

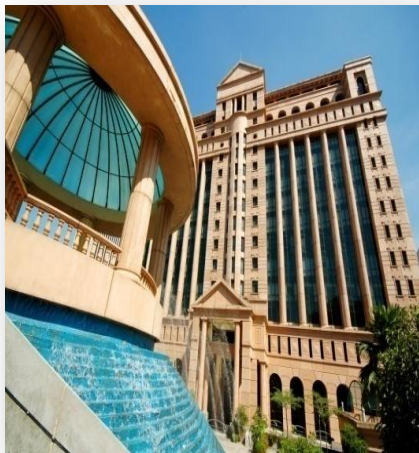
Regulating the Islamic Capital Market

Islamic Finance news
ROADSHOW
2010

MIFC
MALAYSIA INTERNATIONAL
ISLAMIC FINANCIAL CENTRE

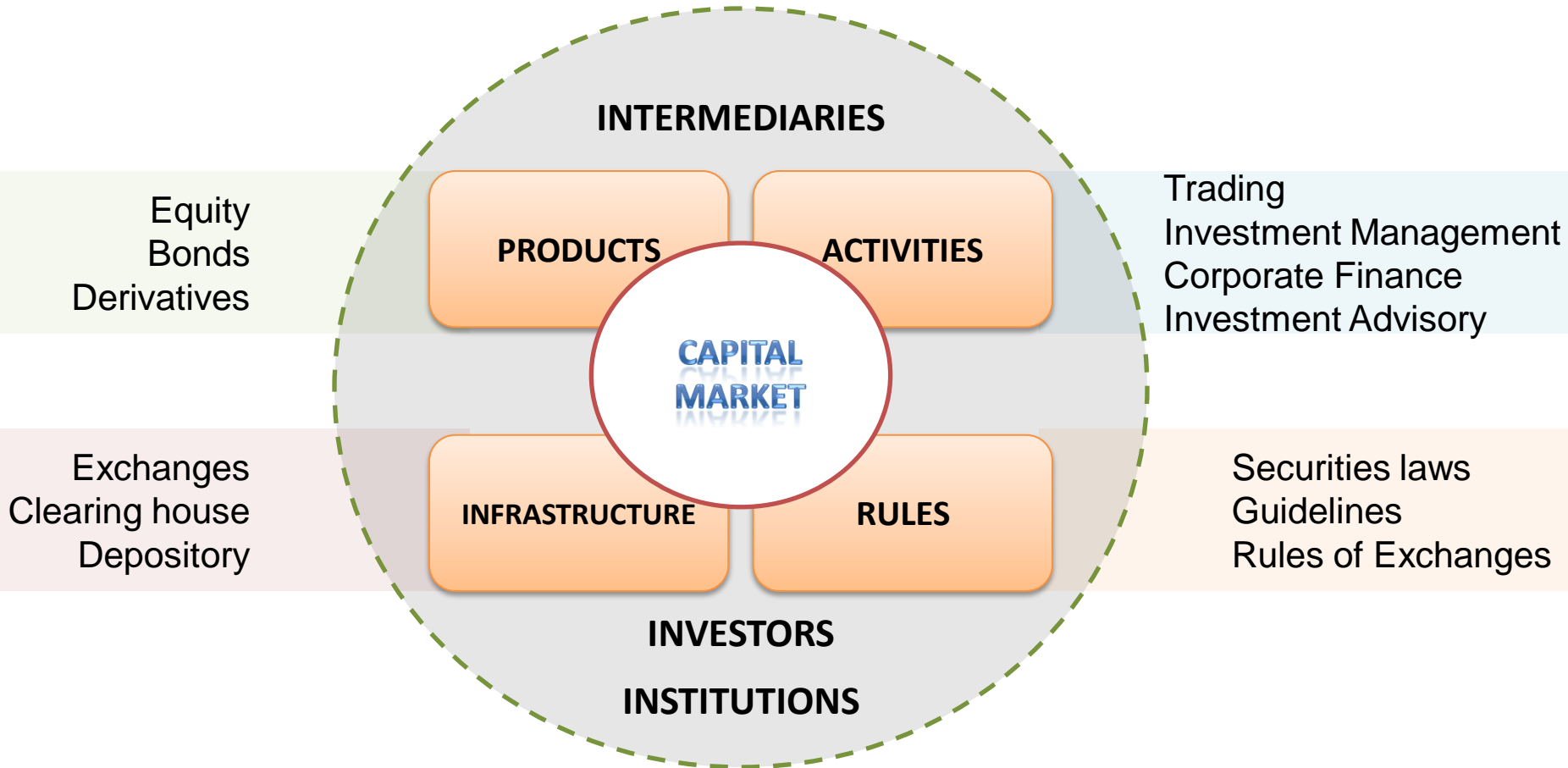
shaping MALAYSIA
islamic
finance together

Wan Rizaidy Wan M. Saufi
Assistant Vice President, Islamic Markets



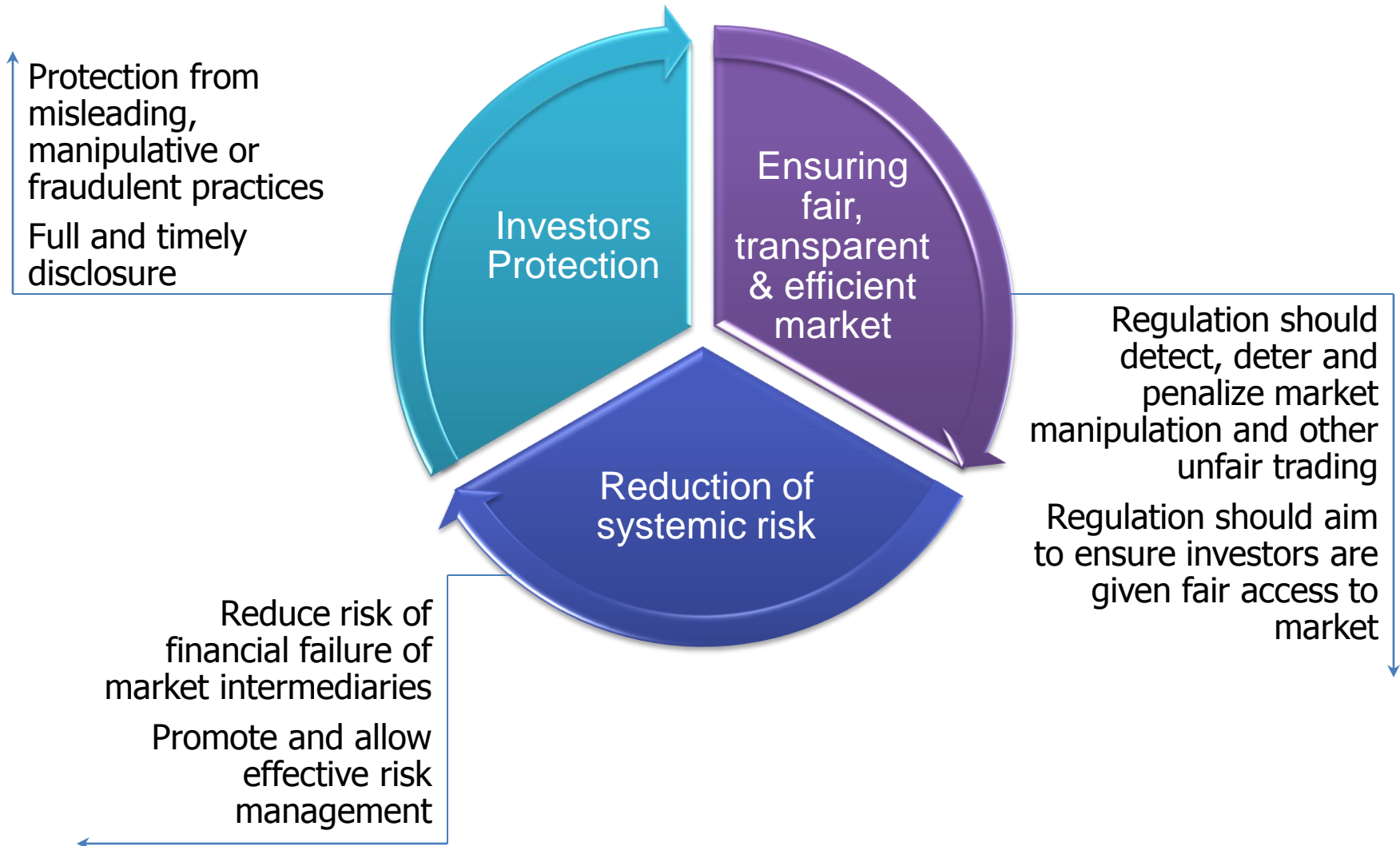
Introduction

Essentials of A Capital Market



Introduction

IOSCO's Core Objectives for Securities Regulation



Introduction

Does regulation of ICM differ from the regulation of conventional capital market ?

ICM products and services must not compromise the universal goals of securities regulation

Regulatory Framework that deters the punishes misleading, manipulative and fraudulent practices

IOSCO's Objectives and Principles of Securities Regulation

Economic objectives of securities regulation

Introduction

Key Characteristics of Islamic Capital Market

Compliance with Shari'ah Requirement

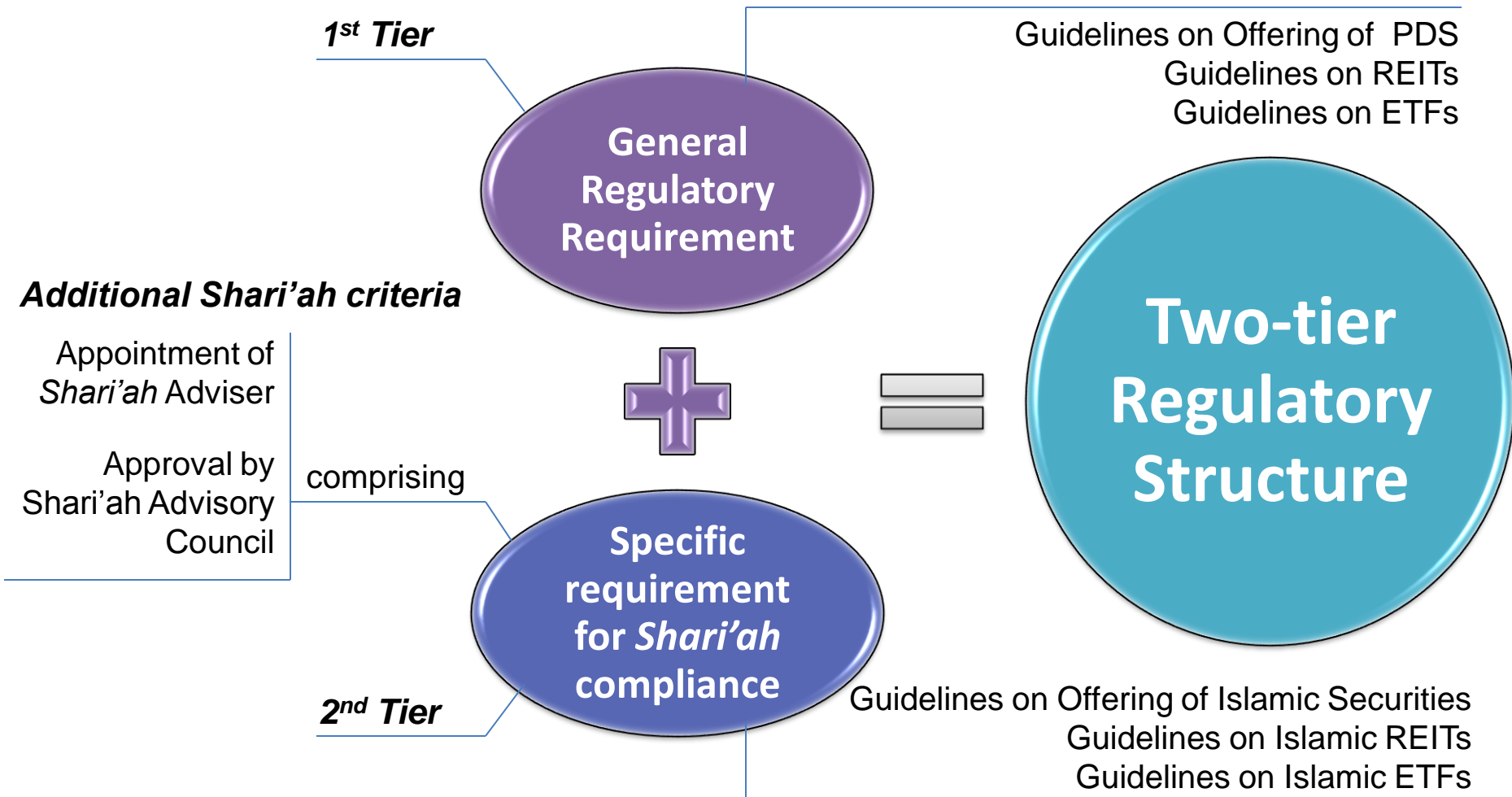
- Prohibition of:
 - Riba
 - Gharar
 - Maisir
 - Production / sales of good & services of *non-halal* items

Structured through underlying exchange contracts

- Must be underlying assets
- Performance of asset as profits' generator

Malaysian Approach in Regulating the ICM

Two-tier Structure



Malaysian regulators have been aggressively promoting ICM through facilitative legal and tax framework...

Issuance of Islamic Capital Market Guidelines	<ul style="list-style-type: none">• Guidelines on Offering of Islamic Securities, 2004• Guidelines on Islamic REITs, 2005
Addressing regulatory and tax issues	<ul style="list-style-type: none">• Deductions given on expenses incurred in the issuance of Islamic securities• Tax exemption on interest income derived by non-resident companies from ringgit-denominated Islamic securities and debentures• Tax neutrality between Islamic and conventional products• Supranational allowed to issue RM bonds• Framework for issuance of foreign currency denominated bonds liberalised
Shari'ah Framework	<ul style="list-style-type: none">• Establishment of the Shari'ah Advisory Council at regulatory level• Appointment of qualified Shari'ah advisers at industry level• Shari'ah screening of listed companies

Islamic Capital Market International Regulatory Framework

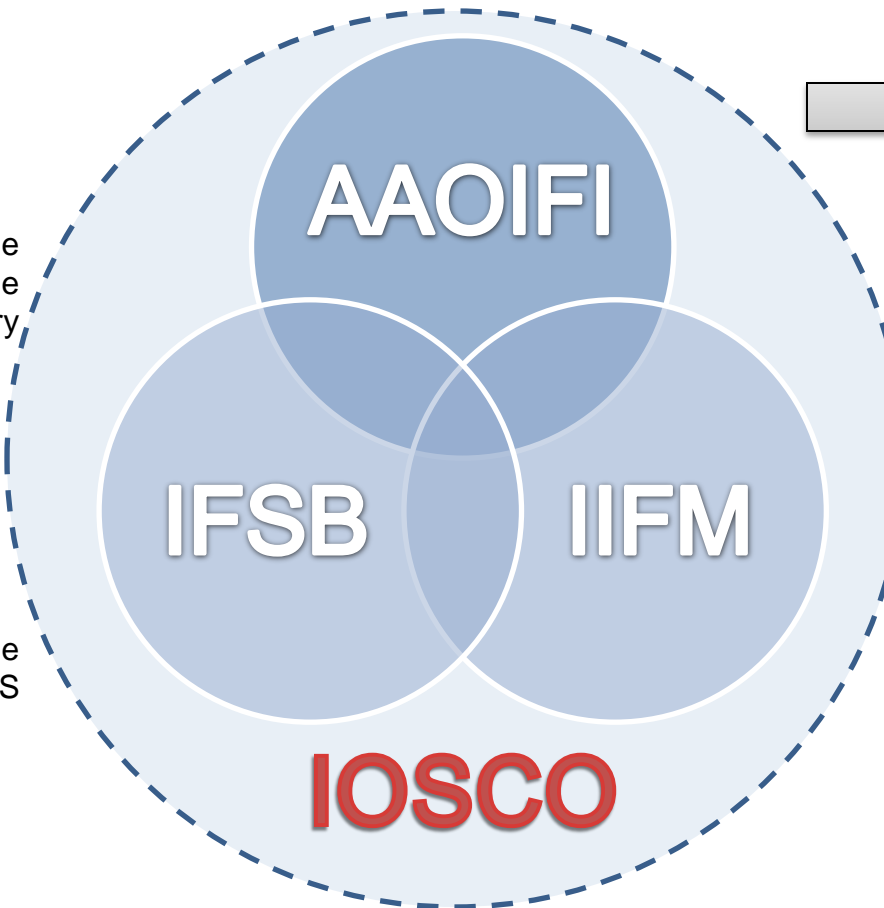
Developing internationally-compatible Islamic accounting standards

Differentiation from conventional financial system

Promotes and enhances the soundness and stability of the Islamic finance industry

Issuing global standards and guiding principles for the industry, including capital markets

IFSB complements that of the BCBS, IOSCO and IAIS



OIC Fiqh Council

SHARI'AH

Shari'ah Advisers / Committees

Harmonizing and standardizing Islamic products, documentations and related processes

Unifying Islamic Capital Market and Islamic Money Market segment of IFSI

International Regulation Accounting & Auditing Organization for Islamic Financial Institutions (AAOIFI)

Two new standards, namely:

Shari'ah Standards 2010

- 41 standards covering Gharar in :
- financial transactions, arbitration, Waqf, contingent obligations, credit facilities, and etc.

Accounting, Auditing & Governance Standards 2010

- 40 standards
- Covering accounting, auditing, ethics and governance of Islamic financial institution

International Regulation

Islamic Financial Services Board

Published standards by IFSB on Islamic Capital Market

IFSB - 10

- Guiding Principle on Shari'ah Governance Systems for institutions Offering Islamic Financial Services

IFSB - 9

- Guiding Principle on Conduct of Business for Institutions Offering Islamic Financial Services

IFSB - 7

- Capital Adequacy Requirements for Sukuk, Securitization and Real Estate Investment

IFSB - 6

- Guiding Principles on Governance for Islamic Collective Investment Scheme

Role of IFSB in maintaining momentum of globalizing ICM instrument

Demystify Islamic financial terms

Providing more data on Islamic finance

Creation of innovative products adaptable to rapid changes to market demands

Initiate greater collaboration in terms of resources and commitment for effective regulatory and supervisory framework

Human intellectual capacity building must be accorded with high priority in the development efforts



International Regulation International Islamic Financial Market

- Focusing on Shari'ah harmonization / standardization of Islamic products, documentation, and related processes
- Debut initiatives:
 - Shari'ah endorsement and enhancement
 - Cross-border listing and secondary market trading
- Introduction of **ISDA/IIFM Tahawut (Hedging) Master Agreement**
 - The first Islamic swap & derivatives contracts
 - First globally standardized documentation for privately negotiated Islamic hedging products
 - Applicable across all jurisdiction practicing Islamic finance
- Role of IIFM in harmonizing the Shari'ah standards:



International Regulation ***IOSCO***

2002

**Islamic Capital
Market Task Force
(ICMTF)**



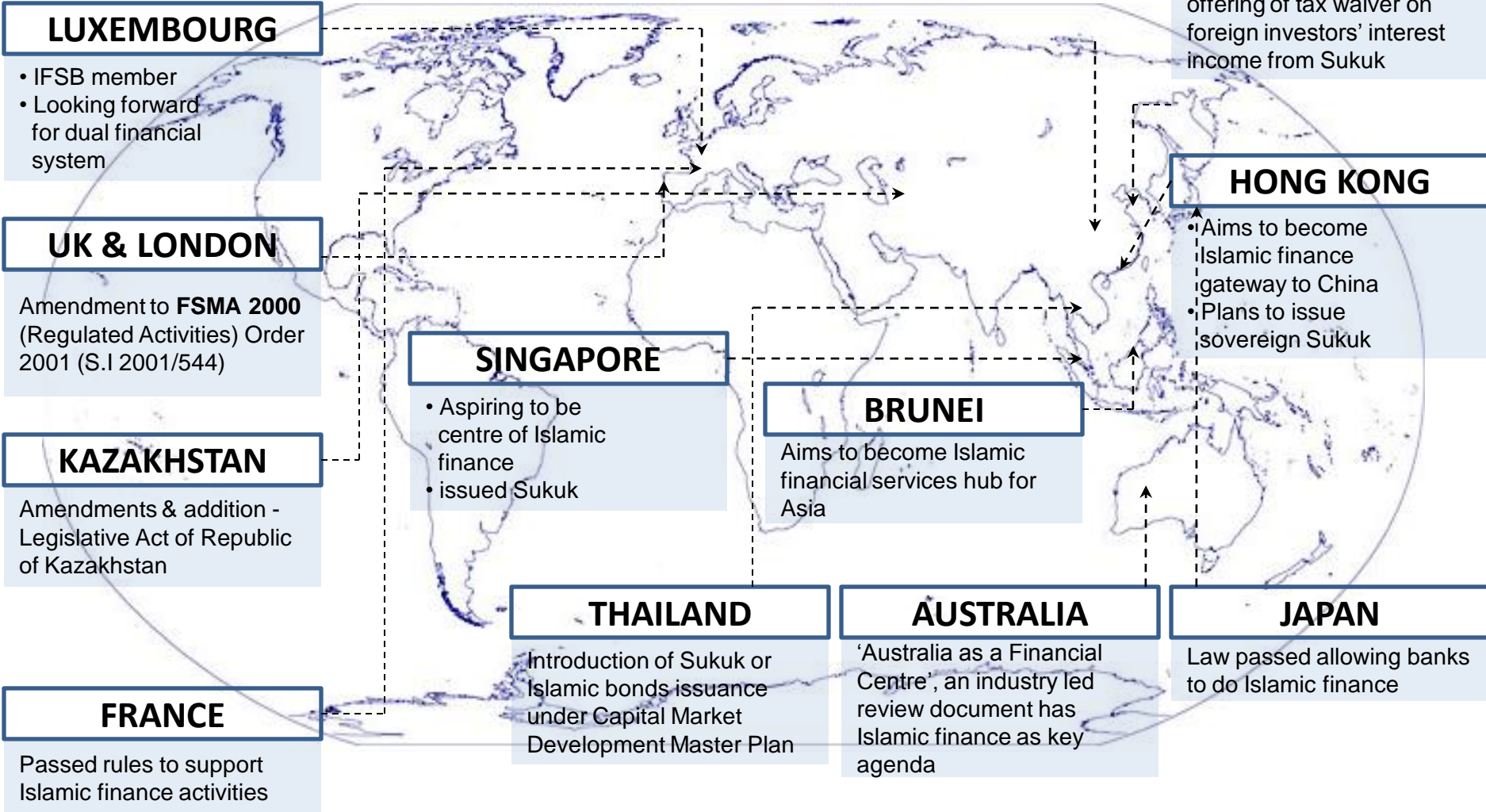
2007

**Analysis of the Application of IOSCO's Objectives
and Principles of Securities Regulation for Islamic
Securities Products**

The analysis of **this report** has not identified any concerns with respect to the compatibility of the **IOSCO Core Principles** with the Islamic securities market.

The overall findings are broadly consistent with the findings of the ICMTF report which notes that: "[there is] ...**no need to formulate separate regulatory principles [as] IOSCO's objectives and principles of securities regulation can be applied to Islamic Capital markets.**"

Regional Development Regulation



LUXEMBOURG

- IFSB member
- Looking forward for dual financial system

UK & LONDON

Amendment to **FSMA 2000** (Regulated Activities) Order 2001 (S.I 2001/544)

KAZAKHSTAN

Amendments & addition - Legislative Act of Republic of Kazakhstan

FRANCE

Passed rules to support Islamic finance activities

CHINA

Bank Ningxia spearheads Islamic finance

SOUTH KOREA

Parliament expected to pass the law related to offering of tax waiver on foreign investors' interest income from Sukuk

HONG KONG

- Aims to become Islamic finance gateway to China
- Plans to issue sovereign Sukuk

SINGAPORE

- Aspiring to be centre of Islamic finance
- issued Sukuk

BRUNEI

Aims to become Islamic financial services hub for Asia

THAILAND

Introduction of Sukuk or Islamic bonds issuance under Capital Market Development Master Plan

AUSTRALIA

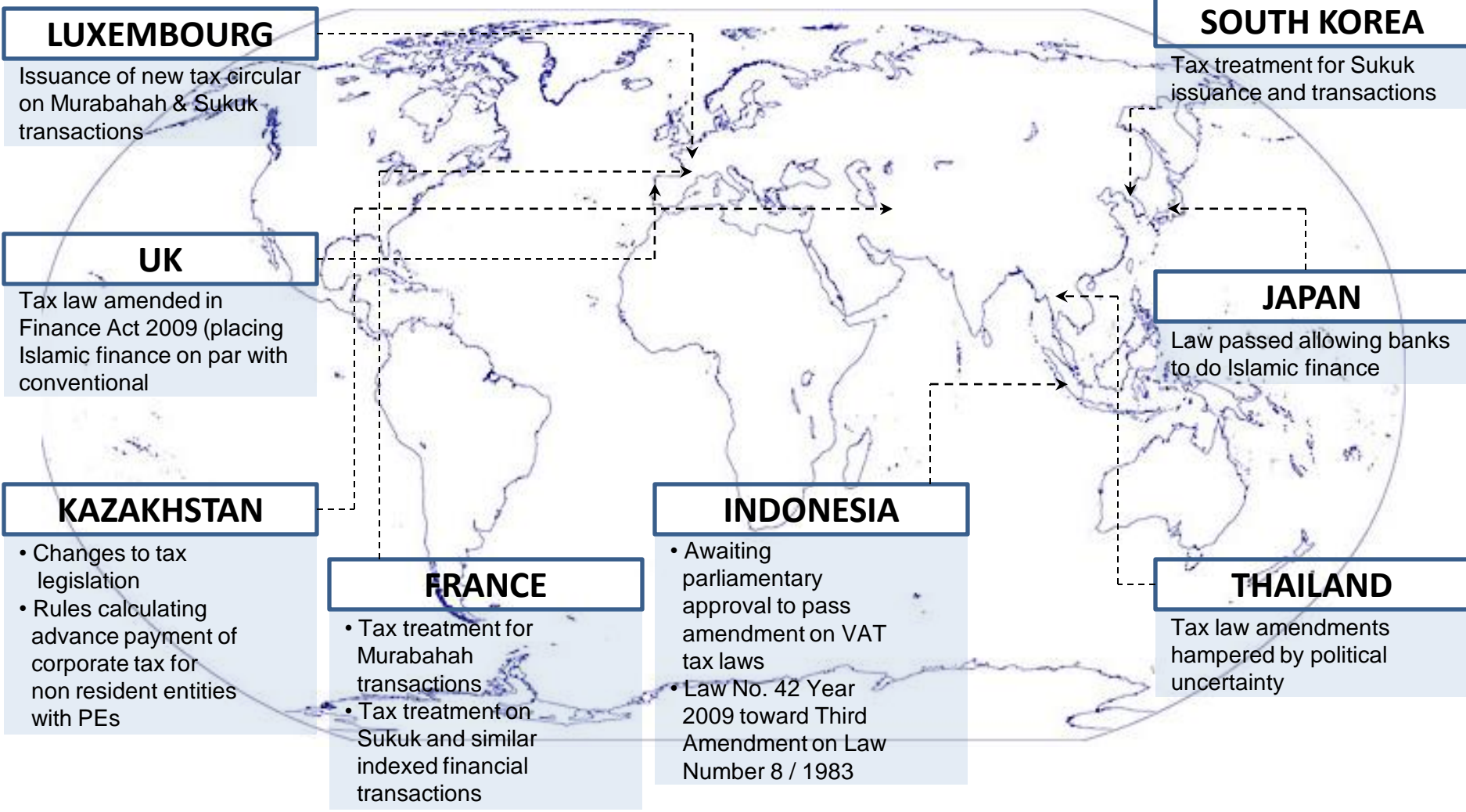
'Australia as a Financial Centre', an industry led review document has Islamic finance as key agenda

JAPAN

Law passed allowing banks to do Islamic finance

Regional Development

Tax Treatment





Thank You

1590K 100

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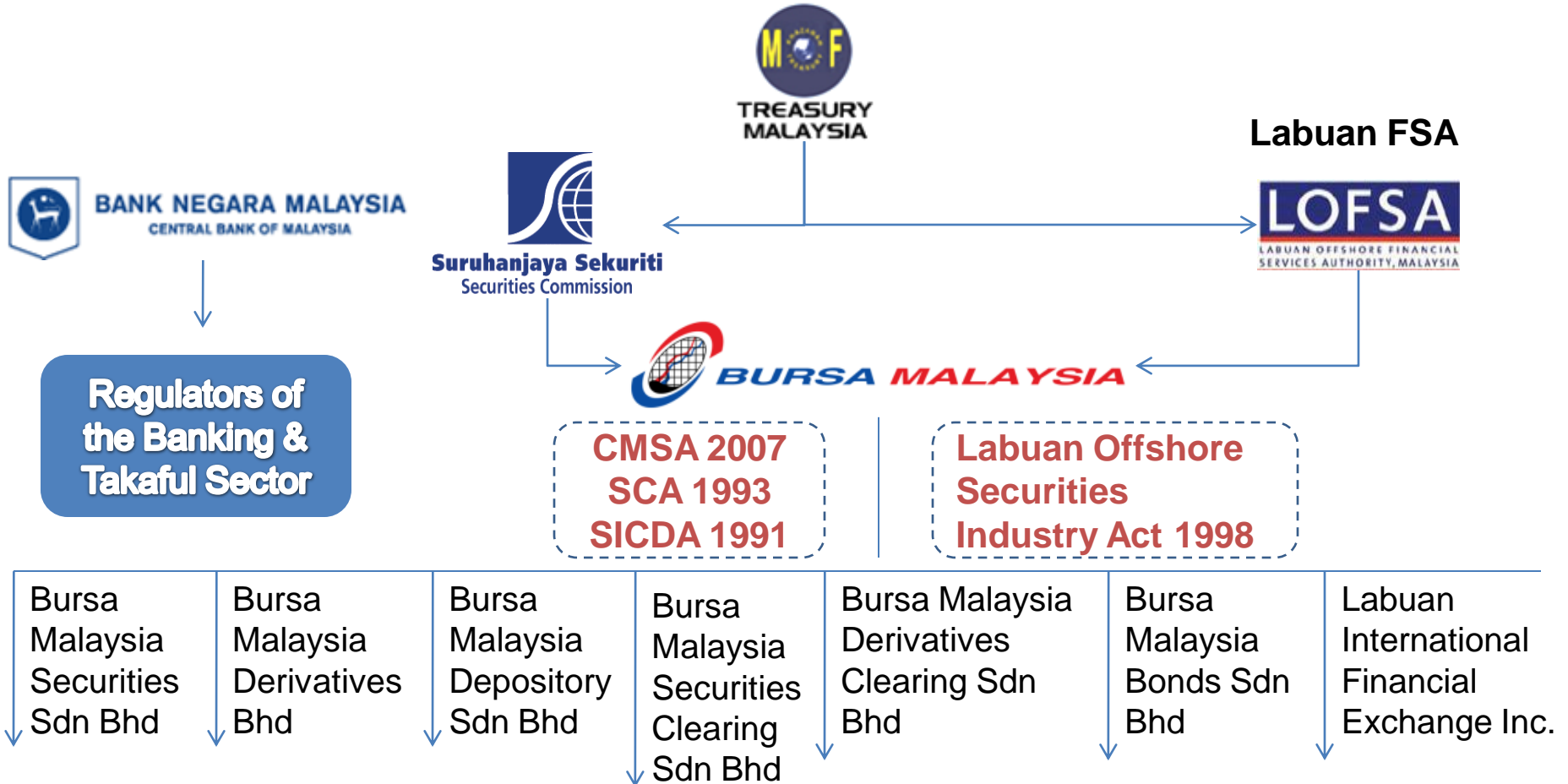
APPENDIX

Regulating the ICM

The Malaysian Approach

Malaysian Financial Regulatory System

Overall Regulatory Framework



Regulators of the Banking & Takaful Sector

Malaysian ICM & Securities Commission

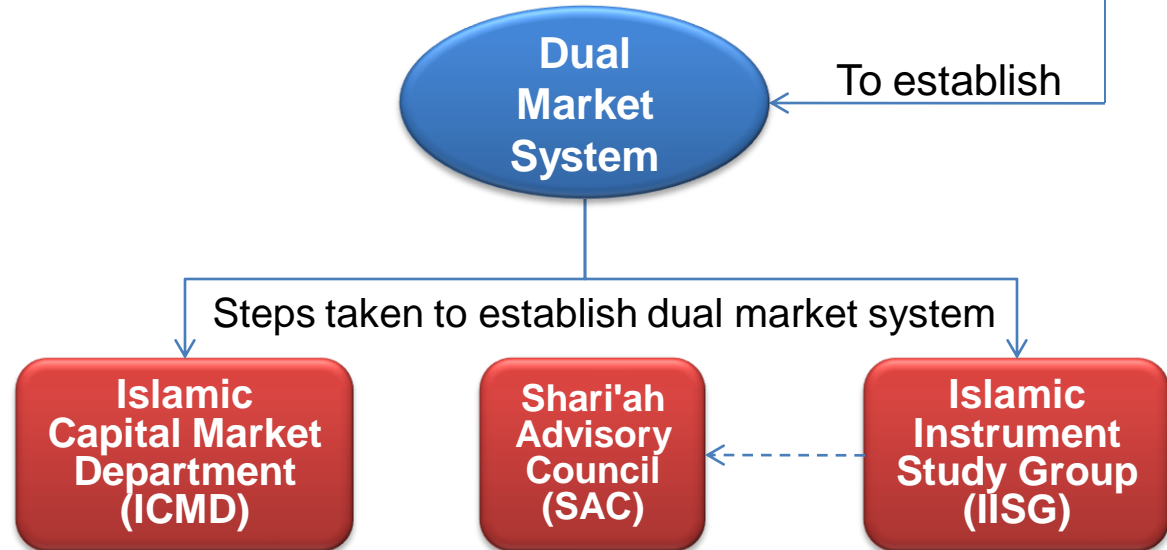
Introduction

Objective of Malaysian Capital Market Masterplan

To establish Malaysia as an international Islamic capital market centre

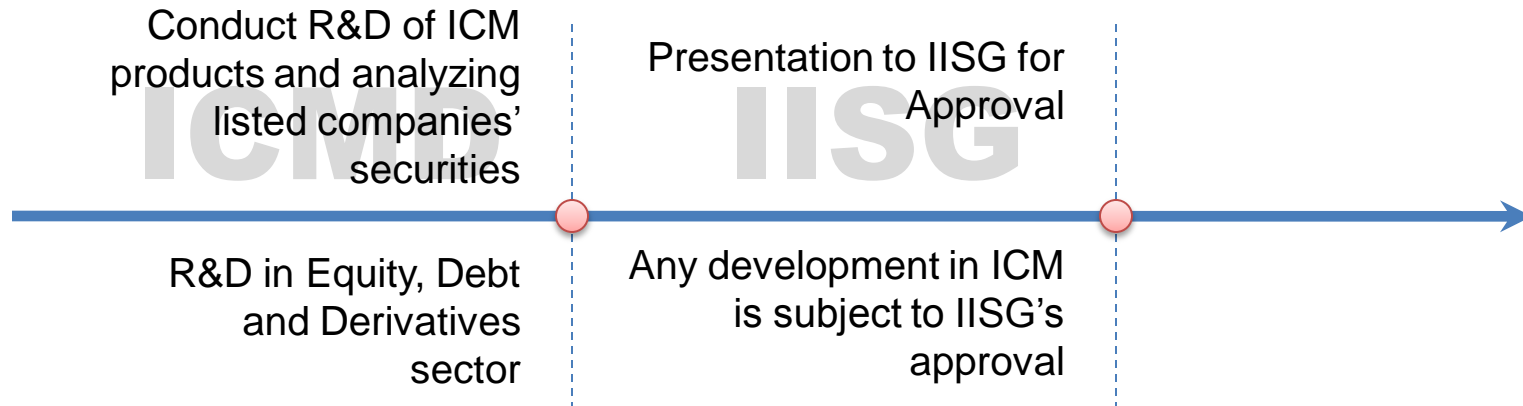
Approaches taken by the SC

- Supplying necessary infrastructure for research, discussion & dialogues
- Undertake specific efforts to develop and strengthen the market

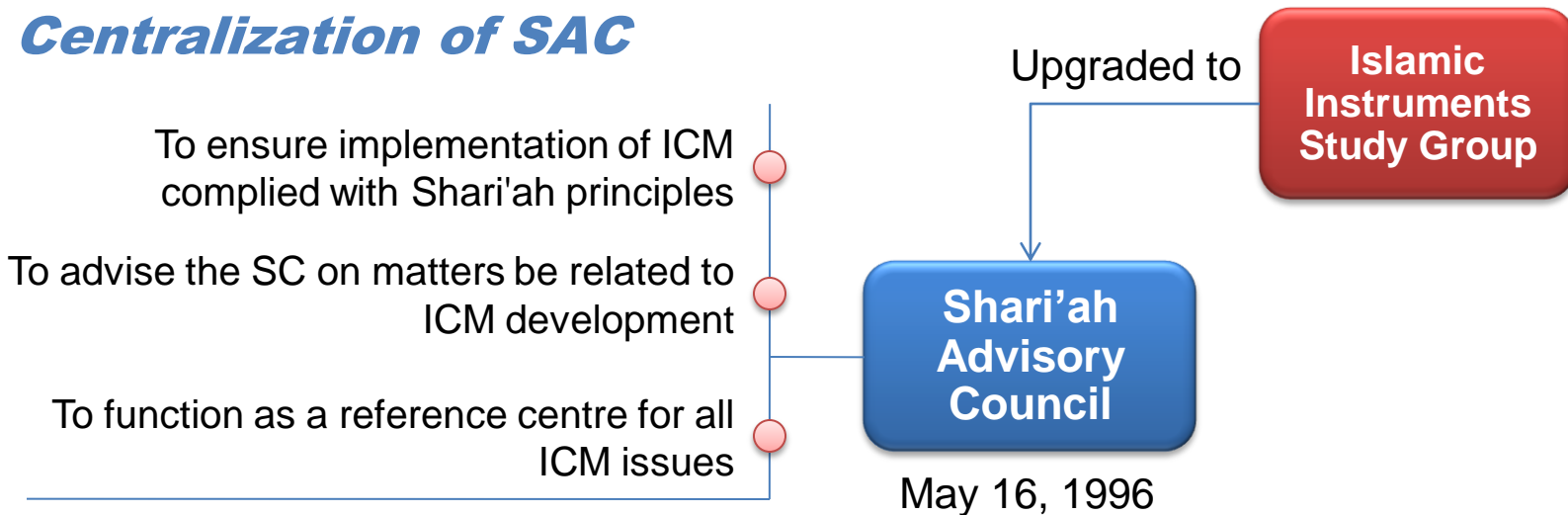


Malaysian ICM & Securities Commission

ICMD & IISG



Centralization of SAC



Shari'ah Advisory Council

Approaches in Introducing ICM in Malaysia

Two Approaches applied in introducing Malaysian ICM

Scrutinizing the validity of conventional instruments in compliance with *Shari'ah* principles

Formulating new financial instruments based on *Shari'ah* principles

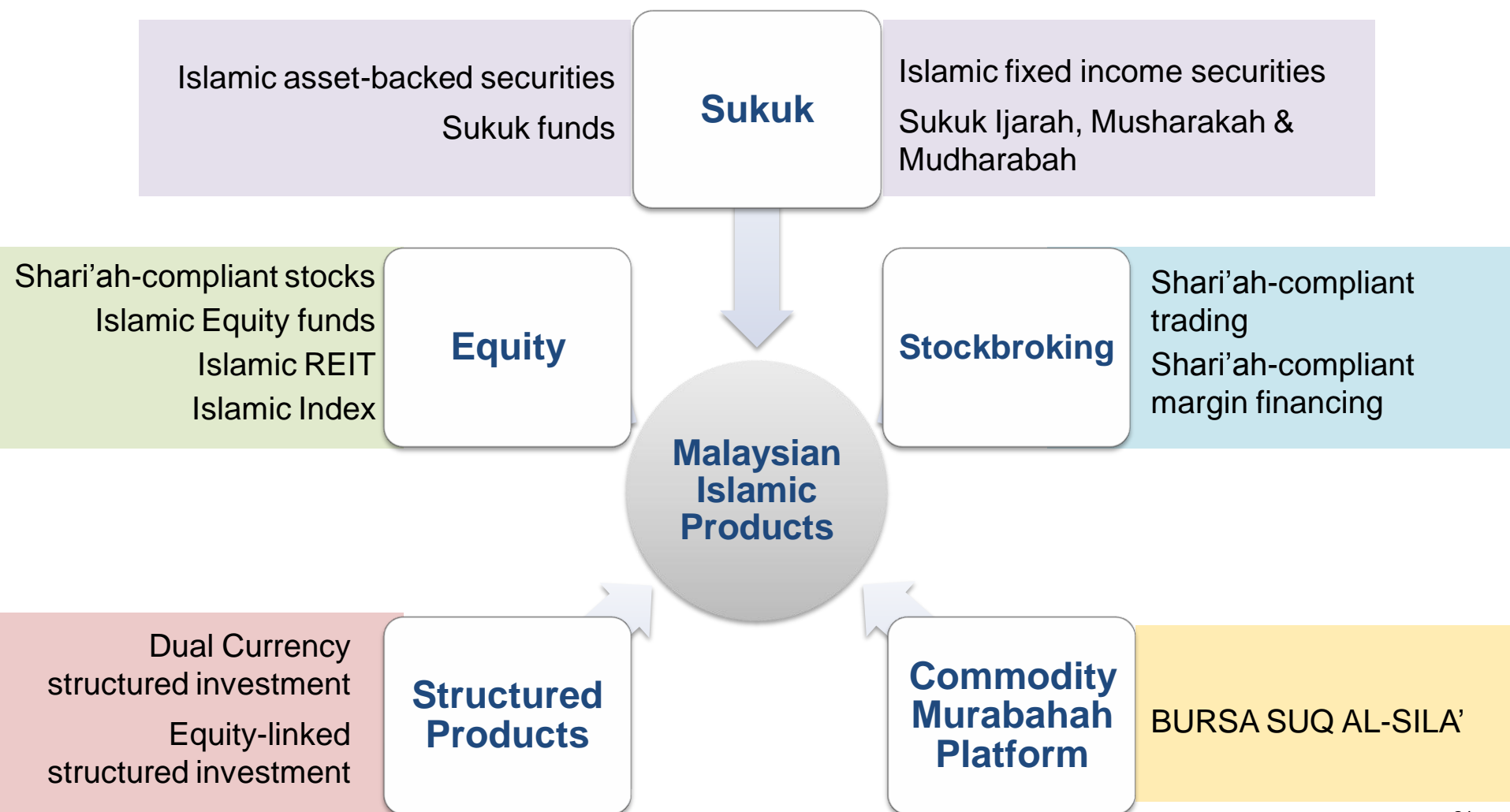
Supported by *Shari'ah* Adviser / committee at operational level

SC's
Shari'ah
Advisory
Council

As reference centre for all *Shari'ah* matters in Islamic finance

Oversees overall *Shari'ah* compliance

Malaysian Islamic Capital Market Products & Services



Dual Financial System (cont'd) ***Standards in Malaysia***

Islamic Financial System

- A comprehensive Islamic financial system co-exist with conventional counterpart

Conventional Financial System

- Full transformation of financial system in accordance with Shari'ah

Legal Framework

- A dedicated **High Court** in the Malaysian court system to sit in judgment on matters relating to ICM

- **Kuala Lumpur Regional Centre for Arbitration** - platform to resolve disputes on ICM transactions

IBFS Arbitration Rule

- Available for disputes settlement relating to **all sectors in financial system**

- Adopts **UNCITRAL** rules (United Nations Commission on International Trade Law)

- Allows for reference to SAC for ICM transactions, products & services

Government Support

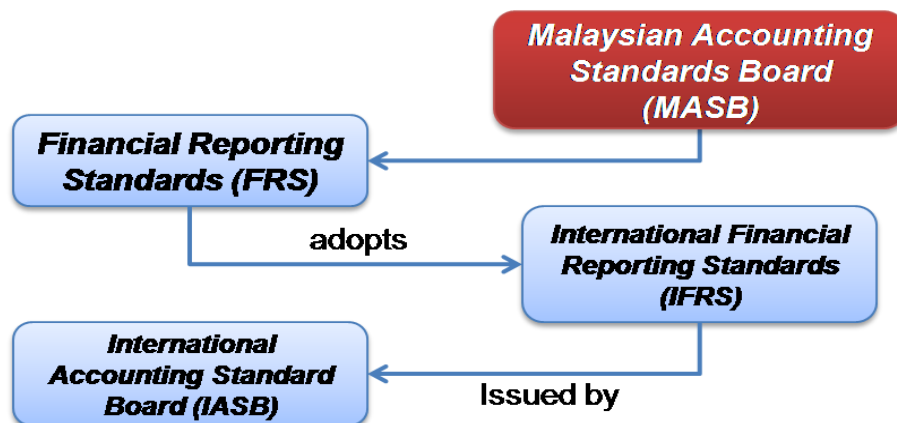
- First jurisdiction to introduce **tax neutrality for transactions** between Islamic and conventional financial system

Dual Financial System (cont'd)

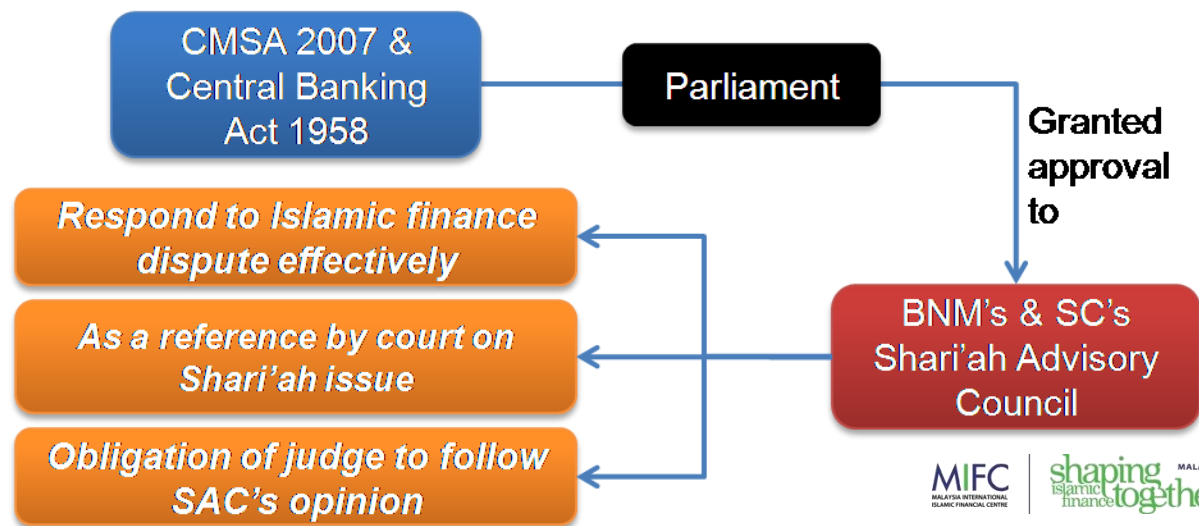
Standards in Malaysia

Malaysian Islamic finance transactions are in accordance with:

Accounting Standards



Shari'ah Standards

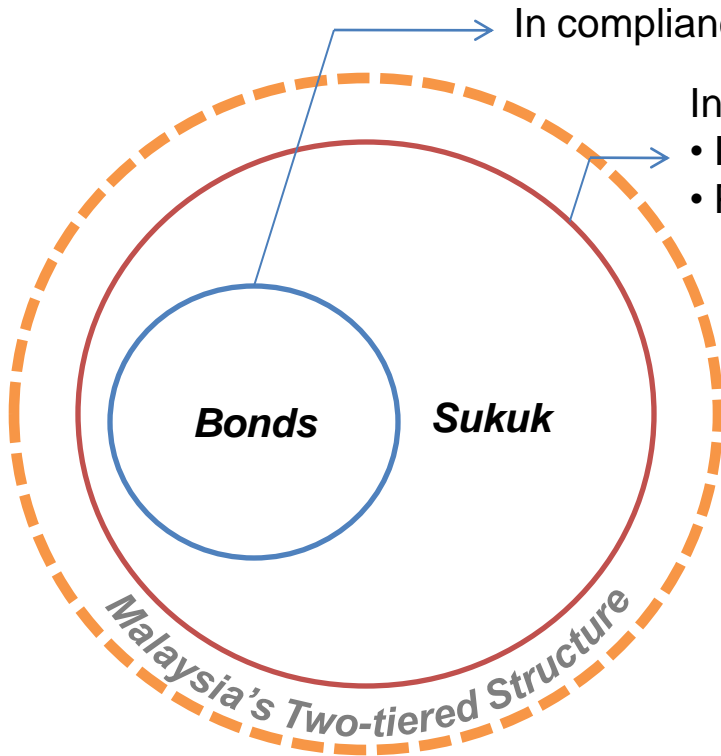


Malaysian Experience ***(Financial Accounting Standards No.17)***

Islamic Bonds	Conventional Bonds
Sukuk held for trading	Short term investment
Sukuk held for sale	Long term investment
Sukuk held for maturity	

Case Study #1

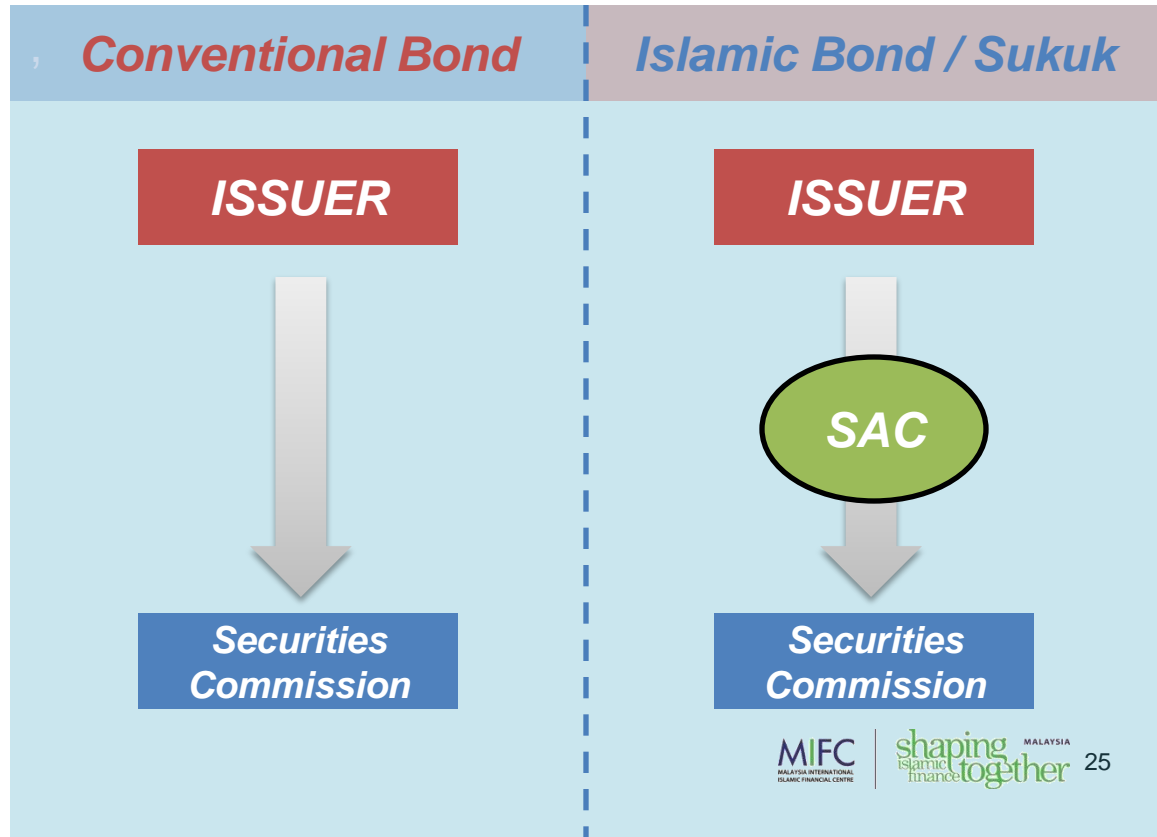
Conventional Bonds & Islamic Bonds (Sukuk)



In compliance with Private Debt Securities Guidelines

In compliance with:

- Islamic Securities Guidelines
- Private Debt Securities Guidelines

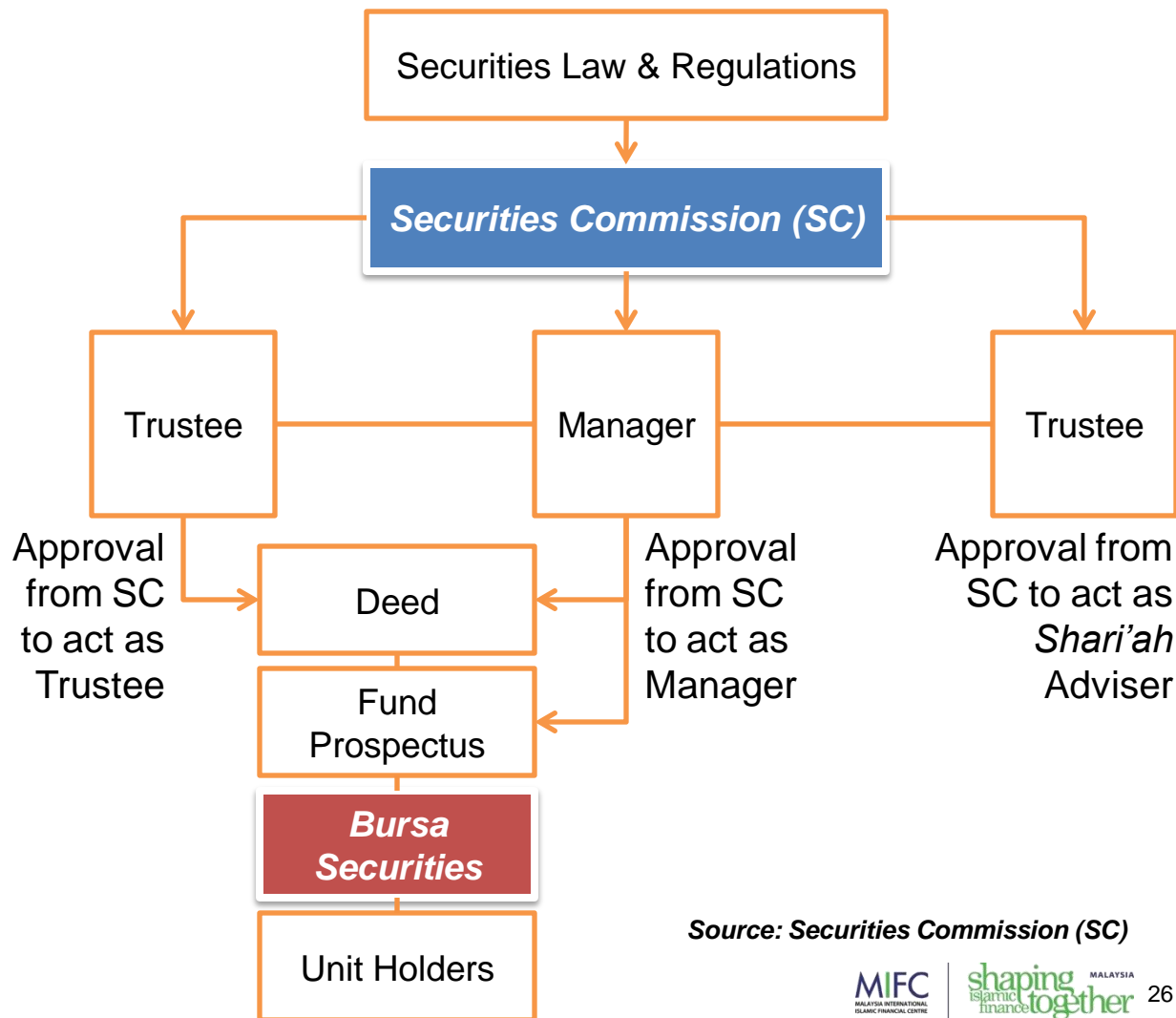


Case Study #2

Regulation of Islamic ETF in Malaysia

Rules and Guidelines

- CMSA 2007
- Regulations issued under CMSA
- Guidelines on ETF
- Guidelines on Unit Trust Funds
- Prospectus Guidelines for CIS
- Rules of Bursa Malaysia Securities
- Bursa Malaysia Listing Requirement
- Rules of Bursa Malaysia Depository



Source: Securities Commission (SC)



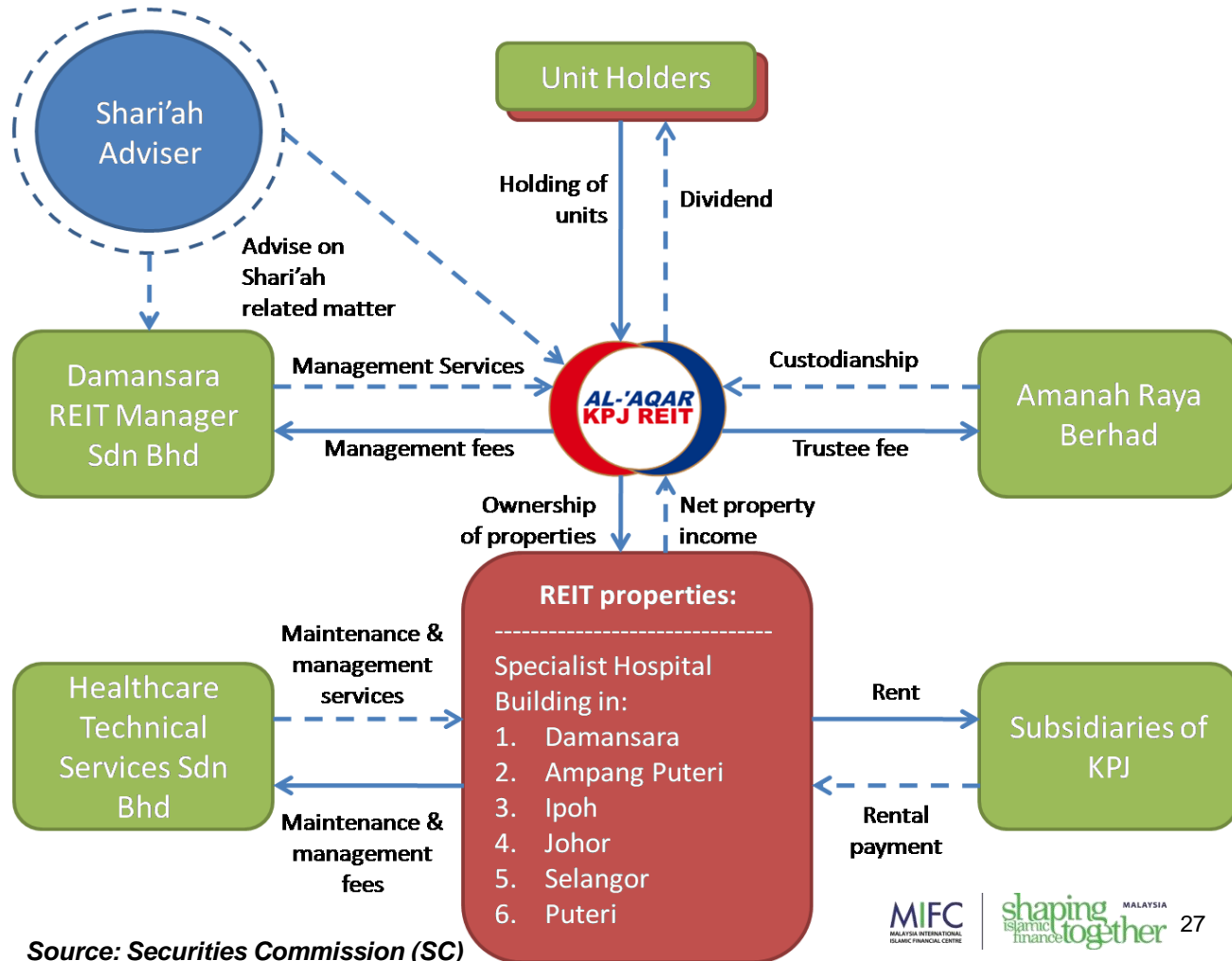
Case Study #3

Regulation of Islamic REITs in Malaysia

Governance Structure : Al-Aqar KPJ REITs

Governance Structure of REITs in Malaysia:

- Relationship between parties are governed by **Trust Deed**
- REIT must be managed by management companies approved by SC and be subsidiary of:
 - **Financial institution**; or
 - **Property investment company**
- Function of **Trustee**:
 - Trust company;
 - Trust Companies Act 1949 [Act 100]
- **SC guidelines** for Islamic REITs:
 - REIT Guidelines; and
 - Islamic REIT Guidelines



Source: Securities Commission (SC)