

Course Code / Course Name	<b>LCA 4562</b> <b>ISLAMIC BANKING, TAKAFUL AND SECURITIES</b>	
Status / Level	MAJOR / DEGREE	
Credit Hours	3 CREDIT HOURS LECTURES: 2 HOURS X 14 sessions TUTORIALS : 1 HOUR X 14 sessions	
Methodology	LECTURES AND TUTORIALS / DISCUSSIONS	
Evaluation	Coursework [a] Assignment/Article Review      15% [b] Presentation/ Participation      10% [c] Mid semester examination      15%	40%
	Final Examination	60%
Lecturers	Zulkifli bin Hasan LL.B (Hons) (IIUM), LL.B (Bachelor of Shariah) (IIUM), Master of Comparative Laws (IIUM) Advocate and Solicitor (Malaya), Syarie Counsel	
Objectives	The main objectives of this course are: - 1) To expose the students with the basic principles underlying all the products available in Islamic banking, takaful and securities.  2) To critically examine both the products and their underlying contracts in line with the syariah principles.  3) To understand the legal documentation and its effect to law as applied in the civil courts.  4) To equip the students with the necessary training in the area of Islamic commercial law so as to qualify them to practice in that area.  5) To contribute to the development of Islamic Banking and takaful in Malaysia and worldwide.	

Course Synopsis	<p>Islamic law of banking, takaful and securities which are section of Islamic commercial law has developed significantly in the recent decades. It covers almost every aspect of commercial transactions from banking, finance, capital market and insurance. This course will enable the students to understand the position of Islamic banking, takaful and securities in Malaysia as well as other countries.</p> <p>Since the coverage of this course is relatively wide, the course will only examine a few selected but leading and contemporary issues. The main statutory legislations involved will be Banking and Financial Institutions Act 1989, Islamic Banking Act 1983, Takaful Act 1984, Securities Commission Act 1993.</p> <p>This course is conceptually divided into three main sections, namely Islamic banking, Islamic Insurance and Security. Part one will discuss on Islamic banking and it includes banking history, overview of modern financial management, relevant banking legislation, important features of Islamic banking legislation, the concepts and modus operandi of Islamic banking and finance as currently practiced by financial institutions. This will include the sectors of deposit, banking services, finance and investment. Principles of Islamic law of contract as well as transactions will be highlighted to relate the products to Islamic law principles. Aspects of legal documentation will also be examined to relate the shariah principles to civil law principles and vice versa. Also cases which have been decided by the civil courts pertaining to Islamic banking products will be critically examined.</p> <p>Part two discusses on the introduction of Islamic insurance. The same line of discussion will apply to the practice of takaful even though the volume of the practice and its problem are not as many as in the banking sector. Occasionally an attempt is made to consult the law and the practices of other muslim countries as far as Islamic banking and takaful operations are concerned.</p> <p>Part three discusses on the introduction of the Islamic securities in Malaysia. Amongst the topic to be covered are history of security regulations in Malaysia, shariah principles, types of securities, function of security market, roles of authorities, licensing, disclosure of information and offences.</p>
General References	<p>Nik Nozrul Thani, Mohamed Ridza and Megat Hizaini. 2003. <i>Law and Practice of Islamic Banking and Finance</i>. Kuala Lumpur: Thomson.</p>

Nik Nozrul Thani. 2001. *Legal Aspects of the Malaysian Financial System*. Kuala Lumpur: Sweet and Maxwell.

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Zulkifli Hasan, 2005, *Perlaksanaan Perbankan Islam Di Di Malaysia: Ke Arah Harmonisasi Undang-Undang Syariah Dan Sivil*, Seminar Rekonstruksi Ekonomi Islam, Universiti Islam Sharif Hidayatullah Jakarta, Indonesia dan Fakulti Ekonomi dan Muamalat, KUIM, Pandan Indah, KUIM, 9 Februari 2005.

Cases

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*Affin Bank Berhad vs Zulkifli Abdullah* (2006) 1 CLJ 447.

WEEK	TOPIC	REFERENCES
<b>Week 1</b>	<p>Overview of Modern financial management of banking, capital market, insurance, securities.</p> <p>History of Islamic banking. The establishment of Islamic banks worldwide both in the muslim and non-muslim countries.</p> <p>Different approach of Islamic banking system in the world.</p> <p>Salient features of Islamic banking</p>	<p>Reference:-</p> <p>Sudin Haron, Prinsip dan Operasi Perbankan Islam.</p> <p>Mohd Daud Bakar, Contracts In Islamic Commercial Law and Their Application in Modern Islamic financial System.</p>
	<p>Theory of the classifications of transactions in Islamic commercial law</p> <p>Islamic sources of fund- Overview of Islamic banking accounts and instruments.</p> <p>Saving account, current account and general investment account.</p>	<p>Zulkifli Hasan ‘Uqud In Financial Services For Entrepreneurship.’Islamic Financial Services” Kolej Universiti Islam Malaysia. 2006.</p>
<b>Week 2</b>	<p>The Role of Central Bank of Malaysia in both conventional and Islamic bank.</p> <p>Shariah Supervisory Board- role and responsibility.</p>	<p>Central Bank of Malaysia Act 2003.</p> <p>Zulkifli Hasan. <i>Shariah Governance in the Islamic Financial Institutions in Malaysia.</i> Journal of Management and Muamalah. Vol.1. 2006. Kolej Universiti Islam Antarabangsa Selangor.</p> <p>Zulkifli Hasan, <i>The Legal Thought Of Madhhab Syafi’i in the Implementation of Islamic Banking in Malaysia.</i> Jurnal Undang-undang IKIM. Julai 2006. IKIM.</p>



	<p>An overview of the jurisdiction of the courts in cases pertaining to Islamic banking and finance.</p> <p>Salient features of various statutes governing Islamic banking and finance.</p> <p>An overview of Islamic Banking Act 1983.</p> <p>An overview of Banking and Financial Institutions Act 1989.</p>	<p>Banking and Financial Institutions Act 1989</p> <p>Islamic Banking Act 1983,</p> <p>Pakistan Banking law and Modaraba Ordinance 1980.</p> <p>Law of Usury Free Banking Iran 1983.</p> <p>Mohamed Ismail</p> <p>Mohamad Sharif, Salient features of Islamic banking Act 1983.</p> <p>Zulkifli Hasan. <i>The Effectiveness of The Legal Framework Of The Islamic Banking System In Malaysia</i>. National Seminar In Islamic Banking and Finance 2006. 29-30 August 2006 organised by Faculty of Economy and Muamalat, KUIM.</p>
<b>Week 3</b>	<p>The basis of the introduction of Islamic banking system.</p> <p>The Prohibition of Usury, Gharar and Khatar in Islamic Commercial law.</p>	<p>Mohd Daud Bakar, Riba and Islamic banking.</p> <p>Vogel and Hayes, Islamic law and finance.</p>
<b>Week 4</b>	<p>Critical analysis of BBA House financing, Bay Inah, Bay Al-Dayn and Ijarah financing facility.</p> <p>Legal Issues of Islamic banking and its prospects.</p>	<p>Reference:-</p> <p>Norhashimah Mohd Yasin, Financing Aspects of BBA Contracts, [1997] CLJ Supp. P.i.</p> <p>Norhashimah Mohd Yasin, Financing Aspects of BBA Contracts, [1997] CLJ Supp. P.i.</p> <p>Robert Fugard, Legal Issues of Islamic finance, New Horizon, August 1997.</p>

<p>Week 5</p>	<p>Non Performing debts in Islamic banking.</p> <p>Default payment and compensation in Islamic banking.</p> <p><b>Bank Security</b></p> <p>(a) <b>Goods As Security</b></p> <p>Pledge of goods  Transfer of possession  Pledgees power of sale  Mortgage of shares  Letter of lien</p> <p>(b) <b>Guarantees</b></p> <p>Nature of guarantee  Strict compliance with the terms of guarantee  Consideration  Presumption of influence</p> <p>(c) <b>Letter of Credit</b></p> <p>Nature of letter of credit  Types of credit  Negotiable and transferable letter of credit.</p>	<p>Mohd Daud Bakar, Issues of compensation of late payment, Late delivery and penalty in Islamic banking.</p>
<p><b>Week 6</b></p>	<p>Islamic Insurance- An overview</p> <p>The origin and reason d’etre of insurance in western society-</p> <p>Islamic principles of spreading risk.</p> <p>Mutual insurance- Principle of blood money in Islamic criminal law.</p>	<p>Ahmad Hidayat Buang, Takaful: Akad Insuran and Mudharabah” Journal Syariah. Vol 4 No.1 1996.</p> <p>Mohd Daud Bakar, Shariah Issues in the operation of takaful business.</p>

<b>Week 7</b>	<p>The Legal Framework of Islamic Insurance in Malaysia.</p> <p>Critical reading of the Takaful Act 1984 vis a vis Insurance Act 1996.</p>	<p>Nik Ramlah Nik Mahmoo, Islamic system of Mutual Insurance in Malaysia, Arab Quarterly.</p>
<b>Week 8</b>	<p>Analysis on the issues of modern Islamic insurance contract- insurable interest, the subject matter and the claim.</p>	<p>Mohd Daud Bakar, Challenge and prospect of takaful business, IKIM Journal, Vol 7 No. 1, 1999.</p>
<b>Week 9</b>	<p>Islamic law on the insurance system of both general and life insurance.</p> <p>Modus operandi and policies</p> <p>Disagreement amongst the Muslims jurist.</p>	

<p><b>Week 10</b></p>	<p>The development of takaful companies in Muslim Countries.</p> <p>Retakaful and reinsurance.</p> <p>Modus operandi and policies and its essence in modern commercial development.</p>	<p>Mohd Burhan Abruna, the Operation of retakaful, Arab Law Quarterly, Vol 15 Issue No 4, 2000.</p>
<p><b>Week 11</b></p>	<p>Securities.</p> <p>Islamic securitization –debt and asset securitization –</p> <p>Shariah issues of Islamic bonds/notes in the secondary market.</p>	<p>Zaki Badawi, Debt Trading: A consensus Too Far, Islamic Banker, Issue No 3, 1996.</p>
<p><b>Week 12</b></p>	<p>Background of security regulations in Malaysia.</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><b>Week 13</b></p>	<p>Principles of Islamic investment in the stock market and the theory of Islamic liquidity.</p>	<p>Justice Taqi Usmani, Principles of Shariah governing Islamic Investment funds.</p>
<p><b>Week 14</b></p>	<p>Islamic derivatives-Islamic options and Islamic futures.</p>	<p>Zaki Badawi, A question of Derivatives, Islamic banker, 1996.</p>