

- Clean your hands often with soap or disinfectants
- Cough or sneeze in your bent elbow - not your hands!
- Avoid touching your eyes, nose and mouth
- Limit social gatherings and time spent in crowded places
- Avoid close contact with someone who is sick with Covid-19 symptoms
- Clean and disinfect frequently touched objects and surfaces

EDITOR'S NOTE

Assalamualaikum and welcome to the first issue of The Risalah for 2020.

Firstly, let us give thanks and gratitude to our Creator for the gift of life to reach, what at one time seemed to be a distant vision, the year 2020 mark. What promised to be an exciting decade turned out to be a life changing start of progress and optimism which forced each and every one of us to have a serious re-look at how we go about our daily lives. Many would agree that 2020 will go down in history as the year of realisation and rethinking where humanity has started to truly appreciate the importance of the basic necessities of life, health, family and faith. It will be a changed era indeed.



The hardships brought upon society because of the Covid-19 pandemic has revealed the need to reorganise our lives and reprioritise life pursuit. Apart from setting in place minimum lifelong health requirements, there are also greater calls for security of employment, flexible employment models and government policies that provide for better minimum wage or wage subsidies. Economic displacements, initially resulting from inactivity during the pandemic, may eventually become widespread as economic activities embrace the current rapid technological and digital automation. Post-pandemic, there is a need to adopt flexibility in work arrangement, greater social consciousness in interaction and investment in retraining the displaced worker. Each generation has different needs and priorities. While the older generation had to deal with adequacy of health treatment and maintaining a reasonable standard of living during their pensionable life, the younger generation has to deal with sustainable livelihood amidst diminished legacy in terms of environment, biodiversity and economic resilience. Therefore, it makes good sense for people and organisations to invest in education to ensure that they have a gainful and productive career and organisations adopt the latest innovation to achieve sustainable operation.

We, at the CIIF are committed to do our part to provide the platform for which individual members can upscale themselves through professional education, and for organisations to professionalise their workforce. This year will see a continuation of our effort to onboard industry leaders as our members through the Chartered and Fellowship Masterclass, and professionalisation of the Islamic finance industry through the soon to be officially launched Chartered Professional in Islamic Finance (CPIF) programme. We are also embarking on our inaugural Executive Programmes that focused on management, leadership and soft skills trainings as part of the offerings for Continuing Professional Development (CPD) courses for our members. The highlight for this year will be the sealing of a corporate collaboration between the CIIF and an Islamic financial institution that provides opportunities for potential talents to acquire CIIF's professional qualification and current Islamic finance practitioners to up-scale themselves. At the same time, the CIIF hopes to offer superior learning experiences for those taking the CPIF programme. Even though current restriction in movement presents challenges in the way we conduct our operations and events, we see opportunities in innovating the way we interact and deliver our services. Our team has had to be agile and rise to the challenge of achieving more with less, thinking outside the box / innovate and exploring outside our comfort zone. A case in point is the 100% in house production of this issue of the Risalah. We hope that you, as our members will be with us throughout our journey in this challenging yet interesting time.

Rabbi yassir wala tu'assir wa tammim bil khair (Oh Allah, make this task easy and do not make it difficult. Oh Allah! Make it end well)



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MAJOR INTERNATIONAL HEADLINES IN 2020

1) Covid-19 Global Pandemic

This global pandemic will go down in history as one of the most tragic and defining moments of the 21st century. As of July 2020, more than 13 million cases of Covid-19 have been reported in more than 188 countries and territories, resulting in more than 572,000 deaths, more than 7.22 million people have recovered. Sadly, amongst the dead were frontliners who had risked their lives to save and cure others. The impact of this pandemic will be felt for years to come. It has paralysed the global economy, with sectors such as tourism and the airlines industries severely affected borders began to close, and lockdowns or movement control orders were enforced. Businesses have had to close and many may even cease permanently after the pandemic is over. Financial losses continue to mount, accelerating the economy to another potential financial crisis. Households incomes have dropped significantly, with household spending also seeing a reduction due to the slowdown in economic activities. As we as a society grapple with increased unemployment, as a natural consequence poverty will widen with many individuals struggling to recover from retrenchment. The recovery from this pandemic may take time and the world will need to adapt to the “new normal”, which may include having to live with the Covid-19 virus and managing through preventive measures in the event that no vaccine can be developed.



2) Australian Bushfires

The devastation began in late 2019 and swiftly worsened by February 2020. Massive fires erupted in New South Wales and the Australian Government was forced to declare a state of emergency. At least 34 people died, including 9 volunteer firefighters. The vast majority of the wildlife lost their habitat and a few died during the bushfire. Around 3,094 homes have been destroyed or severely damaged. It was not until March 2020 that the fire was finally contained and extinguished, but such devastation will take many moons to recover – and will not likely be the same ever again.



3) Jakarta Floods

Flash floods broke out in the city of Jakarta in the early hours of 1st January 2020 and was recorded as the worst flooding since 2007. Prolonged heavy overnight rain overflowed the rivers in the city. At least 80 people have been killed and more than 397,000 people were affected in this disaster.



4) Death of a Sporting Icon: Kobe Bryant in Memory

One of the saddest days in the history of the NBA, and indeed sports in general, was the untimely death of Kobe Bryant from a helicopter crash in Calabasas, California which became headline news all over the world. The crash killed LA Lakers' former star and his 13-year old daughter, along with 7 other passengers.



5) Temporary Closure of Religious Sites in Saudi Arabia

Saudi Arabia's Foreign Ministry announced the temporary closure of religious sites as it suspended the entry of foreigners for pilgrimage and tourism fears of the fast-spreading coronavirus, Covid-19. In a statement published at the end of February 2020, Riyadh's government said it was temporarily "suspending entry to the kingdom for the purpose of Umrah and visiting the Prophet's (s.a.w) Mosque until further notice."



6) Postponement of 2020 Olympics

Another casualty of the Covid-19 pandemic was the 2020 Olympics, which was the most highly anticipated sporting events of the year. The Olympics was originally scheduled to take place at the end of July of this year in Tokyo, Japan. The International Olympic Committee later announced the event will be postponed until 23 July 2021.



7) Mass Outcry and Protests against Racism and Discrimination in the USA

George Floyd, 46, was stopped by police investigating the purchase of cigarettes with counterfeit money on 25 May in Minneapolis. A video showing Floyd being arrested with a police officer continuing to kneel on his neck for several minutes even after he pleaded that he could not breathe was a defining moment which further invigorated the Blacks Lives Matter Movements. Floyd's death follows the high-profile cases of Michael Brown in Ferguson Missouri; Eric Garner in New York; and others that have driven the "Black Lives Matter" movement in recent years. For many, the incident has reflected years of frustration over socioeconomic inequality and discrimination faced by minority groups in the USA.



WHAT WE HAVE DONE SO FAR...

6 November 2019 | Hilton Hotel, KL Sentral

The CIIF held a special conferment ceremony for industry leaders who had successfully completed the 2018/2019 Chartered and Fellowship Masterclass (CFM), in conjunction with its 4th Anniversary celebration. The dinner was attended by practitioners from all sector of the Islamic finance industry, CIIF Members, affiliates, and partners. Mr. Adnan Zaylani Mohamad Zahid, Assistant Governor of Bank Negara Malaysia graced the evening as the Guest of Honour.



22 November 2019 | Padang @ 1U Rooftop, One Utama Shopping Centre

For the first time, the CIIF organised a sports event for its members. The sports event started off with a futsal game on a Friday night held at Padang @ 1U Rooftop, One Utama Shopping Centre in Petaling Jaya, Selangor. A total of 16 participants had a good game of futsal and food along the way. With the breeze blowing in the night, the participants had a good workout before calling it the weekend.



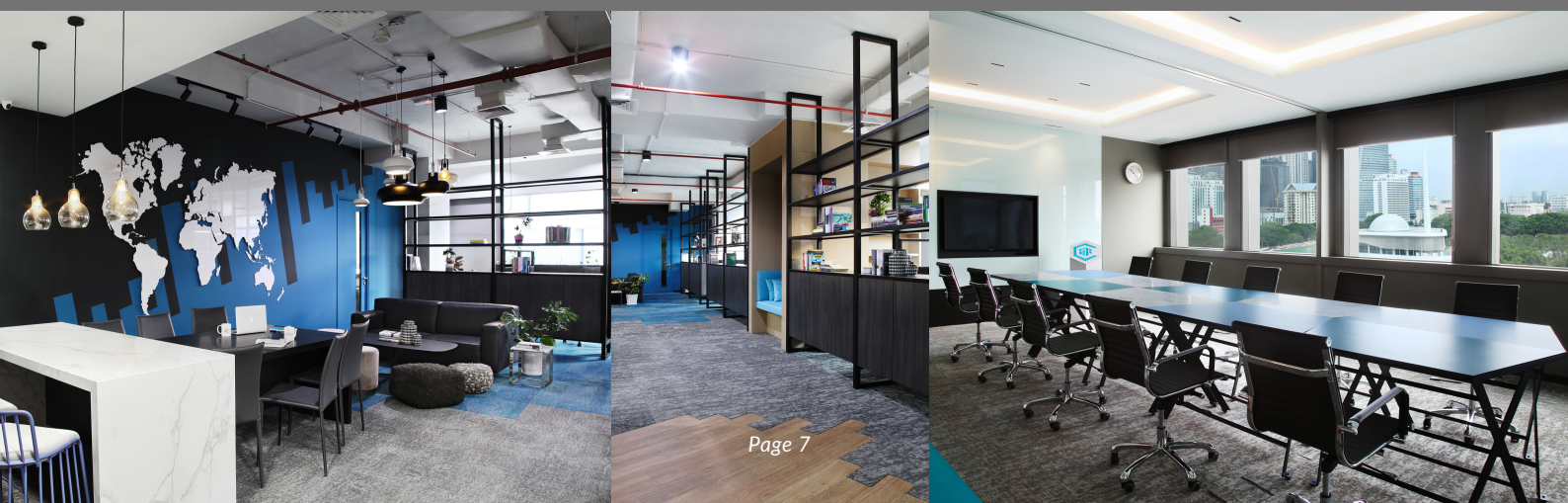
19 February 2020 | Food for Talk: The Heart and Soul of Takaful

The Food for Talk series returned with the first run of its 2020 series. Mr Elmie Dato' Haji Aman Najas, CEO of AIA Public Takaful, Deputy Chairman of Malaysian Takaful Association and Grand Councillor of the CIIF started off the series with a talk on "The Heart & Soul of Takaful". Members in attendance had a lively casual discussion on Takaful.



21 February 2020 | The CIIF's New Headquarters

After four years operating from Menara Takaful Malaysia, the CIIF officially announced its relocation to Menara 2, KL Eco City, Kuala Lumpur. On 21st February, the CIIF Management team commenced its operations at the new premise with renewed energy and excitement to serve members of the CIIF.



2 March 2020 | Chartered & Fellowship Masterclass (CFM), Kuala Lumpur

The first cohort of CFM 2020 was held at Hilton Hotel, Kuala Lumpur. The new enhanced CFM focused on three (3) core dimensions of Islamic Finance namely, Ethics, Financial Stability and Sustainability. For the first time, the CFM imposed assessment on the participants and their success was celebrated at a special dinner.



10 March 2020 | Signing Ceremony Between IIUM and Industry

Recently, the CIIF signed a Letter of Intent (LoI) with the International Islamic University of Malaysia (IIUM), with a view of signing a Memorandum of Understanding (MoU) later this year. The CIIF is looking forward to the collaboration with IIUM in developing future Islamic Finance talents.



CIIF'S WEBINAR SESSION

Following the global coronavirus (Covid-19) outbreak and the spike in Covid-19 cases in Malaysia, the Malaysian Government announced a Movement Control Order (MCO) on 16th March 2020, with the Order initially set to last for two weeks starting from 18th March 2020 as a measure to curb the outbreak.

The MCO imposed bans on mass gatherings, temporary closures of business premises (both Government and private sectors), temporary closure of the education sector, and travel outside of Malaysia was temporarily banned.

Following increases in case detections of Covid-19 infections, the MCO was further extended, with Emergency MCOs enforced in areas with high rates of infection. According to the World Health Organisation (WHO), based on data modelling, it had projected that Malaysia would see the peak of infectious cases in mid-April 2020.

The pandemic has sparked a "new normal", with remote working or working from home expected to become a norm and continue even after the MCO ends. Attending talks and events virtually will become commonplace and help employees. The CIIF took this opportunity to introduce an online talk exclusively for Members, with more to come. Stay tuned for more online talks and webinars in the year 2020!



MEMBERS' EXCLUSIVE! HOW USURY (RIBA) WENT MAINSTREAM

A unique aspect of usury (riba) is that, throughout the history of mankind, it has been condemned from religious, ethical, and economic perspectives and yet its practice never died. In just 300 years, usurers have transformed themselves from being the enemy to the envy of society. In this 30 minutes session, we will explore how this transformation took place and what lessons can we learn.

Date:
19 May 2020 (Tuesday)
Time:
10:00am - 10:45am MYT
E-mail your interest to
event@ciif-global.org



Dr Mohamed Ashraf Iqbal CPiF
Founder, MindSpring Sdn Bhd
Board Member, Bank Pembangunan
Malaysia Berhad
Shariah Committee Member, HSBC
Amanah Malaysia Berhad

MEMBERS' EXCLUSIVE! ISLAMIC BANKING - PERCEPTION vs. REALITY FROM CONSUMERS' PERSPECTIVE

Islamic Banking - misconception towards its goals, products, process and personnel is common. There is always a gap between perception & reality as Malaysia operates in a dual-banking environment. There are limitations and challenges in providing alternative Shariah-compliance products whilst trying to remain competitive. What makes us choose Islamic banking? Find out by joining this webinar session, register now!

Date:
2 June 2020 (Tuesday)
Time:
10:00am - 10:45am MYT
E-mail your interest to
event@ciif-global.org

Tuan Haji Abdul Rahman Mohd Yusoff CPiF
CIIF Grand Councillor
Head of Islamic Product & Business
Development, OCBC Al-Amin Bank Berhad



MEMBERS' EXCLUSIVE! COVID-19 & TAKAFUL: EXPECT THE UNEXPECTED

Only available through the CIIF Members' Portal. Log-in tomorrow, 5th May 2020, for the EXCLUSIVE sharing session by one of our Grand Councillors.

Stay tuned! Stay safe!

Mr. Wan Ahmad Najib Wan Ahmad Lotfi CPiF
Chief Strategy & Digital Distribution Officer,
FWD Takaful Berhad
CIIF Grand Councillor



MEMBERS' EXCLUSIVE! 5 CONDITIONS FOR TRANSFORMING WORK TO BE WORSHIP

In Islam, worship or "ibadah" is not limited to the five articles of faith namely, the shahada, prayer, fasting, zakat and haji. In fact everything that we do, including work, can be elevated to be worship. However this transformation of work from "secular" to "sacred" must meet five conditions. Let's explore this in a 45-minutes session with Dr Ashraf Iqbal via GoToWebinar.

Date:
14 May 2020 (Thursday)
Time:
10:00am - 11:00am MYT
E-mail your interest to
event@ciif-global.org



Dr Mohamed Ashraf Iqbal CPiF
Founder, MindSpring Sdn Bhd
Board Member, Bank Pembangunan
Malaysia Berhad
Shariah Committee Member, HSBC
Amanah Malaysia



MEMBERS' EXCLUSIVE! LIFE HACKS - SHOWING YOUR VALUE IN THE ORGANISATION

Tune in as Dr Syed Adam shares some management life hacks based on his experiences serving in various industries, from his time as a fledgling legal professional, to his role as a member of a Shariah secretariat of a financial institution, and now as a member of one of the oldest legal firms in Malaysia! Amidst his busy professional life, he also managed to complete his PhD in Islamic Finance in less than 4 years! Grab this chance to find out his 'secrets'!

Date:
21 May 2020 (Thursday)
Time:
12:00pm - 1:00pm MYT
E-mail your interest to
event@ciif-global.org



Dr Syed Adam Alhabshi CPiF
CIIF Grand Councillor
Partner, Shook Lin & Bok



ON THE CUSP OF THE NEXT FINANCIAL CRISIS...

BY DR ASHRAF IQBAL CPIF

As we ride through this global pandemic, we ought to be thinking about what the world will look like once the spread of Covid-19 comes under control. What will the financial situation of people, businesses, corporates and governments be? What will be the path to recovery? If a global financial tsunami does ensue, Islamic finance will, for the first time, be seriously tested for its robustness. If it fares better than its conventional counterparts, that will be a good outcome. However, should it fare as bad or worse, then there is a genuine concern on where the blame will fall. Will the blame fall on the practitioners or on the religion?

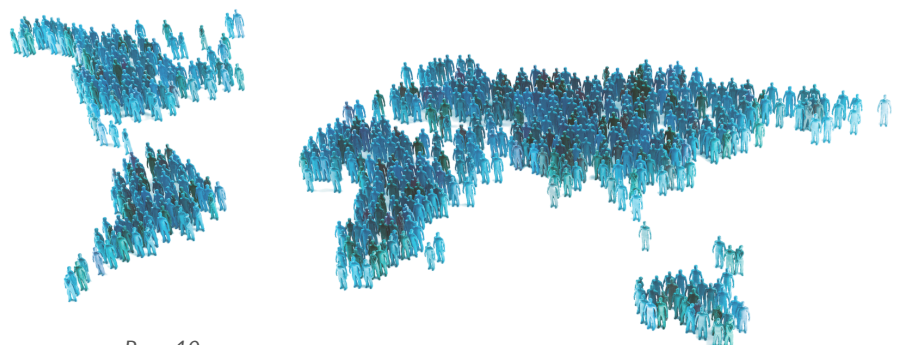
"Whilst Islamic finance has matured over the last 50 years, it has done so in the shadows of conventional finance. Through the fastidious works of Shari'ah scholars, Islamic finance is now able to replicate almost every product offered in conventional finance but to be done in a manner that is Shari'ah compliant. As a result, Islamic finance today occupies a legitimate space in any discussions on finance."

The unanswered question though is, have the inherent fragilities that are in-built within conventional finance been removed from Islamic finance?

If we look at banking, one will notice something peculiar about it which contradicts the behaviour of every other industry. In every other industry, crises are inevitable, but each crisis is treated as a lesson where fundamental and far reaching changes are made so the industry becomes safer and more robust. It is hard to conceive a category (cars, air travel, health, dental, food, oil, etc) which is less safe or robust today than it was 50 years ago. In contrast, while every crisis has caused banking to learn and change, the reality is that despite these lessons and changes every subsequent crisis is always bigger than the previous. Just consider the fact that each crisis has brought about the Basel Committee on Banking Supervision then Basel I, Basel II, Basel III, Basel IV.

Nassim Nicholas Taleb states that the fragility in banking comes from debt. Debt has little room for error causing the economic system to lose its ability to withstand extreme variations in the prices of goods and securities. In addition, debt has a nasty property: it is highly treacherous. A loan hides volatility as it does not vary outside of default.¹

[1] <https://www.ft.com/content/4e02aeba-6fd8-11de-b835-00144feabdc0>



To understand Taleb's point: Contrast the behaviour of debt and equity under the same crisis conditions. Debt by nature is binary, it is either current or in default. In a crisis, as liquidity becomes scarce, debts rapidly flip from being current into default which in turn triggers other debts to default leading firms into insolvency thus contracting economic activity. In contrast, equity merely loses value to the extent of the severity of the shock without the firms becoming insolvent (unless the firm has pledged the equity as collateral for debt then the debt shock sets in) and economic activity can continue which helps the recovery.

Hence it comes as no surprise to find that every financial crisis has been a debt crisis. The only way to remove this fragility is to either redesign debt so it does not exist only in binary or to cease engaging in debt. The problem, as all bankers argue, is that banks are in the business of debt, thus the latter option is not feasible and so the former has to be explored.

Islamic banks already have the products to enable shock absorbing finance: the *musharakah-ijarah* combination being a perfect example. The shift that banks need to make, is to move away from fixed amortisation schedules and enable flexibility on the return of capital in the *musharakah* and ideally to peg the *ijarah* to real prices / economic activity. In good times, the borrower has an incentive to accelerate the return of capital and in bad times the return on capital will reduce in relation to the drop in prices / economic activity. The benefit to the bank is that the financing remains solvent which in turn maintains the bank's viability.

This impending crisis is a golden opportunity for Islamic banks to redefine how banking is to be done. The introduction and adoption of shock-absorbing products will enable banks get onto a path of resilience. The choice for policy makers and shareholders is clear: Either create resilience by putting up even more capital buffers, OR redesign the products to be shock absorbent.



Dr. Mohamed Ashraf Iqbal is the strategy & performance expert in MindSpring. He has worked across a spectrum of roles, organisations and geographies. He currently is a Non-Independent Non-Executive Director of HSBC Amanah and a member of its Shariah Committee. Dr. Ashraf is also Board Member of Bank Pembangunan Malaysia Berhad. He holds a PhD in Islamic Banking and Finance, a post graduate diploma in Islamic Studies, a Masters in Business Administration and a Bachelor of Science in Mechanical Engineering.

A NEW DEPOSIT INSTRUMENT TO COMPLEMENT IILM SUKUK: PROS AND CONS

DR MUHAMMAD MD HUSIN^{CPIF}
CO-WRITEN WITH MR MOHAMAD ZABIDI AHMAD

This article was first featured in Islamic Finance News on 3rd June 2020

The International Islamic Liquidity Management Corporation (IILM) is an international organisation established on the 25th October 2010 to develop and issue high-quality, short-term, Shariah compliant financial instruments to facilitate effective cross-border liquidity management for institutions that offer Islamic financial services. On the 26th August 2013, the IILM issued its first US dollar-denominated Sukuk. The inaugural IILM Sukuk of US\$490 million, which were rated 'A-1' by S&P Global Ratings, had a tenor of three months and was fully subscribed. To date, the IILM has US\$1.96 billion-worth of outstanding cumulative Sukuk, with 89 regular issuances since its inception (based on the IILM Sukuk Key Fact Sheet of December 2019). DR MUHAMMAD MD HUSIN, CPIF and MOHAMAD ZABIDI AHMAD write.

Liquidity constraint of existing Sukuk program

The IILM is mandated to enhance cross-border investment flows and international linkages between Islamic financial institutions. While there is no doubt that the existing Sukuk program helps the IILM to achieve these mandates to some extent, further progress is anticipated to be challenging, given the restriction on the amount of Sukuk that can be issued by the IILM.

To enable tradability, the Sukuk must be backed by a certain number of tangible assets, typically contributed by the founding shareholders of the institution. As these are technically sovereign assets, only a limited number of assets may be 'transferred' to the IILM for its Sukuk program. Transparency for these assets is also confined, given the sovereign ownership, and this does not help in terms of credit assessment.

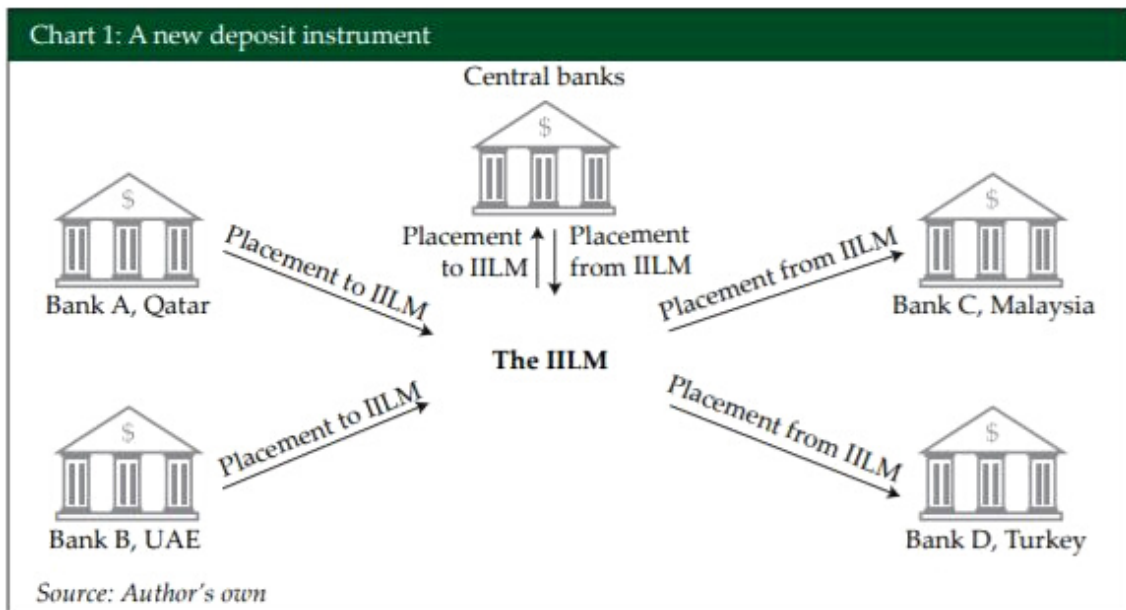
Adding to the complexity is the multiple Shariah interpretations on the permissibility of such assets which may further restrict the type of assets that can be finally used to structure IILM Sukuk. These issues lead to a lack of market depth and breadth, which is inconsistent to the market-related characteristic of a liquid asset as defined by the Basel Committee on Banking Supervision.

This also means that the existing Sukuk are insufficient to fulfill the liquidity requirements for Islamic financial institutions. To put things into perspective, the highest outstanding amount for IILM Sukuk to date is US\$3 billion vis-à-vis global Islamic finance assets of US\$2.5 trillion (based on the Islamic Finance Development Report 2019 by the Islamic Corporation for the Development of the Private Sector and Refinitiv).



Proposal for a new deposit instrument

It is in our opinion that more can be done to further enhance cross-border liquidity management between Islamic financial institutions. In particular, we feel that a new financial instrument is required to complement the existing Sukuk program and to ensure the IILM is able to achieve its mandate.



We are proposing a new deposit instrument based on the model prescribed in Chart 1.

In most IILM member countries, the respective banking systems operate under a surplus liquidity environment, both in local and foreign currencies. For Middle Eastern countries, this is mainly due to the fact that they are net oil exporters. For other countries, the surplus liquidity is derived from an influx of portfolio as well as foreign direct investments. The surplus liquidity environment therefore would naturally reduce demand for funding from the money and capital markets.

The other aspect is that Islamic financial institutions looking to fund from these markets will find that deposit transactions in the money market are relatively simpler to contract than other financial instruments, especially for short tenors. Another important point is at the moment the aforesaid funding scenarios are primarily observed within the Islamic financial institutions' respective countries, given the complexity of the client on-boarding process as well as a lack of familiarity with foreign-based Islamic financial institutions which translate to low credit risk appetite.

Under this backdrop, the proposal is for the IILM's primary dealers to place their excess liquidity with the IILM via a deposit instrument. The IILM will then channel these excess liquidities to other primary dealers or Islamic financial institutions that need it. The IILM could also channel these excess liquidities to its founding central banks and monetary authorities which will then distribute it to their local Islamic financial institutions.

Eventually, cross-border investment flows and international linkages could be facilitated. As the IILM is established by central banks and monetary authorities, technically the concern on credit risk is negligible but nevertheless it is imperative for the IILM to be externally rated by rating agencies to instill confidence and assist Islamic financial institutions to meet their internal rules associated with client on-boarding and deposit placement.



The HQLA myth

The aforementioned proposal invalidates the concern on counterparty risk for deposit placement as Islamic financial institutions will face the IILM instead of another Islamic financial institution. However, some may argue that it does not address the requirements for high-quality liquid assets (HQLAs), as prescribe by the Basel Committee on Banking Supervision for the liquidity coverage ratio (LCR). To tackle this, we need to look at the way the LCR is calculated.

"But now it is glaring that the program has a limited capacity given the difficulty to acquire sovereign assets, which then affects the depth and breadth of the program"

The LCR is derived by dividing the HQLA (numerator) by its total net cash outflows, including the deposit (denominator), over a 30-day period. Based on this, the HQLA indeed plays an important role to ensure compliance to the LCR. However, the same could be argued for the cash inflows from deposit placement. In fact, a simple numerical exercise will prove that improvising the denominator of the LCR calculation instead of the numerator would result to a better LCR ratio.

Say Bank A has US\$200 million and US\$100 million-worth of HQLAs and total net cash outflows respectively. The calculated LCR ratio would be 200% $((200/100)*100)$.

Now assume Bank A has an additional US\$50 million in cash. Bank A has options either to deploy it to buy IILM Sukuk which will be deemed HQLAs or to place it with the IILM as a deposit. For the former, the resulting LCR ratio is 250% $((250/100)*100)$ while for the latter, the outcome is 400% $((200/50)*100)$.

Conclusion

The IILM Sukuk program is a success story for the institution and for the Islamic finance world in general. But now it is glaring that the program has a limited capacity given the difficulty to acquire sovereign assets, which then affects the depth and breadth of the program. The proposed deposit instrument aims to complement the Sukuk program by providing Islamic financial institutions access to a simpler financial instrument that has the capacity to be transacted in volume and at the same time enabling the cross-border investment flows between Islamic financial institutions.



FINANCING WAQF LAND

ASSISTANT PROFESSOR DR ZIYAAD MAHOMED ^{CPIF}

As a financial charitable institution, *waqf* has been the most significant contributor to social services in the Muslim world. Although the concept of *waqf* or endowment predates Islam, the comprehensive regulatory framework that promotes, guides, protects and fosters the development of the institution of *waqf* is a contribution from the Islamic law. However, the challenge of under-developed *waqf* land and abandoned *waqf* property that provides little to no benefit to their rightful beneficiaries requires urgent consideration. In fact, it is an opportune moment for Islamic financial institutions to contribute to the socio-economic development and gain points on the value-based intermediation scorecard through the financing of *waqf* assets throughout Malaysia.

"*Waqf* is an endowment of property, cash or land for purposes that are in agreement with the principles of Islamic law."

Waqf is established by withholding immovable and movable properties to perpetually spend its revenue or benefit on fulfilling public or family needs, depending on the preferences of and conditions set by the founder. Once the property is created as *waqf*, it can no longer be gifted, inherited or sold. Once a property is created as *waqf*, it should be placed under three key restrictions: irrevocability, perpetuity and inalienability.

The continuity of *waqf* has existed since the beginning of Islamic law. Prophet Muhammad (PBUH) encouraged his companions to contribute or create *waqf* (endowment) as a technique to support future generations by encouraging contemporary society to contribute: an indication that sustainable finance concepts have been advocated in the earliest tenets of Islamic philosophy.

Successful *waqf* examples have gained popularity across Europe and the practice of Islamic *waqf* principles have been documented in the use of prominent structures including Merton College in Oxford (founded in 1274), the Taj Mahal which was founded by Emperor Shah Jahan in 1631 and the oldest university in the world, Al Azhar in Cairo, Egypt (founded around 970). The success of the *waqf* institution in Turkey for example, has contributed a successful model for *waqf* perpetuity and that consists usually of a Masjid (aka Blue Mosque or Sulaimaniya Mosque), a school coupled with healthcare and other social services and supported perpetually with rentals from business premises and trading space owned by the *waqf*. The *waqf* as an entity managed by trustees, receives sufficient revenue to not only maintain the its infrastructure but also expand its asset base in order to increase its impact on the designated beneficiaries. Perhaps a different version of this model may be used in the Malaysian context as *waqf* is not limited to buildings alone.

In the case of Malaysia, there are more than 13,000 hectares of old *waqf* properties that require funds for the restoration process. This is not restricted to Malaysia: since the 20th century, much of the stagnation in the development of *waqf* land and property globally, has been due to poor governance and narrow interpretations of *waqf* law.



For example, certain jurisdictions and opinions recognise that only land or property can be a valid contribution to *waqf* and not cash. This may be due to the requirement of perpetuity for *waqf* assets and that cash may be seen as consumed by inflation over time. Considering that through a competent cash *waqf* management, it is possible for each Muslim to uphold and contribute to the value of *waqf* for the benefit of societal development.

Underdeveloped *waqf* property in Malaysia becomes a burden to future generations as significant portions of land are untouchable once designated as *waqf*. Maintenance strategies are required as a key component of property endowments to ensure that the sanctity and objective of the *waqf* is achieved perpetually. Through an effective strategy, *waqf* activity may provide significant impact to the beneficiary community as it enhances economic growth, provides education and promotes social development as it fulfils the spiritual objectives of the founder of the *waqf*. Some of the primary challenges in the development of productive *waqf* assets may be expressed as follows:

Under-developed *waqf* property and land

Most *waqf* founders tend to opt for the a 'top-of-mind' approach in designating *waqf* property as mosques, schools and cemeteries. Few endowments end up generating revenue for the *waqf* and its beneficiaries. With limited cash flow, these *waqf* assets make little progress often standing still in time - certainly not the intention of the perpetuity principle of *waqf*!

Land that is endowed in Malaysia, often remains underdeveloped: current statistics show that Malaysia has approximately 13,400 hectares which are left idle and unproductive. A mere 2% of the total acreage has been developed. A study by the Islamic Development Bank (IDB) in 2004 revealed a similar trend across the nation. For example, in Perak, 78% of *waqf* land was reserved as cemeteries at that time, while the rest were used for mosques and schools.

One of the main reasons for under development may be their locations. Although some are in strategic locations in the middle of the city, others are scattered across rural areas with limited potential for development.

Limited Islamic financial sector participation

This may be due to a number of reasons, including issues of legality of ownership in *waqf* land, lack of expertise in understanding the legal and/or *Shari'* (Islamic legal) implications of *waqf* development, inadequate cash-flow plans or revenue forecasting, etc. Islamic financial institutions must ensure the protection of their deposits and value generation for their shareholders, all whilst managing risk. Hence, it is possible that the risk of financing such projects may simply be too high.

Perceived inadequacy in transparency and governance of *waqf*

The high financial risk is often supported by a perceived lack of transparency and governance in managing *waqf* assets. *Waqf* founders for example, tend to create *waqf* assets informally, driven by the intention to do good and reap rewards in the after-life with little to no knowledge of the *waqf* requirements and potential. State Islamic religious councils (SIRCS) as *waqf* administrators, face problems in the registration of *waqf* land titles, where the land sometimes cannot be identified and registered. Without the land title, it becomes difficult for the SIRCs to develop the *waqf* land.



What are the potential approaches to encourage the financing of *waqf* land in Malaysia?

Understanding *waqf* potential

On the back of the challenges mentioned earlier, it is suggested that understanding and awareness of *waqf* be increased substantially. An appreciation for the potential of *waqf* should be gained as it is an extraordinary technique for the provision of social services through the generations. The Ottoman State in the 18th century for example, had more than one-third of total land under *waqf* management and was the primary vehicle for financing. Once it is understood that previous *waqf* contribution provided even consumption goods such as water provision, using freight ships and providing scientific education. The possibilities for *waqf* development are immense. However, its potential may only be achieved through understanding the conceptual framework and the many practices over the centuries.

Opportunities are abound. Some examples within the Malaysian context include:

- Building residential towers, affordable housing and even university dormitories that may support university funding
- Converting old *waqf* assets into multi-purpose buildings that include prayer halls, schools and commercial rental

Innovative finance solution

The risk of providing finance to *waqf* entities is often high as they have weak or no financial plans and strategies for the future generation of revenue. In order to bridge the gap, a potential solution is that advisory, consultation and capacity building be provided to *waqf* entities to explore the possibilities. In addition, preparing these entities for creditworthiness will instill confidence for banks to provide financing for *waqf* development.

The trust in *waqf* management, in Malaysia and abroad, is arguably at an all-time low. The use of innovative technology including block-chain and smart-contracts is expected to reduce the challenges in transparency and disclosure. For larger and more complex *waqf* projects, BOT (Build, Operate & Transfer) or even ROTs (Rehabilitate, Operate & Transfer) may be coupled with Islamic finance solutions that utilize more sophisticated capital market approaches such as hybrid *waqf-sukuk* as a source of funding.



Rejuvenation of waqf assets

Another approach to financing would be to rejuvenate *waqf* assets similar to the successful case of *Majlis Ugama Islam Singapura* (MUIS). MUIS established a subsidiary in 2001 and was operational in 2002, with the objective to accelerate *waqf* development throughout Singapore. The subsidiary is managed by qualified professionals from the industry and operates with an asset management approach, focusing on building a portfolio of *waqf* properties in strategic locations, providing high rental returns.

In summary, the recent revival of *waqf* is based on its contribution to socio-economic development in the past. The development of *waqf* property in Malaysia requires a multi-pronged approach to deal with its limitations. For Islamic finance to support financing *waqf* property development and rejuvenation, capacity building and advisory is required for *waqf* entities and regulators. A comprehensive approach to *waqf* development can only be achieved if regulators, financial institutions, Shariah advisors and legal practitioners come together to outline a strategy and action plan in the short to medium term.

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COVID-19: THE "NEW NORMAL" IN ELECTRONIC SIGNATURE

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The Covid-19 pandemic is unlike anything that could have been predicted and it had a profound impact on businesses globally. Given the governmental measures and restrictions promulgated by the Prime Minister of Malaysia, including the nearly 1 month Movement Control Order ("MCO"), this has placed constraints on businesses, causing them to review their standard working practices and to consider alternative options to carry on with their business activities.

"Taking a cue from the Prime Minister of Malaysia, we have to live with a "new normal" way of living. The "new normal" would include how businesses operate especially how transactions and deals are concluded. Physical distancing and working from home are definitely going to be the new normal."

The question is, when contracting parties are separated by location, are we really ready to substitute the traditional 'pen to paper' signature with often fanciful stylised depiction of someone's name, nickname, or even a simple X with an electronic signature?

Whilst this may be the usual practice of some organisations, however, for many others, the use of an electronic signature will raise concerns with regard to the possible abuse or fraud, as well as the validity and legal enforceability of the signature process.

A quick look at the Electronic Commerce Act 2006 ("ECA 2006") will tell you that we already have in place an Act which provides for legal recognition of electronic messages (i.e. information generated, sent, received or stored by electronic means) in commercial transactions. The ECA 2006 also defines an electronic signature as "any letter, character, number, sound or any other symbol or any combination thereof created in an electronic form adopted by a person as a signature".

Of course, the recognition of an electronic signature requires it to be attached, or logically associated with the electronic message; it must adequately identify the person and sufficiently indicate the person's approval of the information to which the signature relates; and it must be as reliable as is appropriate given the purpose for which, and the circumstances in which, the signature is required (see Section 9 of the ECA 2006). Reliable further entails another round of assessment of control and detectability of alteration to the electronic signature and document after the time of signing.

The Federal Court had decided in *Yam Kong Seng & Anor v Yee Weng Kai* [2014] 4 MLJ 478 that even a simple SMS could fulfil the legal requirement for a signature. The Federal Court went on to elaborate that 'Signatures need not be written.

Suffice if there be any mark, written or not, which identifies the act of the party, perhaps in the form of mark or by some distinguishing feature peculiar only to that person, then the acknowledgment has been signed'.

The Federal Court made an analogy that the conventional paper can be substituted by the mobile phone, which holds features that can preserve information or transmissions in the like of an SMS, with the telephone number representing the caller or the sender of some message. 'It is the norm nowadays to substitute the number of an identified person with his name to assist instant recognition'.

The new normal is actually not that new but the current conditions pursuant to the MCO certainly reignite the need to take a look at how technology and commerce may be married. Once this is done, we should not stop here. The development from 'pen to paper' to electronic documents and signatures will certainly pave the way to various efficient innovations such as smart contracts.



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FEATURE ARTICLE

CRISIS MANAGEMENT DURING A GLOBAL PANDEMIC

By Mr Todd J. Burke,
Partner, Ottawa, United Kingdom

You might say we are well beyond crisis management planning some weeks after COVID-19 was declared a pandemic by the World Health Organization (WHO). While the assessment of our pandemic preparedness as a society will be the subject of considerable future scrutiny, the likely duration of the crisis still allows individuals and organisations to implement some basic crisis management best practices. These best practices can be applied whether you are leading a small organisation or a big one.

Preparedness and Scenario Planning

The COVID-19 crisis will likely last several months. While we may be comforted that it will have an epidemiological end, its impact on your organisation may be different at different points of time. In this early stage many of us have been consumed with mobilising our business to run in drastically altered operating conditions or on entirely new platforms. In most cases, the impact of COVID-19 will potentially severely impact revenues, distract and demoralize workforces and fundamentally alter how products and services are delivered. These effects will impact your organisation differently at different points along the life of the crisis which may alter your crisis response from that in its early days.

As the coronavirus becomes less prevalent (as is now being seen in China) decisions will also have to be made around returning people to the workplace and how operations can continue without encouraging a resurgence of the virus itself. Given the fluidity of this crisis, there is a tendency to concentrate on the "today" when your organisation needs to both concentrate on the "here and now" as well as how the organisation may be impacted in the future.

Communicate, Communicate, Communicate

This has always been an important cornerstone in crisis management planning. Its importance has increased tenfold in a crisis where physical distancing is integral to the crisis coming to an end. Organisations need to prioritise the health and welfare of their employees. One way of doing that is to promote transparency around the organisation's response.

"Employees are nervous and afraid. They are concerned not only for their health and safety but also their financial futures. Whether the message is good or bad, transparency around the organisation's response is vital to maintaining your employees' mental health and enhancing trust and confidence in the employee employer relationship."

These messages will be different for different employers as some employees must continue to work but frequent communications coming from managers who are highly visible is a critical step. Coupled with your internal communications strategy is also a strategy to address the concerns of customers, regulators and other stakeholders like investors. Keeping those with whom you work aware of your current status as well as your contingency plans will enhance those relationships over the long term.

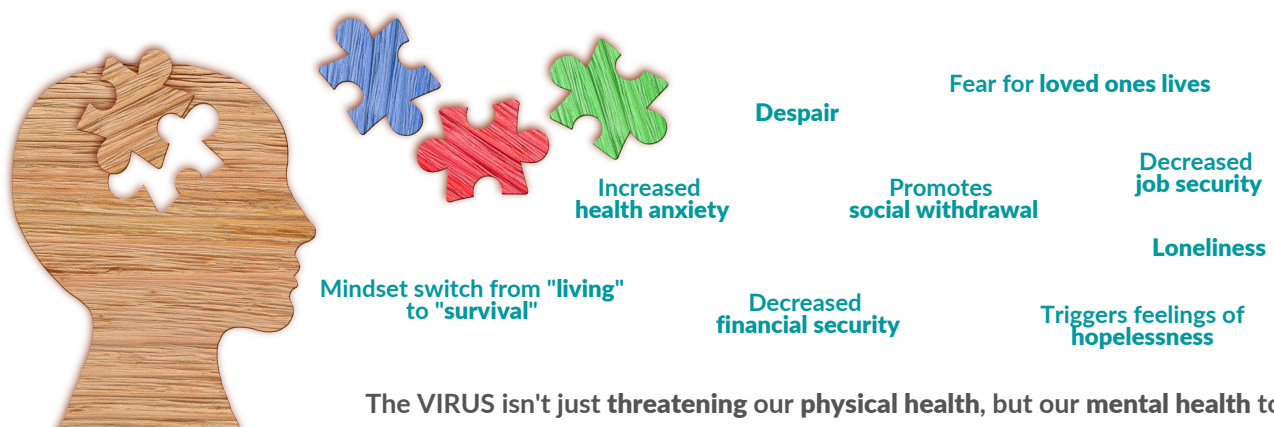
Reputation

In a crisis people are rarely prepared to forgive insensitivity or arrogance. This particularly applies when public safety is at stake. As an example, the Premier of Ontario recently condemned price gouging on disinfectant wipes at a Toronto grocery store. At this time, all steps that you take should be sensitive to the circumstances we all find ourselves in. The crisis does, however, present opportunities where you may be able to identify gaps in the market that your organisation may be able to fill. A crisis often leads to innovation and should your employees have downtime it is a good opportunity to reinvent aspects of your business. Above all, but particularly in a crisis, your organisation must remain steadfast to the principles and values upon which the organisation was built.

Best Practices

Most crises offer an opportunity to identify the gaps in the organisation's crisis management planning. This crisis may, in fact, be the ultimate test of your previous planning efforts. Throughout the crisis take note of the problems that have been encountered, note the interim solutions and how might the organization have been better prepared in the future. Record these observations everyday as they will be incredibly useful as the organization looks back on its response. There is little doubt that crisis management planning will take on greater importance when this crisis comes to an end. The emphasis on preparedness will not only be a priority for governments but for all organisations, big or small.

These are difficult times. Managing this crisis will test your skills and your organisation's strength. If your organisation was not prepared, as many were not, there still remains the opportunity to implement good crisis management practices to improve your response to this crisis and those others that will inevitably come.



Mr Todd J. Burke is an Ottawa-based Gowling WLG partner with experience over 25 years in the industry. He handles complex disputes for individuals, private and public companies, as well as government and other public agencies.



ANNOUNCEMENT

CPIF SCHOLARSHIP & BURSARY

To support the development of professional talents in the Takaful industry, the Chartered Institute of Islamic Finance Professionals (CIIF) is proud to announce a scholarship and bursary programme for suitable graduates to enrol for the new Chartered Professional in Islamic Finance (CPIF) qualification.



CPIF Scholarship

The CPIF Scholarship programme is aimed at providing graduates with excellent academic backgrounds to enrol in the CPIF (Takaful) qualification.

It is a financial award granted to eligible candidates on the basis of academic excellence, and will be used solely for the CPIF (Takaful) qualification.

The maximum duration of the scholarship is 3 years upon successful enrolment.

Minimum eligibility requirements:

- Graduated no earlier than 1st January 2019
- CGPA 3.5 and above
- Bachelor's Degree in any field may apply*
- MUET 3.5 / IELTS 6.0 / TOEFL 550 and above
- Not a recipient of any financial aid / scholarships that require a service bond
- Not currently enrolled in any other programmes
- Open for Malaysian citizens



CPIF Bursary

The CPIF Bursary programme is aimed at providing graduates from underprivileged backgrounds to enrol in the CPIF (Takaful) qualification.

It is a financial award granted to eligible candidates on the basis of financial needs, and will be used solely for the CPIF (Takaful) qualification.

The maximum duration of the scholarship is 3 years upon successful enrolment.

Minimum eligibility requirements:

- Graduated no earlier than 1st January 2019
- CGPA 3.2 and above
- Bachelor's Degree in any field may apply*
- MUET 3.5 / IELTS 6.0 / TOEFL 550 and above
- Not a recipient of any financial aid / scholarships that require a service bond
- Not currently enrolled in any other programmes
- Total gross household income below RM4,329.00 per month
- Open for Malaysian citizens

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Deadline
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Terms and conditions apply. For more information on this programme, please e-mail our team at programmes@ciif-global.org

**Degrees related to Islamic finance will have advantage and those with degrees in Information Technology, Data Science and IR4.0 qualifications are encouraged to apply!*



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