

# IFN Forum Kuwait

## U.S. Real Estate Investment Opportunities for Islamic Investors

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September 29, 2014

# Renewed Investment in U.S. Real Estate

- multifamily
- single tenant, net leased office
- medical office
- assisted and senior living communities
- student accommodation properties
- industrial distribution or light manufacture facilities
- government leased offices
- limited service hotels
- farmland?

# Structure / Syndication

- blind pool funds are no longer favored
- assets (single or portfolio) are identified at outset
- a financially strong sponsor can accumulate properties for subsequent syndication
- delayed syndication can have adverse tax impact
- feeder funds investing in non-compliant funds
- financing (including mezzanine financing) has potential

# Joint Venture

- JV partner has capital at risk
- JV partner controls day-to-day operations
- investor approves major decisions
- investor may have right to force certain major decisions
- investor retains right to take away JV partner control in case of JV partner default or misconduct
- disputes settled through buy-sell or marketing rights

# Asset Management

- sources assets
- may also assist in sourcing financing
- provides strategic advice
- oversees property manager
- does not have its capital at risk

# Owner Representative / Property Manager

- owner representative looks out for interests of investor in its dealings with JV partner
- property manager handles day-to-day property operations

# Financing

- mortgage financing is readily available – banks, insurance companies, government agencies, funds
- financing is non-recourse
- recourse carve-out guarantor usually needed
- no Islamic banks in U.S. but financing can be structured to be Shari'ah-compliant – no change in pricing
- Shari'ah-compliant financing structures achieve desired tax and accounting treatment
- Islamic institutions have opportunity to provide financing

# Basic Tax Structuring

- U.S. 30% withholding tax on dividends and distributions
- no tax treaties between GCC countries and U.S.
- investors purchase shares of offshore companies
- offshore companies capitalize U.S. corporation with equity and debt
- cash flow comes out without withholding tax
- net gain at exit paid out as tax-free liquidating distribution
- providing financing avoids these tax issues



# Shari'ah Compliance

- Shari'ah considerations relating to tenants is straightforward but commercial tenants may require closer examination
- Shari'ah considerations relating to financing are manageable if properly presented to prospective financiers

# OFAC, Patriot Act and KYC

- financiers imposing higher requirements
- requirements can be satisfied depending on willingness to disclose names of investors
- trusted or regulated intermediaries can provide assurances with certificates and letters
- if disclosure is an issue it can sometimes be limited to large investors