

# Launch of IIFM Interbank Unrestricted Master Investment Wakalah Agreement

The launch today in Singapore of the IIFM Interbank Unrestricted Master Investment Wakalah Agreement by IIFM (International Islamic Financial Market) is another milestone in the development of liquidity management products for Islamic Financial Institutions (IFIs) and another milestone in the project of standardisation in Islamic Finance documentation.

The Interbank Unrestricted Master Investment Wakalah Agreement has been specifically designed to be used between financial institutions to manage their liquidity through *Shari'a* compliant interbank treasury transactions and provides a very welcome alternative to liquidity management based on commodity *murabaha* transactions.

## Key Features of the IIFM Interbank Unrestricted Master Investment Wakalah Agreement

### Parties

Under the Interbank Unrestricted Master Investment Wakalah Agreement (the **Master Wakalah Agreement**), an investor (the **Muwakkil**) appoints an IFI as its agent or delegate (the **Wakil**) to invest its funds in a *Shari'a* compliant manner in exchange for a fee or a fee and a profit share.

### Transaction

Once the Muwakkil and the Wakil have entered into the Master Wakalah Agreement, they can enter into a series of **Wakalah Investment Transactions** under which a deposit in an agreed and certain amount (the

**Investment Amount**) is invested in a pre-determined pool of assets (the **Wakalah Pool**) for an agreed and certain amount of time (the **Investment Period**) in relation to which there is an anticipated return (the **Anticipated Profit Rate**).

### Wakalah Pool

The Wakalah Pool may consist of a general treasury pool comprising of *Shari'a* compliant assets or, at the Wakil's discretion, a segregated pool of assets both of which must be described under the Wakalah Investment Transaction. The Wakalah Pool can then either be managed on a segregated or co-mingled basis.

### Profit Sharing

The Anticipated Profit Rate is the rate of profit the Wakil projects that it will earn on the Muwakkil's Investment Amount by investing it in the pre-designated Wakalah Pool. If the actual rate of return (the **Actual Profit Rate**) exceeds the Anticipated Profit Rate, the Wakil may retain the excess as an incentive payment. If, however, the Anticipated Profit Rate is not met, the Wakil shall only be under an obligation to return the Actual Profit Rate.

Where the Wakil determines that the Actual Profit Rate may be lower than the Anticipated Profit Rate, it is under

an obligation to notify the Muwakkil of the **Revised Anticipated Profit Rate**.

## Wakil Fee

The Wakil is entitled to a fee which is to be fixed and not linked to the Actual/Anticipated Profit Rate. The Wakil Fee will be deducted from the Muwakkil's **Maturity Proceeds** (i.e. the return of the Investment Amount and the Actual/Anticipated Profit Rate).

## Early Termination

Early Termination can be caused by the occurrence of an **Event of Default** on the part of the Wakil. An Early Termination Date is designated and all Wakalah Investment Transactions are terminated and the Maturity Proceeds are paid in relation to each Wakalah Investment Transaction.

A single Wakalah Investment Transaction may be terminated (a) at the request of the Muwakkil with the agreement of the Wakil, (b) at the discretion of the Muwakkil after the receipt of a notice of a Revised Anticipated Profit Rate or (c) on an illegality. An Early Termination Date is designated for the relevant Wakalah

Investment Transaction and the Maturity Proceeds are paid, provided that where the Early Termination Date has occurred at the request of the Muwakkil, the Wakil is entitled to retain an amount from the Maturity Proceeds for actual administrative costs and expenses including opportunity or funding costs.

## Indemnity

The Wakil is not bound to indemnify the Muwakkil in the case the Investment Amount is lost or where the Anticipated Profit Rate is not reached unless there have been genuine actual losses arising as a result of the Wakil's wilful misconduct, negligence, misrepresentation or breach of the terms and conditions of the Master Wakalah Agreement.

## Shari'a Approval

The terms of the Master Wakalah Agreement have been approved by the IIFM Shari'ah Advisory Panel.

## Next Steps

The IIFM Interbank Unrestricted Master Wakalah Agreement is being

published today by IIFM, together with an Operational Guidance Memorandum.

For further information on the Master Wakalah Agreement, please contact the Clifford Chance LLP lawyers named under Contacts or your usual Clifford Chance LLP contact.

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