

*In the Name of Allah the Most Gracious, the Most Merciful
All praise is to Allah, the Lord of all the worlds; and peace and
blessings are upon our Prophet and Messenger Muhammad
and His family and all His companions.*

Resolution No. 195 (1/21)
On
Hedging in Financial Transactions

The council of the International Islamic Fiqh Academy IIFA, of the Organization of Islamic Cooperation (OIC), in its 21st session, held in Riyadh (Kingdom of Saudi Arabia), during the period Muharram 15-19, 1435H (November 18-22, 2013),

Having reviewed the research papers submitted to IIFA on “Hedging in Financial Transactions”, and listened to discussions on the subject,

Resolves the following:

- Postponement of issuing a resolution on this subject for conducting more research on hedging in Islamic financial institutions and Sharī‘ah-acceptable alternatives of traditional hedging.

*In the Name of Allah the Most Gracious, the Most Merciful
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Resolution No. 196 (2/21)
On
Conclusion of Discussion on “Islamic *Şukūk*”

The Council of the International Islamic Fiqh Academy (IIFA), of the Organization of Islamic Cooperation (OIC), in its 21st session, held in Riyadh (Kingdom of Saudi Arabia), during the period Muharram 15-19, 1435H (November 18-22, 2013),

Having reviewed the research papers submitted to IIFA on “Conclusion of discussion on Islamic *Şukūk*”, particularly the issues of:

- (1) Sharī‘ah ruling on postponement of rent in specifically defined *Ijārah* (lease) transactions; and
- (2) Sharī‘ah ruling on negotiation of *Şukūk* of specific *Ijārah* before identification of subject matter of contract; and
- (3) Criteria of *Taba’iyah* (Dependency) and *Ghalabah* (Predominance) and their typical cases,

And after listening to lengthy discussions on the subject,

Resolves the following:

Firstly: Sharī‘ah Ruling on Postponement of Rent in “Specific *Ijārah*” Transactions:

- (1) In leasing of specific benefits, which the lessee is to obtain in the future, rent can be paid instantly, in installments or deferred.
- (2) In leasing of specific benefits, which the lessee is to obtain in the future, rent does not become due until the lessee is given full access to such benefits. If the lessee is not enabled to obtain the benefits during the period agreed upon no rent will become due.

- (3) In hiring of services (which involve work) remuneration can be paid instantly; in installments; or deferred.
- (4) These rulings on postponement of rent should by no means be used for practicing Sharī'ah-banned acts like "sale of debt for another debt", "earning of profit without provision of guarantee" and "sale of things" that are not owned.

Secondly: Sharī'ah Ruling on Negotiation of *Şukūk* of Specific *Ijārah* before Identification of Subject Matter of Contract

- (1) IIFA reaffirms its Resolution No. 188 (3/20).
- (2) It is not permissible to negotiate *Şukūk* of future *Ijārah* assets, before identifying the asset from which benefit is to be obtained.
- (3) It is not permissible to negotiate *Şukūk* of services that are yet to be delivered unless the party from whom the services will be obtained is identified. *Şukūk* in this case are not negotiable except with full abidance by Sharī'ah controls on disposing of debts. When the party from whom services are to be obtained is identified *Şukūk* becomes negotiable.
- (4) *Şukūk* that represent assets to be manufactured by an *Istiṣnā'* contract and are leased before actual commencement of manufacturing, are not negotiable.

Thirdly: Some Cases of *Şukūk* Issuance

- (1) IIFA reaffirms its Resolution No. 188 (3/20).
- (2) If the *Şukūk* represent assets of a project or a specific economic activity, and comprise real assets, money, debts and benefits, they become subject to item [3-(a)] of Clause (Fifthly) of Resolution No. 188(3/20), as follows:
 - a. If debts and money are independent from real assets, benefits, administrative apparatus and principal economic activity, it is not permissible to issue and negotiate such *Şukūk* or units unless real assets and benefits constitute the predominant part of the whole.
 - b. If ownership of the *Şukūk* or unitholders comprises the administrative apparatus and the economic activity that generates money and debts, and has its independent Sharī'ah and legal entity, then it becomes

permissible to issue and negotiate the *Şukūk* or unit based on the principle of dependency.

- c. Economic activity referred to in the preceding items is the business that generate debts and money in a Sharī'ah-acceptable way.
- (3) IIFA reiterates what has been stated in item (1) Clause (Sixthly) of its Resolution No. 188 (3/20) that “The resolutions issued by IIFA are valid from date of issuance without affecting contracts that precede them including *Şukūk* issued on the basis of Sharī'ah-recognizable *Ijtihad* (Interpretative Judgement)”.
- (4) Regarding the two principles of *Taba'iyah* (Dependency) and *Ghalabah* (Predominance) the Council is of the view that issuing resolutions on them should be postponed to a later session and recommends mobilization of more research on the two subject.