

18 June 2012

CIRCULAR : LSRA/OM/AZ-BG/009-12
TO : ALL MEMBERS
ATTN : CHIEF EXECUTIVE OFFICER

Dear Sir/Madam,

INDUSTRY FEEDBACK TO THE LAW HARMONISATION COMMITTEE

The above matter is refers.

1. Federation of Investment Managers Malaysia ('FIMM') and Securities Commission Malaysia ('SC') would like to seek your comments and feedback on restrictions faced by the industry in applying the Contracts Act 1950, Specific Relief Act 1950 and the Civil Law Act 1956 to Islamic financial transactions as requested by The Law Harmonisation Committee ('LHC').
2. LHC was established in 2010 as part of Malaysia's continuous efforts to further strengthen the legal system and infrastructure to cater for the growing development of the Islamic finance. LHC had requested for the aforementioned feedback to assist LHC in compiling and consolidating the relevant laws and issues which may impede Islamic financial transactions to enable the LHC to deliberate on the issues in a systematic and concise manner.
3. LHC wishes to achieve the following objectives:-
 - a) To create a conducive legal system that facilitates and supports the development of Islamic finance industry;
 - b) To achieve certainty and enforceability in the Malaysian laws in regard to Islamic finance contracts;
 - c) To position Malaysia as the reference law for international Islamic finance transactions; and
 - d) For Malaysian laws to be the law of choice and the forum for settlement of disputes for cross border Islamic financial transactions
4. We would greatly appreciate if you could provide us your feedback by completing and returning to us the attached Feedback Forms together with the reply slip not later than **29 June 2012 (Friday)**.

Should you require any further information or clarification, please do not hesitate to contact the undersigned, Ms Hafizah Abdul Ghani, Ms. Poh Khie Yee or Ms. Bama at 03-2093 2600 or email to hafizah@fimm.com.my/ khieyee@fimm.com.my/ or bama@fimm.com.my

Your kind participation and co-operation is highly appreciated.

THANK YOU

Yours faithfully,
FEDERATION OF INVESTMENT MANAGERS MALAYSIA



AHMAD ZAKIE BIN HJ AHMAD SHARIFF
Chief Executive Officer

REPLY SLIP

FEEDBACK FROM MEMBERS ON RESTRICTIONS FACED BY THE INDUSTRY IN APPLYING THE CONTRACTS ACT 1950, SPECIFIC RELIEF ACT 1950 AND THE CIVIL LAW ACT 1956 TO ISLAMIC FINANCIAL TRANSACTIONS (LSRA/OM/AZ-BG/009-12)

To: Federation of Investment Managers Malaysia ('FIMM')
c/o Legal, Secretarial and Regulatory Affairs ('LSRA')
19-07-03, 7th Floor, PNB Damansara, 19, Lorong Dungun, Damansara Heights
50490 Kuala Lumpur
Tel: 03-2093 2600 Fax: 03-2093 2700

Kindly FAX this completed reply slip to FIMM by 29 June 2012 (Friday)

Would you like to participate in this feedback?
(Please tick accordingly and let us know even if your company is not able to participate.)

YES! Enclosed please find the completed Feedback Form for your further action.
Please contact the undersigned*/ following personnel* if you require any further clarification on the feedback.

Name:

Designation:

Tel No:

Fax No:

(* strike wherever is not applicable)

NO, we are not participating in the survey. (If no, please state your reason).

From:

--

Name

--

Name of company

--

Designation

--

Tel No.

Fax No.

--	--

Date

Signature



INDUSTRY FEEDBACK ON RESTRICTIONS FACED BY THE INDUSTRY IN APPLYING THE CONTRACTS ACT 1950, SPECIFIC RELIEF ACT 1950 AND THE CIVIL LAW ACT 1956 TO ISLAMIC FINANCIAL TRANSACTIONS. (Due Date: 29/06/2012)

FEEDBACK FORM

SPECIFIC PROVISIONS IN THE CONTRACTS ACT 1950, SPECIFIC RELIEF ACT 1950 & CIVIL LAW ACT 1956 WHICH IMPEDE OR CANNOT CATER TO OR ARE NOT SUITABLE FOR ISLAMIC FINANCE TRANSACTIONS (INCLUDING BUT NOT LIMITED TO TRANSACTIONS RELATING TO COLLECTIVE INVESTMENT SCHEMES)

(Please include if there is any aspects of Shariah contract which is not addressed in any other Acts that should be addressed in the above mentioned Acts)

NO	CONTRACTS ACT 1950	SPECIFIC RELIEF ACT 1950	CIVIL LAW ACT 1956	OTHER ASPECT OF SHARIAH CONTRACT THAT SHOULD BE ADDRESSED

SPECIFIC PROVISIONS IN THE CONTRACTS ACT 1950, SPECIFIC RELIEF ACT 1950 & CIVIL LAW ACT 1956 WHICH IMPEDE OR CANNOT CATER TO OR ARE NOT SUITABLE FOR ISLAMIC FINANCE TRANSACTIONS (INCLUDING BUT NOT LIMITED TO TRANSACTIONS RELATING TO COLLECTIVE INVESTMENT SCHEMES)

(Please include if there is any aspects of Shariah contract which is not addressed in any other Acts that should be addressed in the above mentioned Acts)

NO	CONTRACTS ACT 1950	SPECIFIC RELIEF ACT 1950	CIVIL LAW ACT 1956	OTHER ASPECT OF SHARIAH CONTRACT THAT SHOULD BE ADDRESSED

(Kindly take note that you may attach additional pages if the space is insufficient)



INDUSTRY FEEDBACK ON RESTRICTIONS FACED BY THE INDUSTRY IN APPLYING THE CONTRACTS ACT 1950, SPECIFIC RELIEF ACT 1950 AND THE CIVIL LAW ACT 1956 TO ISLAMIC FINANCIAL TRANSACTIONS. (Due Date: 29/06/2012)

FEEDBACK FORM

DETAILS OF IMPEDIMENTS

(Please describe with sufficient details the structure of the product(s) or transaction(s) affected by these provisions as mentioned in Appendix A AND describe with sufficient details how and in what ways the provisions in the said Acts are affecting parties to the Islamic capital market)

No	DETAILS OF STRUCTURE OF PRODUCT(S) OR TRANSACTION(S) AFFECTED BY THE PROVISIONS STATED IN APPENDIX A	HOW AND IN WHAT WAYS THE PROVISIONS AFFECT PARTIES TO THE ISLAMIC CAPITAL MARKET.			Remarks <i>(you may use this column for an additional elaboration/annotations)</i>
		List of Impediment/Hindrance and/or Inconvenience	The provision in the Acts cause Islamic capital market customers to incur additional costs (Yes/No)	Parties of the contract or transactions relating to Islamic capital market are worse off compared to conventional circumstances (Yes/No)	



DETAILS OF IMPEDIMENTS

APPENDIX B – PAGE 2/2

No	DETAILS OF STRUCTURE OF PRODUCT(S) OR TRANSACTION(S) AFFECTED BY THE PROVISIONS STATED IN APPENDIX A	HOW AND IN WHAT WAYS THE PROVISIONS AFFECT PARTIES TO THE ISLAMIC CAPITAL MARKET			
		List of Impediment/Hindrance and/or Inconvenience	The provision in the Acts cause Islamic capital market customers to incur additional costs (Yes/No)	Parties of the contract or transactions relating to Islamic Capital Market are worse off compared to conventional circumstances (Yes/No)	Remarks <i>(you may use this column for an additional elaboration/annotations)</i>

(Kindly take note that you may attach additional pages if the space is insufficient)



FEEDBACK FORM

RECOMMENDATION

(Based on your information in Appendix A and B, kindly recommend the appropriate legal treatment and provide the rationale for such recommendation together with an appropriate legal recourse to be taken)

NO	LIST OF LEGAL TREATMENTS			RATIONALE
	Include new provisions in the above Acts (please specify Contracts Act 1950, Specific Relief Act 1950 or Civil Law Act 1956)	Delete certain provisions in the above Acts(please specify Contracts Act 1950, Specific Relief Act 1950 or Civil Law Act 1956)	Other treatment	



RECOMMENDATIONS

NO	LIST OF LEGAL TREATMENTS			RATIONALE
	Include new provisions in the above Acts(please specify Contracts Act 1950, Specific Relief Act 1950 or Civil Law Act 1956)	Delete certain provisions in the above Acts(please specify Contracts Act 1950, Specific Relief Act 1950 or Civil Law Act 1956)	Other treatment	

(Kindly take note that you may attach additional pages if the space is insufficient)

-END OF FEEDBACK FORM-

THANK YOU FOR YOUR PARTICIPATION.