GLOSSARY

Except where the context otherwise requires, the following glossary of Islamic finance terms as provided by Securities Commission Malaysia and Muhammad Ayub shall apply throughout this study:

Akhlak Ethic to govern the morality of human being

Al-ijarah thumma al-bay(AITAB) A contract of leasing ending with sale

Amanah Deposit in trust

Aqidah Matters of belief and worship

Bai' Sale

Bai' al-inah Sale with an immediate repurchase between two

parties

Bai' al-Istijrar A form of sale where the buyer keeps on taking

the goods from the seller as and when needed with or without settling the price and then settles

the account later

Bai' bithamin al

-ajil (BBA)

Sale with deferred payment

Dayn Debt

Dhamanah A contract of guarantee

Figh Islamic legal ruling

Gharar Elements of uncertainty and cheating

Ghubn Inequality

Haq maliy Financial right

Hibah Gift

Ibadah The relationship of human being with Allah

Ijarah A contract of lease

Ijarah Muntahia

Bittamleek

Lease culminating in the transfer of ownership to

the lessee in such a way that lease and sale are

kept separate and independent transactions.

Ijma Consensus of opinion among the jurists

Ijtihad Reasoning by qualified scholars to obtain legal

ruling from the sources of the Shariah

Ikrah Duress

Inan A form of partnership in which each partner

contributes both capital and work

Istihsan Juristic preference

Istisna A contract to manufacture to be delivered in the

future

Maisir Gambling

Mal Asset/Property

Manfaah Usufruct

Maslahah Consideration of the public interest

Muamalat Transactions

Mudarabah A type of partnership where one party provides

capital and the other party provides labour on an

agreed profit sharing ratio

Mudarib An entrepreneur in Mudarabah transaction

Mufawadah Equal share partnership

Murabahah Cost plus profit sale

Musawamah A general kind of sale in which the price of the

commodity to be traded is bargained between

seller and the purchaser

Musharakah Partnership (an agreement between two or more

parties to combine their assets, labour or liabilities

for the purpose of making profit)

Qard A contract of loan

Qiyas Analogical deduction of legal ruling

Rabb al-mal The person who invests the capital in Mudarabah

contract

Riba Interest or Usury

Salam The purchase of item known by specification or

description for delivery at a later specified time, with payment of price in full at time of contract

Sarf Currency exchange

Shariah Islamic law

Sukuk Certificates of equal value representing undivided

share in ownership of tangible assets of particular

projects or specific investment activities, etc.

Taghrir Deception

Takaful A form of Islamic insurance

Tawarruq Acquiring cash through trade activities

Urban Sale with option

Wadiah Amanah or deposit

LIST OF TABLES AND FIGURES

Tables

Table No.	Particulars	Page No.
2.1	Comparison between asset-based sukuk & asset-backed sukuk	62
3.1	Particulars of interviewees in Korea	75
3.2	Particulars of interviewees in Malaysia	76
4.1	Permission of deposit and financing of Islamic banking	79
4.2	Needed efforts for Islamic banking (Korea)	83
4.3	Needed efforts for Islamic banking (Malaysia)	85
4.4	Possibility of implementation of Islamic banking activities	87
4.5	Possibility of implementation of Islamic banking activities in other institutions	88
4.6	The viewpoint about establishment of <i>Shariah</i> Supervisory Board	89
4.7	The issues of sukuk definition (Korea)	92
4.8	The issues of sukuk definition (Malaysia)	96
4.9	First effort to facilitate sukuk market (Korea)	97
4.10	First effort to facilitate sukuk market (Malaysia)	98
4.11	Taxation environment and issues	99
4.12	Competitiveness of Islamic finance	101
4.13	Dubious concerns against non-Muslim country (Korea)	103
4.14	Dubious concerns against non-Muslim country (Malaysia)	104
4.15	The issue to debt-based sukuk (Korea)	105
4.16	The issue to debt-based sukuk (Malaysia)	105
4.17	Transfer of ownership	107
4.18	Regarding risk of foreign exchange rate and interest rate	110
4.19	Regarding risk hedging	111

Figures

Figure No.	Particulars	Page No.
2.1	Financing by principles	16
2.2	Breakdown of Shariah-compliant Assets Worldwide in 2009	34

LIST OF ABBREVIATIONS

AAOIFI Accounting and Auditing Organisation for Islamic F

inancial Institutions

ABS Asset-Backed Securitization

AFIBs Alternative Finance Investment Bonds

CBA Central Bank Act of Malaysia

CIS Collective Investment Scheme

CMFIB Capital Market and Financial Investment Business

(Korea)

DJIM Dow Jones Islamic Market

ETF Exchanged trade fund

FA Financial Act (UK)

FSA Financial Service Authority (UK)

GCC Gulf Cooperation Council

GIA General Investment Account

IDB Islamic Development Bank

IFSB Islamic Financial Services Board

IIFM International Islamic Financial Market (Bahrain)

INCEIF International Centre for Education in Islamic

KFH Kuwait Finance House

KOSPI Korea Composite Stock Price Index

LC Letter of Credit

MAS Monetary Authority of Singapore

MOSF Ministry of Strategy and Finance (Korea)

OCC Office of the Comptroller of the Currency (USA)

PIRI Prudential Information and Regulations for Islamic

Banks (Bahrain)

PLS Profit/loss sharing

SAC Shariah Advisory Council (Malaysia)

SC Securities Commission (Malaysia)

SCFB Special Credit Financial Business (Korea)

SDLT Stamp Duty Land Tax

SIA Specific Investment Account

SSB Shariah supervisory board

WAD Al-wadiah yad dhamanah

Table of Contents

ABSTRACT	ii
ACKNOWLEDGMENT	iv
GLOSSARY	V
LIST OF TABLES AND FIGURES	viii
LIST OF ABBREVIATIONS	ix
Chapter 1: Introduction	1
1.1 Background of the Study	2
1.2 Objectives of the Study and Research Questions	4
1.3 Purpose and Significance of the Study	6
1.4 Scope of the Study	8
1.5 Organization of the Study	9
Chapter 2: Literature Review	13
2.1 Islamic Finance	13
2.2 Islamic Banking Principles and Products	15
2.2.1 Wadiah	17
2.2.2 Mudarabah	19
2.2.3 Musharakah	22
2.2.4 Murabahah	25
2.2.5 Bai bithamin al ajil (BBA)	28
2.2.6 Istisna	29
2.2.7 Ijarah	31
2.3 Sukuk	33
2.3.1 Definition	34

2.3.2 The difference between sukuk and bond	35
2.4 Legal System	37
2.4.1 Civil and common law (fully secular-based system).	38
2.4.2 Partially Shariah-based system (dual system)	41
2.4.3 Islamic law	43
2.4.4 Legal considerations from definitions and law tradit	ions .45
2.5 Selected Cases	47
2.5.1 France	48
2.5.2 Singapore	51
2.5.3 United Kingdom	53
2.5.4 United States of America	56
2.5.5 Korea	58
2.6 Considerations from Shariah Issues	59
2.6.1 Underlying asset	59
2.6.2 Debt-based sukuk	60
2.6.3 Ownership transfer	61
2.7 Sukuk and Risk Mitigation	63
2.7.1 Futures and forward contract	64
2.7.2 Option	65
2.7.3 Shariah-compliant derivatives	66
Chapter 3: Research Methodology	68
3.1 Introduction	68
3.2 Research Philosophy	68
3.3 Data Collection	69

3.4 Research Methodology	71
3.4.1 Research instrument	72
3.4.2 Interviewee selection	72
3.5 Rationalization of Guidelines	73
3.6 Data Collection Method	74
3.7 Data Analysis	77
Chapter 4: Research Results	78
4.1 Introduction	78
4.2 Legal Considerations in Korea for Islamic Finance	78
4.2.1 Permission of deposit and financing of Islamic banking	 79
4.2.2 Needed efforts to facilitate Islamic banking activities	83
4.2.3 Implementation of Islamic banking activities in Kores	a in a
couple of years?	87
4.3 Practical Considerations of Islamic Banking and Sukuk	91
4.3.1 The issues of sukuk definition	92
4.3.2 First effort for the level playing of sukuk market	with
conventional capital market?	97
4.3.3 Taxation environment and issues about Islamic ba	nking
and sukuk	99
4.3.4 Competitiveness compared to conventional banking	g and
bond?	101
4.4 Selected Shariah Issues	102
4.4.1 Dubious concerns against non-Muslim country, Korea	ı103
4.4.2 The issue to debt-based sukuk	104

4.4.3 Transfer of ownership	107
4.5 Risk Mitigation	109
Chapter 5: Summary and Conclusion	113
5.1 Introduction	113
5.2 Summary of Findings	113
5.3 Conclusion	123
5.4 Limitations of Study	126
5.5 Suggestions for Future Research	127
5.6 Practical Implication	127
REFERENCES	129
APPENDIX	137