



# *Legal Aspects of Islamic Finance*

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## *Learning Outcomes*

# 01

**CLO1:** Explain and analyse the development and the regulatory framework of Islamic finance and its application

# 02

**CLO2:** Research and apply the relevant rules and laws relating to Islamic finance.

## *Introduction to Islamic Finance*

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Overview of modern financial management of banking, insurance and capital market

Theories of Islamic Economic

History of Islamic banking and finance. The establishment of Islamic banks worldwide both in the Muslim and non-Muslim countries

Salient features of Islamic banking and finance

Regulatory authorities

Regulatory structures

## *Rationale for Regulations*

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Protecting the interest of depositors

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Ensuring compliance with Shari'ah

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Supporting the integration of IFIs in the financial system

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### **Shariah Supervision**

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Law and guidelines for Shari'ah Governance

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Shariah Supervisory Board- Role and Responsibility.

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Shariah Compliance Review, Audit and Governance

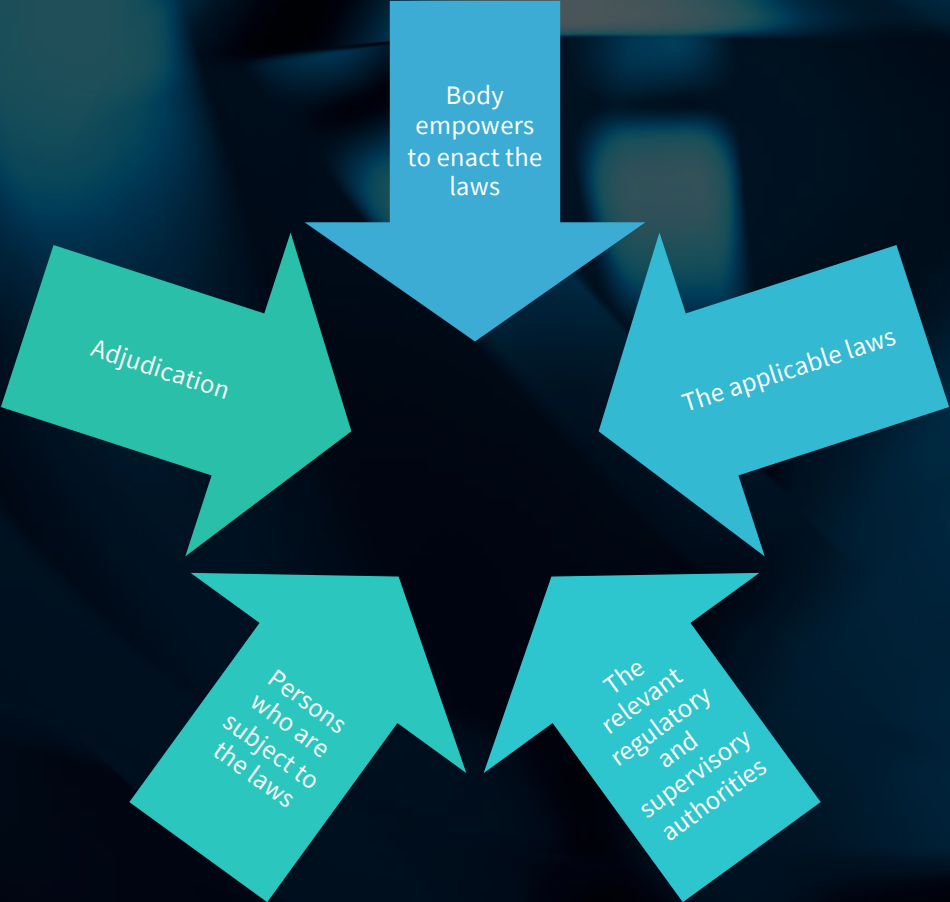
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AAOIFI's Audit and Governance Standards

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IFSB Rules and Guidelines

# Regulatory Framework



# Legal Framework of Islamic Finance in Malaysia

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The Role of Central Bank of Malaysia in both Conventional and Islamic Banking.

Important Provisions of the Islamic Financial Services Act 2013

The Central Bank of Malaysia Act 2009 and DFIA 2002

Related Laws on Islamic Banking and Finance

**Jurisdiction of the Malaysian Courts in Islamic Finance**

Federal Constitution  
List 1 (Federal List), of the 9th Schedule of Federal Constitution includes civil, criminal procedures, contracts, *lex mercatoria* (inclusive of banking and financial laws),

Alternative Dispute Resolutions. Mediation, Arbitration etc.

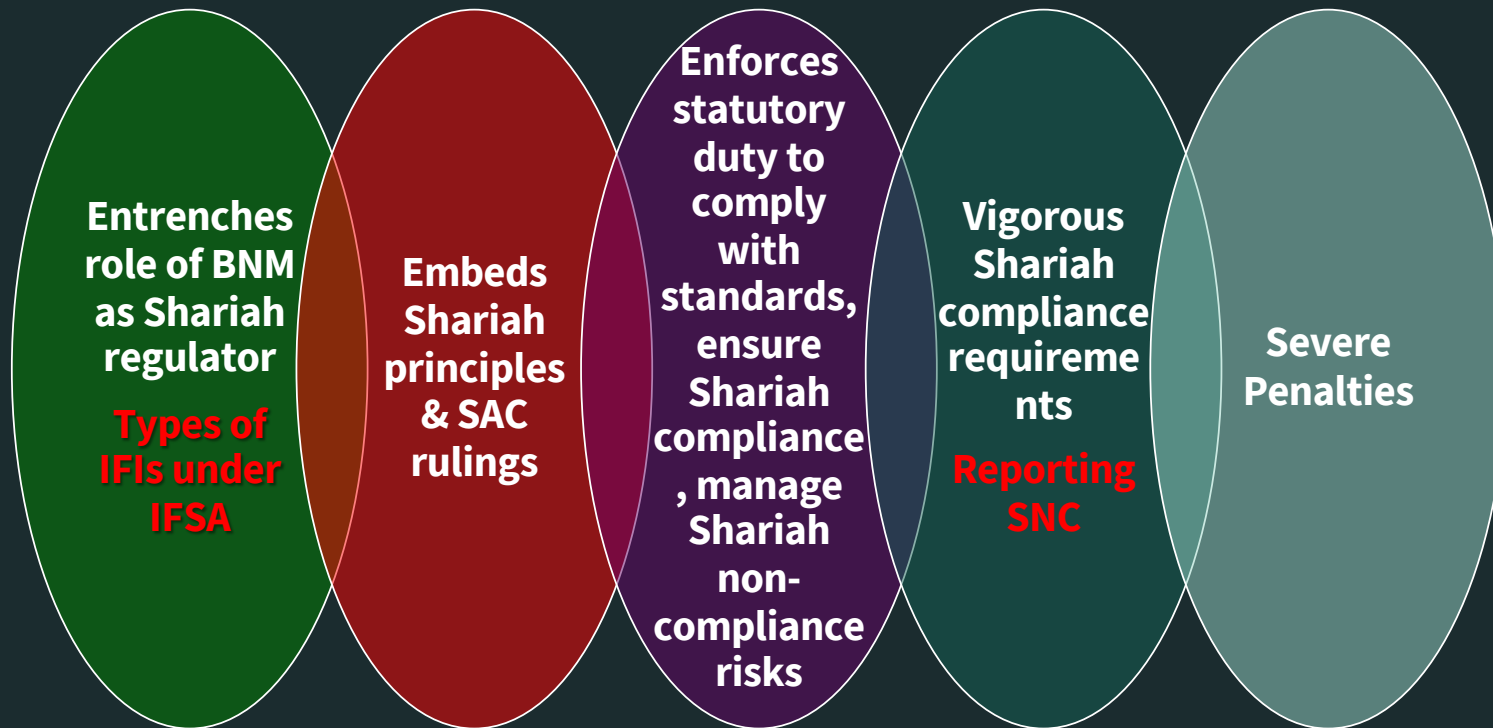
Cases Decided by the Malaysian Courts on Islamic Banking and Finance

# Islamic Finance in Various Jurisdictions

	Bahrain	Pakistan	Sudan	UAE	Malaysia
SYSTEM	Single	Single	Single • National aspiration to have full-fledged Islamic	Single	Dual • Existence of dual financial system is hard-coded in Central Bank of Malaysia Act 2009
LEGAL	<ul style="list-style-type: none"> <li>• Single legislation covers both Islamic &amp; conventional banking</li> <li>• Comprehensive regulatory framework for Islamic banks</li> </ul>	<ul style="list-style-type: none"> <li>• Single legislation with specific provision to address Islamic banking operation</li> </ul>	<ul style="list-style-type: none"> <li>• Banking Business Regulation Act</li> </ul>	<ul style="list-style-type: none"> <li>• Single legislation covers both Islamic &amp; conventional banking (Federal Law)</li> <li>• Takaful –specific law is introduced (2010)</li> </ul>	<ul style="list-style-type: none"> <li>• Dedicated Law/ Act to address Islamic finance                             <ul style="list-style-type: none"> <li>• Islamic Banking Act 1983/IFSA 2013</li> <li>• Takaful Act 1984</li> <li>• Government Funding Act 1983</li> </ul> </li> </ul>
SHARIAH GOVERNANCE STRUCTURE	<ul style="list-style-type: none"> <li>• Shariah supervisory committee of individual Islamic banks</li> <li>• Shariah Board of CBB</li> </ul>	<ul style="list-style-type: none"> <li>• Shariah advisor of individual Islamic banks</li> <li>• Shariah Board of State Bank of Pakistan</li> </ul>	<ul style="list-style-type: none"> <li>• Shariah advisor of individual Islamic banks</li> <li>• Shariah Supervisory Board (Bank of Sudan)</li> </ul>	<ul style="list-style-type: none"> <li>• Shariah committee of individual Islamic banks</li> <li>• Shariah supervisory (Ministry of Islamic Affairs)</li> </ul>	<ul style="list-style-type: none"> <li>• Shariah advisor of individual Islamic banks</li> <li>• Shariah Advisory Council (SAC) of Bank Negara Malaysia</li> </ul>

# IFSA

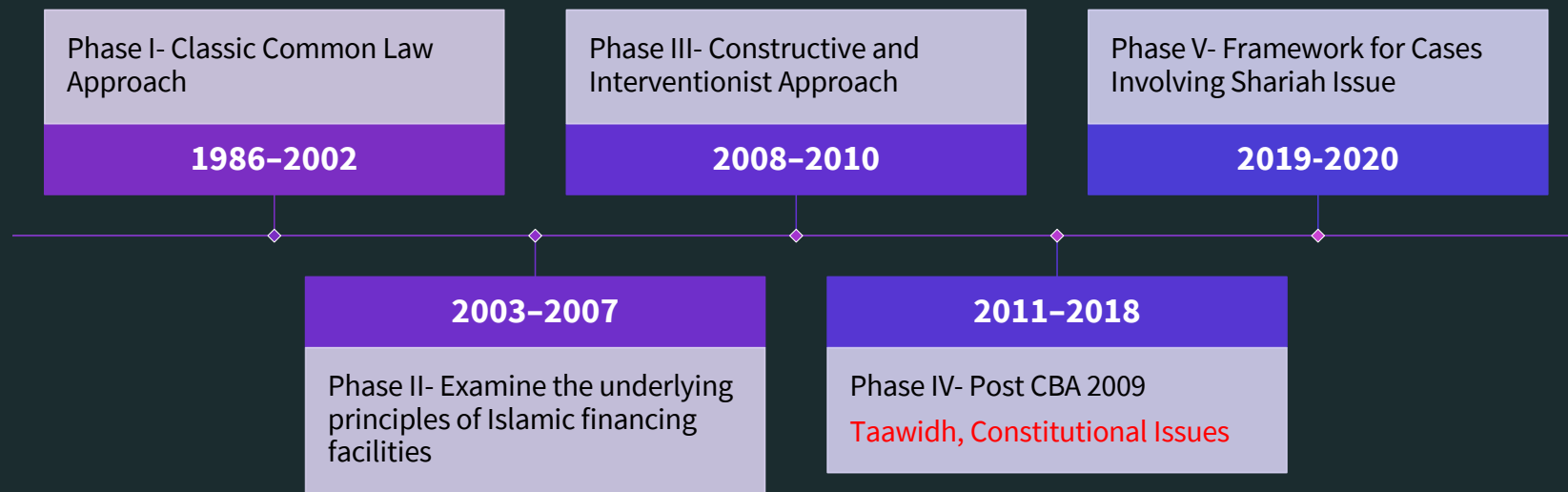
## Regulation on institutions and financial activities





# Islamic Finance Cases in Malaysia

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# Takaful

Concept of Insurance

Concept of Takaful

Differences Between  
Takaful and Insurance

Laws Relating to Takaful

The Islamic Financial  
Services Act 2013

Shari'ah Governance and  
Supervision

Takaful Operational  
Framework

Participant benefits,  
Utmost good faith,  
Insurable Interest,  
Insurable Risk, Proximate  
Cause, Indemnity

Retakaful

## Assessment

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Mid semester exam = 15%

Presentation/Ethics = 10%

Written assignment/ Publication = 15%

Final examination = 60%

## Essay Question

### Introduction

- Background of the questions, definition, conceptual framework, history, statistical facts and etc.

### Contents

- Point 1
  - Authority-
- Point 2
  - Authority
- Point 3
  - Authority
  - Authority means “nusus, statutes, SAC and SC resolution, cases, rulings of fatwa institutions such as AAOIFI and others, text books, journal articles and research paper”.

### Conclusion

- Summary, findings, recommendations, solutions and observation.

# Problematic Question

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## Introduction

- Background of the questions, summary of the facts, summary of the decision, summary of the resolution, list of highlighted issues, and etc.

## Contents

- Issue 1 and analysis
  - Authority-
- Issue 2 and analysis
  - Authority
- Issue 3 and analysis
  - Authority
- \* Authority means “*nusus*, statutes, SAC and SC resolution, cases, rulings of fatwa institutions such as AAOIFI and others, text books, journal articles and research paper”.

## Conclusion

- Summary, findings, recommendations, solutions and observation.

## *Open-Ended Question*

Introduction- Background of the questions, summary of the facts, summary of the decision, summary of the resolution, list of highlighted issues, and etc

### Contents

- Eg. Roles of Islamic Finance
  - Tenets Bounds- Shariah
  - Principles Based- Ethics and values
  - Real Economy- Asset backed, infrastructure.
  - Society and Market Service- Community and socio-economic dimension
- Financial Instruments Eg Banking products, Takaful Products, Islamic Capital Market.
- Any other relevant answers eg. Maqasid Shari'ah.

Conclusion- Summary, findings, recommendations, solutions and observation.