



UNIVERSITI SAINS ISLAM MALAYSIA

جَامِعَةُ الْعُلُومِ الْإِسْلَامِيَّةِ الْمَالِيزِيَّةِ

ISLAMIC SCIENCE UNIVERSITY OF MALAYSIA

Legal Aspects of Islamic Finance

LAB4112

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Contents

- Legal aspect of Al Rahnu

Pawnbroking?

- the business of advancing loans that are secured against pledges of personal assets.
- Those assets could include anything from jewellery, diamonds, watches, and gold, to silver, antiques, and fine artwork.
 - No credit checks
 - • Confidential service
 - • Instant cash
 - • Retain ownership of the valuable items

What's wrong with conventional Pawnbroking?

- higher interest rates
- usurious
- exploitative activities
- the decreasing value of pawned goods
- low collateral value during the valuation process

Historical Background of Al Rahnu

- The first Islamic pawn-broking institution, Mu'assasah Gadaian Islam Terengganu (MGIT), was set up by the Majlis Agama Islam dan Adat Istiadat Terengganu in January 1992.
- In March 1992, Kedai Al-Rahn (KAR), a subsidiary of Permodalan Kelantan Berhad.
- On 21 August 1993, the MOF announced the Skim Al-Rahnu through the collaboration of three institutions namely BNM, YPEIM and BKRM
- 1997: BIMB
- 2002: EON bank and AGRO bank

- verse 283 of Surah al-Baqarah:
- (And if you are on a journey and can not find a scribe then let there be a pledge taken (mortgaging) then if one of you entrusts the other, let the one who is entrusted discharge his trust faithfully and let him be afraid of Allah, his lord. And conceal not the evidence for he who hides it. Surely his heart is sinful. And Allah is All-knower of what you do).

- Narrated Aishah r.a the prophet s.a.w. bought foodstuff on credit for a limited period and mortgaged his armour for it [sahih Al-Bukhari, 3/2509].

What is Al Rahnu?

- *Al-Rahnu* or pawn-broking is an activity whereby a valuable item is collateralised to a debt which may be utilised as payment should the debt is not repaid within the agreed period. In the event the debtor is not able to repay the debt, the pawned asset will be sold off to settle the outstanding debt and any surplus will be given back to the owner of the asset. However, if the owner of the asset could not be traced, it is the responsibility of the Islamic pawn-broker to place the fund in the Baitulmal account for future savings should any claims be made for the surplus by the owner or his heir.

Al Rahnū

- A combination of three concepts is applied for the short-term financing under Islamic pawn-broking, i.e. *Qardhul Hasan* (benevolent loan), *Al-Rahnū* and *Al-Wadi'ah* (custodian).

(1) Qardhul Hasan

- A bank will grant a benevolent loan to the applicant who wishes to pawn his valuable item. The loan will be issued under the concept of Qardhul Hasan, whereby the customer is only required to pay the amount borrowed;

(2) *Al-Rabnu*

- Pledge or security related to loan.
- Prior to disbursement of cash to the applicant, the applicant is required to place a valuable asset as collateral for the loan extended by the bank;

(3) *Al-Wadiah*

- The bank accepts custody of the valuable asset on a Wadiah concept whereby the bank promises to keep the valuable asset in a safe place. The bank will need to take precautionary measure such as providing security and insurance to ensure its safe returns once the customer pays his debt. Under the Wadiah concept, the bank will charge the customer for the services rendered in keeping the valuable asset.

Al Rahn

- The borrower (Al-Rahin) submits an item (gold) for pawning to the lender (Al-Murtahin) as the collateral from which the borrower (Al-Rahin) receives an interest-free loan amounting to 60% of the pawned item.
- The collateral item is held by the lender and a storage fee is charged to the lender during the period of the loan.
- The loan is paid in full or in installment after the maturity date and the lender must return the collateral or the item to the owner.
- In the event of a default on the loan by the borrower; the item is then auctioned.
- The money gained from the auction of the item is used to pay the defaulted loan and outstanding storage fees, while what is left over is given to the borrower

Fatwa on al Rahn

- The 77th Muzakarah of the Fatwa Committee of the National Council held on 10th -12th April 2007:
- 1. The working capital for Islamic pawn broking shop (ar-Rahn) must be gained from Islamic banks or lawful (halal) sources and free from usury(riba), gambling, uncertainties (gharar) and other activities that do not meet the Shariah requirements
- 2. The pawnbroker should subscribe to Islamic insurance coverage and is not allowed to get involved with conventional insurance
- 3. If the collateral is lost, stolen, damaged or alike, the pawnbroker has to pay compensation for the remaining value of the collateral at the time of valuation
- 4. The pawnbroker should appoint internal Syariah legal advisor to supervise the operation and activities of ar-rahn.

Al Rahnū Products

- YPEIM
- Agro Bank
- Bank Rakyat
- BIMB
- Affin Islamic Bank

Legal Frameworks

- S 46 of the Pawnbrokers Act 1972: The following persons shall be exempted from the provisions
- of this Act—
- (a) any bank licensed to carry on banking business in Malaysia;
- (b) Bank Pertanian Malaysia established under the Bank
- Pertanian Malaysia Act 1969 [Act 9]; and
- (c) any co-operative society registered under any written
- law in force in Malaysia relating to co-operative societies.

Legal Frameworks

- *Al-rahnu* scheme in BKRM is subject to different acts:-
- 1. the Bank Kerjasama Rakyat (M) Berhad Act 1978,
- 2. the Co-operative Societies Act (1993)
- 3. the Development Finance Institutions Act 2002.
- 4. Occupational Safety and Health Act for workers who are exposed to acid for the gold test and the Weight and Measurement Act, in which the gold weighing device has to be licensed every year.

Syariah Issue

- 1. maintenance of the pledged asset
- Upon the borrower
- The lender can not make profit out of it.

Syariah issue

- 2. al intifa bi al marhun
- The lender can not use the pledged asset except with permission

Syariah issue

- 3. safekeeping fees.
- Fees must be actual cost
- The lender however makes profit through this fees.
- Eg. Loan RM5000.00 pledged asset value RM10000.00, fees, ($RM0.45 \times 100 = RM45.00$).
If 6 months RM270.00 ($RM45.00 \times 6 = RM270.00$).

Thank You

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