure to enable the system to operate and function efficiently and effectively.

Towards this end, the Islamic Capital Market Unit within the Securities Commission’s Market Policy and Development Division has been mandated to research and develop products and activities pertaining to the ICM in Malaysia.

**ROLE OF SHARIAH ADVISORY COUNCIL (SAC)**

The main thrust of ICM products is compliance to Islamic principles. To this end, the Shariah Advisory Council was established in 1996 primarily:

- To advise the Securities Commission on Shariah-related matters
- To provide Shariah guidance on ICM transaction and activities, aimed at standardising and harmonising applications.

Primary sources of research and reference are the Quran and Sunnah, while secondary sources include Ḥijrah, Qiyas and Maslahah. Product origination and innovation are based on various Islamic concepts such as Ujrah, Bai' Dayn, Istisna’, Mudharabah, Murabahah, Qardhul Hasan and Musharakah.

The determination whether a particular stock is Islamic or not are based on the sources of income received by the corporation. There are 3 ratios called benchmark ratios of 5%, 10% and 25% which determines the Shariah status of the corporate body and hence its securities and shares.

**Selection Process**

The SAC of the Securities Commission established under section 18 of the Securities Commission Act 1993, was given the mandate to ensure that the running of the Islamic capital market complies with Shariah principles. Its scope of jurisdiction is to advise on all matters related to the comprehensive development of the Islamic capital market, and functions as a reference centre for issues related to the Islamic capital market. The members of the SAC consist of Islamic scholars/jurists and Islamic finance experts.

The list of securities approved by the SAC is updated annually in April and October. The approved securities include ordinary shares, warrants and transferable subscription rights (TSRs). This means that warrants and TSRS are also classified as approved securities from the Shariah perspective, provided the underlying shares Shariah compliant. On the other hand, loan stocks and bonds are only Shariah compliant if they are issued based on Shariah principles.
Parameters

Qualitative Parameters

The general criteria in evaluating the status of Shariah-approved securities are that the companies are not involved in the following core activities:

- Financial services based on riba (interest)
- Gambling
- Manufacture or sale of non-halal products or related products
- Conventional insurance
- Entertainment activities that are non-permissible according to Shariah
- Manufacture or sale of tobacco-based products or related products
- Stockbroking or share trading in non-Shariah approved securities
- Other activities deemed non-permissible according to Shariah.

The SAC also takes into account the level of contribution of interest income received by the company from conventional fixed deposits or other interest-bearing financial instruments. In addition, dividends received from investments in non-Shariah approved securities are also considered in the analysis carried out by the SAC.

For companies with activities comprising both permissible and non-permissible elements, the SAC considers 2 additional criteria:

- The public perception or image of the company, which must be exemplary
- The core activities of the company must be considered maslahah (in the public interest) to the Muslim ummah and the country, and the non-permissible elements present must be minimal and involves matters such as ‘umum balwa (common plight and difficult to avoid) and ‘uruf (custom).
THE ISLAMIC CAPITAL MARKET

Quantitative Parameters

To determine the tolerable level of mixed contributions from permissible and non-permissible activities towards revenue and profit before tax of a company, the SAC has established several benchmarks based on *ijtihad* (reasoning from the source of Shariah by qualified Shariah scholars).

If the contributions from non-permissible activities exceed the benchmark, the securities of the company will not be classified as Shariah approved.

The benchmarks are:

- **The 5% benchmark**
  This benchmark is used to assess the level of mixed contributions from the activities that are clearly prohibited such as *riba* (interest-based companies like conventional banks), gambling, and activities derived from liquor and pork which are deemed *haram* (prohibited).

- **The 10% benchmark**
  This benchmark is used to assess the level of mixed contributions from the activities that involve the element of *umum balwa* (a prohibited element affecting most people and difficult to avoid). An example of such a contribution is the interest income from fixed deposits placed in conventional banks. This benchmark is also used for tobacco-related activities.

- **The 25% benchmark**
  This benchmark is used to assess the level of mixed contributions from the activities that are generally permissible according to Shariah and have an element of *maslahah* (public interest), although there may be other elements that could affect the Shariah status of these activities. Among the activities that belong to this benchmark are hotel and resort operations, share trading, stockbroking, as these activities may also involve other related activities that are deemed non-permissible according to Shariah rules.

In a bid to promote understanding of Shariah approved securities, more details and criteria on the Shariah review of securities are provided in the bi-annual SAC List booklet which is also available online at [www.sc.com.my](http://www.sc.com.my).
BURSA MALAYSIA’S SHARIAH MARKET

As at 31 May 2005 there are 816 stocks which are Shariah compliant. These stocks then represent the components of Bursa Malaysia’s Shariah Index, amounting to 82.5% of the total listed companies or 64.0% of the market capitalisation. These Shariah compliant stocks are derived from all 3 sub-markets within Bursa, namely the Main Board, Second Board and the MESDAQ market.

Number of Shariah Approved Stocks on Bursa Malaysia

* As at 31 May 2005 - Based on the List of Securities Approved by the Shariah Advisory Council of the Securities Commission as at 29 April 2005

36% of all Shariah listed equity funds in the world are listed in Bursa Malaysia and as at 31 December 2004 the total value of these funds stood at US$1.8 billion compared to a total of US$5.0 billion worldwide.

Shariah Index

The Shariah Index was launched in April 1999 to meet the demands from local and foreign investors who seek to invest in securities which are consistent with the Islamic principles of Shariah.

Investors seeking to make investments based on Shariah principles now have a benchmark towards making better informed decisions. The Shariah Index is a weighted-average index with components comprising the securities from the Main Board which have been approved by the SAC.

The index tracks the performance of these Shariah approved securities and is regularly updated to reflect changes in the SAC’s Shariah approved list of companies.
Islamic Investment and Services

Malaysia offers a holistic set of ICM infrastructure ranging from products, stockbrokers, trust funds and debt securities (bonds).

Presently, there is one full-fledged Islamic stockbroking company with 3 other conventional stockbroking companies that provide Islamic windows in the ICM.

In fulfilling the need of specific needs of private investors, there are also asset management companies that manage funds in accordance to the Shariah principles. Although this activity is fairly new compared to Islamic unit trusts, the interest among high networth Muslim investors to engage professional managers to invest their funds has been increasing of late.

Another significant development in the ICM intermediation activities and services is the role of independent Shariah advisers for the purpose of facilitating the issuance of Islamic corporate bonds.

In 2004 alone, there were 16 new Shariah based unit trust funds introduced to the ICM, statistically, 24.4% of all unit trust funds approved in the industry are Shariah compliant.

The breakdown of these Shariah compliant funds is detailed below:

**Category of Shariah-based Unit Trust Funds**

- **Equity fund**: 54%
- **Bond fund**: 20%
- **Balanced fund**: 20%
- **Money market fund**: 3%
- **Fixed income fund**: 3%

**Shariah-based Unit Trust Funds**

<table>
<thead>
<tr>
<th>Category</th>
<th>2004</th>
<th>2003</th>
</tr>
</thead>
<tbody>
<tr>
<td>Number of management companies</td>
<td>28</td>
<td>27</td>
</tr>
<tr>
<td>Number of approved funds</td>
<td>71</td>
<td>55</td>
</tr>
<tr>
<td>Total approved fund size (billion units)</td>
<td>38.90</td>
<td>24.9</td>
</tr>
<tr>
<td>Units in circulation (billion units)</td>
<td>13.16</td>
<td>8.59</td>
</tr>
<tr>
<td>Number of accounts</td>
<td>427,000</td>
<td>346,152</td>
</tr>
<tr>
<td>NAV of funds (RM billion)</td>
<td>6.76</td>
<td>4.75</td>
</tr>
<tr>
<td>% of NAV to total industry</td>
<td>7.7</td>
<td>6.8</td>
</tr>
</tbody>
</table>

Source: Securities Commission Annual Report 2004
THE OFFSHORE ISLAMIC CAPITAL MARKET

The Malaysian Government is actively promoting the Labuan International Offshore Financial Centre (IOFC) as a global centre for the Islamic Capital Market. Labuan has historically been a home for various international financial activities and has been an offshore centre for more than a decade. These offshore financial activities is regulated by Labuan Offshore Financial Services Authority (LOFSA).

ROLE OF LABUAN INTERNATIONAL FINANCIAL EXCHANGE, INC. (LFX)

The Labuan International Financial Exchange, Inc. (LFX), a wholly owned subsidiary of Bursa Malaysia Berhad, was launched in 2000. It is a web based financial exchange that provides listing and trading facilities for a wide range of financial and non-financial products as well as Islamic financial products.

LFX is governed by the Labuan Offshore Securities Industries Act (LOSIA) 1998 as well as its Rules and Regulations and its operating website is www.lfx.com.my.

As at April 2005, LFX recorded total number of 27 listings and market capitalisation of approximately US$11.05 billion. These include debt and equity linked instruments and Sukuk issued by international as well as local issuers.

Total Number of Listings and Market Capitalisation of LFX
Benefits of the LFX

LFX offers several benefits, as follows:

- LFX is a one-stop financial exchange that offers full services from the submission of application for listing to approval, the actual listing, trading and settlement of the securities and financial instruments listed.

- The Rules of LFX are designed to be liberal to cater for the listing of a variety of multi-currency securities and instruments. However, as a self-regulatory organisation, it aims to strike a balance between commercial expediency and maintaining a fair and orderly market. Market integrity and providing investor protection are paramount.

- LFX maintains a customer-focused and oriented environment without compromising on key aspects of quality, security, due diligence and corporate governance.

- All transactions conducted on LFX are not subjected to any capital control measures or exit levies.

- The extensive usage of multimedia and internet facilities will enhance accessibility, whilst ensuring its operations function efficiently and cost effectively.

- LFX offers speedy approval as it undertakes to process and approve all listing applications within 3 weeks, provided that all required documentation received is accurate and complete. This is possible because decision making at the LFX is the sole responsibility of LFX.

- Labuan as an offshore centre does not attract any stamp duty and generally involves only minimal dealings with statutory regulators.

- Labuan IOFC is actively promoting and developing offshore Islamic financial business. Labuan is home to 5 offshore Islamic banks offering various Islamic financial products and services. In addition, offshore conventional banks are also active in promoting the business through its Islamic financial windows and Islamic capital market activities. As at 2004, the IOFC recorded a market increase in Islamic financial business allowing LFX to tap into a wider investor base.

- Being a wholly owned subsidiary of Bursa Malaysia, LFX and its market participants benefit from the expertise and experiences of the onshore Islamic capital market especially in the areas of product development and related Shariah matters.
ISLAMIC PRIVATE DEBT SECURITIES

Selection Process
Islamic financial instruments to be listed on the LFX will require endorsement by the Shariah Council of their country of origin or from any internationally accepted Shariah Council.

Parameters
The respective issuance for listing should not be less than US$100 million for debt securities.

Developments of Islamic Instruments on LFX
The development of the international Islamic capital market augurs towards the development of Islamic instruments on LFX. Currently, there are 5 listed instruments that are deemed Islamic with a total market capitalisation of US$2 billion representing 18% of the total market capitalisation.

The instruments are:

i. US$150 million Serial Islamic Lease Sukuk by First Global Sukuk Inc
- The US$150 million Islamic Lease Sukuk is part of a US$395 million Serial Islamic Sukuk issuance that Bank Islam (Labuan) Limited has been mandated to arrange by Kumpulan Guthrie Berhad (Guthrie). In December 2000, Guthrie was granted a RM1.5 billion (US$400 million) Al-Ijarah Al-Muntahiyah Bit-Tamik by a consortium of banks
- The original facility was raised to re-finance Guthrie’s acquisition of a palm oil plantation in the Republic of Indonesia. The consortium was then invited to participate as the underwriter/primary subscriber of the Sukuk Transaction.

ii. US$600 million Sukuk Al-Ijarah Trust Certificates by Malaysian Global Sukuk Inc
- Malaysia Global Sukuk Inc. was incorporated in Labuan under the Offshore Companies Act, 1990 on 3 June 2002. The authorised share capital of the issuer is US$12,000, of which 2 ordinary shares are owned by The Ministry of Finance Inc., a body corporate established under the Minister of Finance (Incorporation) Act 1967
- The purpose of the transaction was to enable the Government of Malaysia to raise financing in accordance with Shariah principles. All payment obligations raised under the transaction documents rank "pari passu" with its senior, unsecured foreign currency debt obligations.
iii. US$700 million Sukuk Trust Certificate by Qatar Global Sukuk QSC

- The transaction involves Qatar Global Sukuk QSC (QGS) issuing rated trust certificates (Sukuk), the proceeds of which will ultimately be used for general funding purposes by the Government of the State of Qatar. The rationale for this transaction is to allow the Government of the State of Qatar to raise shariah compliant funds.

- QGS will purchase a certain land parcel from the Government of the State of Qatar. The land parcel will be leased by QGS to the Government of the State of Qatar for a 7-year period corresponding to the duration of the trust certificates. The land parcel excludes all buildings and all other fixtures, thus, construction and completion costs for the building and fixtures are paid for by the government.

- QGS declared that it will hold these assets in trust for the holders of the trust certificates. The lease rental payment from the Government of the State of Qatar to QGS will exactly match the periodic distribution payments payable on the trust certificates. The lease rental payment is calculated based on 6-month U.S. dollar LIBOR plus a margin.

iv. US$250 million Sukuk Trust Certificate by BMA International Sukuk Company

- The Kingdom of Bahrain, acting through the Ministry of Finance and National Economy (in such capacity, the Head Lessor), will lease by way of head lease for a term of 100 years a certain land parcel to the Issuer pursuant to the Al-Ijarah Head Lease Agreement.

- The Kingdom of Bahrain, acting through the Ministry of Finance and National Economy, (in such capacity, the Sub-Lessee), will lease by way of sub-lease from the Issuer the Land Parcel on the terms set out in the Al-Ijarah Sub-Lease Agreement for a period of 5 years commencing on the Closing Date and terminating on the Periodic Distribution Date falling in June 2009. The sub-lease is subject to earlier termination if the trust is dissolved early.
v. US$350 million Sukuk Trust Certificates by Sarawak Corporate Sukuk Inc. (SCSI)

- Sarawak Economic Development Corporation (SEDC) raised financing amounting to US$350 million by way of issuance of series of trust certificates issued on the principle of Sukuk Al-Ijarah. For purposes of the proposed Sukuk, SCSI was incorporated on 23 November 2004 as a special purpose company, under the Offshore Companies Act (OCA), 1990 in Labuan.

- The certificates were issued with a maturity of 5 years and under the proposed structure, the proceeds will be used by the issuer to purchase certain assets from 1st Silicon (Malaysia) Sdn Bhd. Thereafter, the Issuer will lease assets procured from 1st Silicon to SEDC for an agreed rental price for an agreed lease period of 5 years. The rental payable by SEDC will be supported by the State Government of Sarawak via a letter of support.

**Market Capitalisation of Islamic Instruments Listed on LFX**

<table>
<thead>
<tr>
<th>Year</th>
<th>Market Capitalisation (US$ million)</th>
</tr>
</thead>
<tbody>
<tr>
<td>2002</td>
<td>100</td>
</tr>
<tr>
<td>2003</td>
<td>750</td>
</tr>
<tr>
<td>2004</td>
<td>1700</td>
</tr>
<tr>
<td>2005 (April)</td>
<td>2000</td>
</tr>
</tbody>
</table>

**LFX EXPANDS**

To further enhance its global reach, LFX has established a Memorandum of Understanding with the International Islamic Financial Market (IIFM) and Bahrain Stock Exchange in Bahrain. The MOU would provide greater co-operation and pave the way for both organisations to develop the International Islamic capital market by developing channels of communications and exchange of information specifically for activities involving primary listings and the promotion of a secondary Islamic financial instruments market.

LFX will continue to increase its efforts to further develop in tandem with the development of the Islamic capital market internationally.
<table>
<thead>
<tr>
<th>No.</th>
<th>Instrument (Islamic)</th>
<th>Type</th>
<th>Issuer</th>
<th>Listing Class</th>
<th>Listing Date</th>
<th>Value (US$)</th>
<th>Listing Sponsor</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Serial Islamic Lease Sukuk</td>
<td>Debt Securities</td>
<td>First Global Sukuk Inc.</td>
<td>Primary</td>
<td>25 Jan 2002</td>
<td>100,000,000</td>
<td>Bank Islam (L) Limited</td>
</tr>
<tr>
<td></td>
<td>Serial Islamic Lease Sukuk</td>
<td>Debt Securities</td>
<td>First Global Sukuk Inc.</td>
<td>Primary</td>
<td>25 Jan 2002</td>
<td>100,000,000</td>
<td>Bank Islam (L) Limited</td>
</tr>
<tr>
<td>2.</td>
<td>Sukuk Al-ijarah Trust Certificates 2007</td>
<td>Debt Securities</td>
<td>Malaysia Global Sukuk Inc.</td>
<td>Secondary</td>
<td>18 Sept 2002</td>
<td>600,000,000</td>
<td>AmInternational (L) Limited</td>
</tr>
<tr>
<td>3.</td>
<td>Sukuk Trust Certificates due 2010</td>
<td>Debt Securities</td>
<td>Qatar Global Sukuk QSC</td>
<td>Secondary</td>
<td>28 Jan 2004</td>
<td>700,000,000</td>
<td>CRMB (L) Limited</td>
</tr>
<tr>
<td>5.</td>
<td>Sukuk Trust Certificate due 2009</td>
<td>Debt Securities</td>
<td>Sarawak Corporate Sukuk Inc.</td>
<td>Primary</td>
<td>3 Jan 2005</td>
<td>350,000,000</td>
<td>AmInternational (L) Limited</td>
</tr>
</tbody>
</table>
For further information, please contact:
icm@bursamalaysia.com
Tel: +603-2034 7331 and +603-2034 7430

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THE ISLAMIC CAPITAL MARKET