



FACULTY OF SYARIAH AND LAW BACHELOR OF SYARIAH AND LAW (HONS)						
1	Name of Course	Legal Aspect of Islamic Finance				
2	Course Code	LCA4592				
3	Instructor	DR. ZULKIFLI HASAN				
4	Rational for the Inclusion of the Course in the Programme	To equip the students with the knowledge on the legal aspect of Islamic finance in Malaysia.				
5	Semester and Year offered	Semester 4 (Year 2)				
6	Student Learning Time	Face-to-face			Non Face-to-face	Total time (Guided and Independent Learning)
	L = Lecture T = Tutorial P = Practical O = Others (examination)	L 28	T 14	P 0	O 33+5	80
7	Credit Value	2				
8	Pre-requisite (if any)	None/Nil				
9	Learning outcomes	Upon successful completion of this course, students should have the ability to: <ol style="list-style-type: none"> 1. identify the current issues and problems in the development of Islamic banking, Takaful and al-Rahnu; (LO4-CS3-A5); 2. relate the Islamic principles in the application of Islamic Banking, Takaful and Al Rahnu (LO2-CT4-C4); 3. study the implementation of Islamic principles in the Islamic Banking, Takaful and al-Rahnu. (LO6-LL4-P4). 				
10	Transferable skills	Students should be able to develop good written and interpersonal communication, team work and leadership, problem solving through a process of lectures and tutorials.				

11	Teaching-Learning and Assessment Strategy	<p>Teaching-learning strategy: The course will be taught through a combination of formal lectures, exercises, group work, using authentic materials, informal activities and various textbooks. Practical experience and collaborative teamwork will be fostered throughout the course. The use of examination and internal reporting assessment will assess the student's ability to apply theoretical concepts in context.</p> <p>Assessment strategy:</p> <ul style="list-style-type: none"> • Formative • Summative 					
12	Synopsis	<p>This course deals with the legal aspects of Islamic finance including its practices in Malaysia. It exposes the students to the regulatory frameworks of Islamic finance which centred on examination of relevant statues, case law, and jurisdiction of the courts and the role of Shariah advisory council. The students are also exposed on the concept of takaful, types of takaful and the laws relating to it. As an addition to the content of the course, this course will also expose the students to the concept of al-Rahnu and Islamic securities and the laws relating to the areas.</p>					
13	Mode of Delivery	Lecture, tutorial, class discussion and presentation.					
14	Assessment Methods and Types	<p>(a) Mid semester exam = 15%</p> <p>(b) Client Counseling = 10%</p> <p>(c) Assignment = 15%</p> <p>(d) Final examination = 60%</p>					
	Mapping of the Course Learning Outcome/Module to the Programme Learning Outcomes	Refer to attachment					
16	Content Outline and the SLT per Topic	Lecture	Tutorial	Library	Self-learning	Others	Total
1	<p>Introduction</p> <ul style="list-style-type: none"> • Overview of modern financial management of banking, insurance and capital market. • Salient features of Islamic banking and finance. • Regulatory authorities • Regulatory structures 	2	2	2	2	2	10

2	Jurisdiction of the Malaysian Courts in Islamic Banking and Finance <ul style="list-style-type: none"> • Federal Constitution • Cases Decided by the Malaysian Courts on Islamic Banking and Finance • Continuing Developments– eg Muamalat Bench, Syariah Community, Association of Shariah Advisors. • Issues on conflict of jurisdictions 	2	2	2	2		8
3	Regulatory Framework of Islamic Finance in Malaysia <ul style="list-style-type: none"> • The Role of Central Bank of Malaysia in both Conventional and Islamic Banking. • Important Provisions in Islamic Banking Act 1983. • Important Provisions in Banking and Financial Institutions Act 1989. • Related Laws on Islamic Banking and Finance: Land law, company law, partnership law, bankruptcy law, probate law and etc. • Regulatory Issues 	2	2	2	2		8
4	Regulatory framework of Islamic finance in other jurisdictions <ul style="list-style-type: none"> • Bahrain • UAE • Kuwait • Qatar • United Kingdom • Saudi Arabia • Indonesia • Pakistan 	2	2	2	2		8
5	Legal Issues on Islamic Financial Products <ul style="list-style-type: none"> • Debt-based financing • BBA, Inah, Murabahah, Istisna, Salam, Ijarah and etc. • Home financing, project financing, corporate financing, investment financing. • Cases Commentaries 	2	2	2	2	2	10
6	Legal Issues on Islamic Financial Products <ul style="list-style-type: none"> • Equity-based Financing: Musharakah and mudharabah • Deposit Products: Saving account, current account and investment account. 	2	2	2	2	1	9

7	BNM's Directive and Guidelines, Governance Standards and Prudential Standards <ul style="list-style-type: none"> • Shariah Governance Framework: Shariah Supervisory Board- Role and Responsibility. • Shariah Compliance Review, Audit and Governance • AAOIFI's Audit and Governance Standards • IFSB Rules and Guidelines 	2	2	2	2	1	9
8	Islamic Securities <ul style="list-style-type: none"> • Development on Islamic Securities • Regulatory Framework • Types of Islamic Securities 	2	2	2	2		8
9	Islamic Securities <ul style="list-style-type: none"> • Security regulations in Malaysia. Securities industry law in Malaysia Securities Commission Act 1993 Securities Industry Act 1983 • Securities Industry (Central Depositories) Act 1991. • Overview of the Malaysian Capital market • Objectives and Principles of Securities Regulation • Bursa Malaysia Berhad • Securities Commission Act 2003 • Capital Markets and Services Act 2007 • Market misconduct and other prohibited misconduct • Legal Issues on Islamic Securities 	2	2	2	2		8
10	Islamic Insurance (Takaful) <ul style="list-style-type: none"> • The Concept of Takaful • Laws Relating to Takaful – Takaful Act 1984 • Development of Takaful • Structuring of Takaful Products and Comparison to Conventional Insurance 	2	2	2	2		8
11	Takaful <ul style="list-style-type: none"> • Shari'ah and Legal Issues Relating to the Application of Takaful • Re-Takaful 	2	2	2	2		8

12	Al-Rahnu	2	2	2	2		8
	<ul style="list-style-type: none"> • Concept • Development on al Rahnu • Conditions of al-Rahnu • Regulatory framework 						
13	Al-Rahnu	2	2	2	2		8
	<ul style="list-style-type: none"> • Laws Relating to Al-Rahnu • Structuring of Al-Rahnu Product • Legal Documentation on Al Rahnu • Shariah and Legal Issues on al Rahnu 						
	TOTAL	28	28	28	30	6	120
17	Main references	<p>Bakar, M.D. and Engku Ali, E.R.A.(Ed.s). (2008). <i>Essential Readings in Islamic Finance</i>. Kuala Lumpur: CERT Publication.</p> <p>Dusuki, A.W.D. (Ed). (2011). <i>Islamic Financial System, Principles and Operations</i>. Kuala Lumpur: ISRA Publication</p> <p>Nik Nozrul Thani, Mohamed Ridza and Megat Hizaini. (2003). <i>Law and Practice of Islamic Banking and Finance</i>. Kuala Lumpur: Thomson.</p> <p>Mohd Ma'sum Billah. (2007). <i>Applied Islamic and Modern Insurance</i>. Sweet and Maxwell.</p> <p><i>Ausaf Ahmad</i> . (1993). <i>Instruments of Regulation and Control of Islamic Banks by the Central Banks</i>. IRTI.</p> <p>Hasan al-Amin. (2000). <i>Legal Status (Hukm) of Contemporary Banking Transactions with Interest</i>. IRTI.</p> <p><i>Tariqullah Khan, Mohammad Umar Chapra</i> . (2000). <i>Regulations and Supervision of Islamic Banks</i>. IRTI.</p> <p>Abd Ghafar Ismail abd Nurazura Sanusi. <i>Research on A Framework for Regulating Pawnshops: Why Do, What Area and Syariah View</i>. Universiti Kebangsaan Malaysia.</p>					
	Statutes	<p>Banking and Financial Institutions Act 1989 (Act 372)</p> <p>Central Bank of Malaysia (Amendment) Act 2003 (Act A1213)</p> <p>Central Bank of Malaysia Act 2009 (Act 701)</p> <p>Federal Constitution 1957</p> <p>Islamic Banking Act 1983 (Act 276)</p> <p>Securities industry law in Malaysia</p> <p>Securities Commission Act 1993</p> <p>Securities Industry Act 1983</p> <p>Securities Industry (Central Depositories) Act 1991.</p>					

		<p>Takaful Act 1984 (Act 312)</p> <p>Securities Commission Act 1993 (Act 498)</p> <p>Pawn Broking Act 1972.</p>
	Cases	<p>International Arbitral Awards</p> <p><i>Petroleum Development (Trucial Coasts) Ltd v Sheikh of Abu Dhabi</i> [1951] 18 ILR 144</p> <p><i>Ruler of Qatar v International Marine Oil Company Limited</i> [1953] 20 ILR 534</p> <p><i>Saudi Arabia v Arabian American Oil Company</i> [1958] 27 ILR 117</p> <p>Malaysia</p> <p><i>Affin Bank Berhad v Zulkifli Abdullah</i> [2006] 1 CLJ 447</p> <p><i>Arab Malaysian Finance Bhd v Taman Ihsan Jaya Sdn Bhd & Ors (Koperasi Seri Kota Bukit Cheraka Bhd, third party)</i> [2008] 5 MLJ 631</p> <p><i>Arab Malaysian Merchant Bank Berhad v Silver Concept Sdn Bhd</i> [2005] 5 MLJ 210</p> <p><i>Arab-Malaysian Merchant Bank Bhd v Silver Concept Sdn Bhd</i> [2008] 6 MLJ 295</p> <p><i>Dato' Nik Mahmud Bin Daud v Bank Islam Malaysia Berhad</i> [1996] 4 MLJ 295</p> <p><i>Malayan Banking Berhad v Marilyn Ho Siok Lin</i> [2006] 7 MLJ 249, 3 CLJ 796</p> <p><i>Malayan Banking Berhad v Ya'kup bin Oje & Anor</i> [2007] 6 MLJ 389</p> <p><i>Tahan Steel Corporation Sdn Bhd v Bank Islam Malaysia Bhd</i> [2004] 6 CLJ 25</p> <p><i>Tan Sri Khalid Ibrahim v Bank Islam Malaysia Berhad</i> [2009] 6 MLJ 416</p> <p><i>Tinta Press Sdn Bhd v Bank Islam Malaysia Berhad</i> (1987) 1 MLJ 474</p> <p>United Kingdom</p> <p><i>Bank of Credit and Commerce International SA (No 10)</i> [1995] 1 BCLC 362</p> <p><i>Barings Futures (Singapore) Pte Ltd (in liq) v Mattar and others (No 1)</i> [2002] 2 BCLC 364</p> <p><i>Barings plc (in liquidation) v Coopers & Lybrand and others</i> [2000] 3 All ER 910</p> <p><i>Islamic Investment Company of the Gulf (Bahamas) Ltd v Symphony Gems N.V. & Ors</i> [2002] All ER (D) 171 (Feb)</p> <p><i>Re Equitable Life Assurance Society</i> [2002] 2 BCLC 510</p> <p><i>Shamil Bank of Bahrain v Beximco Pharmaceuticals Ltd</i> [2004] 1 Lloyd's Rep 1; [2004] EWCA Civ 19, [2004] 1 W.L.R. 1784, [2004] 4 All E.R. 1072, [2004] 2 All E.R. (Comm) 312, [2004] 1 C.L.C. 216, (2004) 101(8) L.S.G. 29 and 2004 WL 62027</p> <p><i>The Investment Dar Company KSCC v Blom Developments Bank Sal</i> (2009) EWHC 3545 (Ch)</p>
	Additional references	<p>Markom, R. Pitchay, S.A. Zainol, Z.A, Abdul Rahim, A. and Merican, A.R. (2011). Adjudication of Islamic banking and finance cases in the civil courts of Malaysia, <i>European Journal of Law and Economic</i>,</p>

		<p>Abdul Rahman, Y. (2010). <i>The Art of Islamic Banking and Finance</i>. New Jersey: Wiley.</p> <p><i>Islamic Fiqh Academy</i> . (2000). Resolutions and Recommendations of the Council of the Islamic Fiqh Academy 1985-2000. IRTI.</p> <p><i>Mohammad Nejatullah Siddiqi</i> . (2004). Riba, Bank Interest and the Rational of its Prohibition. IRTI.</p> <p>Muhammad Hashim Kamali, (1998). <i>The Principles of Islamic Jurisprudence</i>, 2nd Ed. Kuala Lumpur: Ilmiah Publishers Sdn Bhd..</p> <p>Sudin Haron, Bala Shanmugam, (1997). “<i>Islamic Banking System: Concepts & Applications</i>”, Pelanduk: Petaling Jaya.</p> <p>Mohd Ma’sum Billah. (2007). <i>Applied Islamic and Modern Insurance</i>. Sweet and Maxwell.</p> <p>Muhammad Muslehuddin. 1994. <i>Insurance and Islamic Law</i>. Delhi: Adam Publisher and Distributors.</p> <p>Selamah Maamor and Supizan Md. Supian. <i>Research on the Amendment of Pawnbroking Act 1972: Challenges to Al-Rahnu</i>. Universiti Utara Malaysia.</p>
	<p>Special References</p>	<p>Hasan, Z. and Asutay, M. (2011). An Analysis of the Courts Decisions on Islamic Finance Disputes, <i>the ISRA International Journal of Islamic Finance</i>, 3 (2): 41-71</p> <p>Hasan, Z. (2011). A Survey of <i>Shari’ah</i> Governance practices in Malaysia, GCC Countries and the UK: Critical Appraisal, <i>International Journal of Islamic and Middle Eastern Finance and Management</i>, 4 (1): 30-51.</p> <p>Hasan, Z. (2010). <i>Shari’ah</i> Governance in Islamic Financial Institutions and the Effect of the Central Bank of Malaysia Act 2009, <i>Journal of International Banking Law and Regulation</i>, Issue 3, 105-108.</p> <p>Hasan, Z. (2010). Regulatory Framework of <i>Shari’ah</i> Governance System in Malaysia, GCC Countries and the UK, <i>Kyoto Bulletin of Islamic Area Studies</i>, 3 (2), 82-115.</p> <p>Hasan, Z. (2011). Corporate Governance in Islamic Financial Institutions, in <i>Islamic Financial System, Principles and Operations</i>, edited by Asyraf Wajdi Dusuki, ISRA Publication, Kuala Lumpur, pp. 681-733.</p>