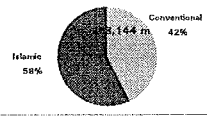




## Sukuk Market in Malaysia..(cont'd)

Outstanding Private Debt Securities  
(as at June 2009)

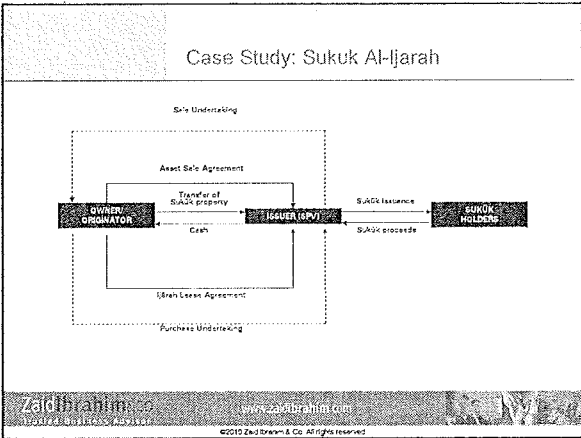


Source: BNM Statistics

### Islamic capital market

- 3<sup>rd</sup> largest capital market in Asia (after Japan & Korea)
- Malaysia's outstanding Sukuk (public & private): USD66 billion (end June 2009)
- 62% of total outstanding Sukuk globally – global leader in Sukuk
- 58% of outstanding corporate bonds are Sukuk

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### Key Legal Considerations

- ❖ **Taxation**
  - applicable to underlying structures and issuers
  - direct tax
  - stamp duty land tax
  - capital gains tax
  - withholding tax
  - value added tax
- ❖ **Regulatory classification of Sukuk**
  - impact of stabilisation, tradability and selling restrictions
- ❖ **Availability of identifiable assets to back the Sukuk issuance**
- ❖ **Local law issues relating to trusts, property laws, etc.**
- ❖ **SPV issuer/trustee – delegation**
- ❖ **Rating criteria**
- ❖ **Shari'ah compliance**

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### Trends and Challenges

- ❖ **Challenges**
  - "need to mobilize excess Islamic funds to cash deficits economic units in a Shari'ah compliant manner"
- ❑ **The lack of standardization and homogeneity i.e. Shari'ah & accounting convergence**
  - No single interpretation of Islamic law, each financial institution has a board of religious scholars who determine which products are Islamic, and what one bank considers Shari'ah compliant may be unacceptable to another
  - Adoption of accounting standards set by AAOIFI as mandatory is not widespread i.e. only some member countries of the Islamic Development Bank whereas in other markets, the banks tend to follow the standards set by local regulators instead

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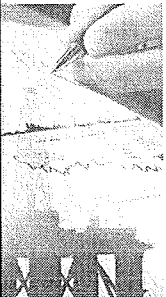
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## Trends and Challenges ..(cont'd)



❖ **Challenges (cont'd)**

- Critical mass**
  - Need for diversity in the type and maturity of sukuk
  - Creation of more secondary trading platform/market
- Regulation and legal frameworks**
  - Huge number of Islamic financial institutions in the market but many Muslim countries still do not have enabling legislation in place covering the issuance of sukuk, establishment of trustee and Special Purpose Vehicle

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## Conclusion



**Characteristics of an Effective Legal and Regulatory Framework for Islamic Finance**

- i) An enabling environment that accommodates and facilitates the development of the industry;
- ii) A clear and efficient system that preserves the enforceability of Islamic financial contracts;
- iii) A credible and reliable forum for settlement of legal disputes arising from Islamic finance transactions.

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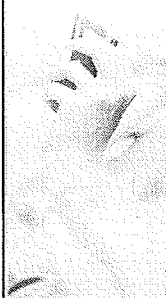
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