### 李偉民律師事務所 MAURICE WM LEE SOLICITORS

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## Islamic Funds

# 伊斯蘭基金的特質

According to estimation from the Bank Negara, the central bank of Malaysia, global Islamic financial assets are worth about US\$1 trillion in 2007 with an annual growth estimated at between 15% and 20%.

Such growth rates provide good opportunities for new players. Hong Kong is making an effort to become one of the leading markets in Islamic asset management in Asia. Recently, the Securities and Futures Commission has authorized the first Islamic fund for sale to retail investors in Hong Kong: The Hang Seng Islamic China Index Fund.

Islamic funds are funds which comply with the Shariah (Islamic Principles) and accordingly are considered as acceptable Islamic investment products. The key characteristics of the Islamic funds are the following:

### 1. Investments in compliance with Shariah (符合伊斯蘭標準的投資)

A fund's compliance with the Shariah is usually monitored by a Shariah compliance adviser appointed by the fund manager. The Shariah generally exclude investments in businesses such as conventional (non-Islamic) banks and insurance companies, alcohol, pork-related products, gambling (e.g. casinos), leisure and entertainment (e.g. cinemas, music industry, etc.), pornography, weapons and defense-related equipment, tobacco and biotechnology companies involved in human/animal genetic engineering. Furthermore, Islamic funds generally will not invest in riba (interest-paying instruments) like bonds, options, futures and other derivatives, short selling and borrowing on interest.

The Shariah also preclude investments in companies with an unacceptable level of financial ratio. For example, companies will be excluded from the Hang Seng Islamic China Index Fund if their level of debt, accounts receivables, or amount of cash plus interest-bearing securities is greater than or equal to 33% of the company's market capitalization.

#### 2. Purification of earnings (潔淨收入)

Nowadays it may be difficult to find a conglomerate that does not participate in some forms of activities prohibited by Shariah standards. Also, it is very difficult to calculate the actual amount of interest earnings which are considered impure, and in many cases the effort in doing the analysis will outweigh the benefit of having such exact figures. For these reasons, the common approach is to "purify" the incomes and profits arising from the impure sources. The fund managers and Shariah compliance advisers will deduct an agreed percentage of all dividend and interest incomes from the fund's total incomes and donate them to charitable organizations as approved by the Shariah compliance adviser.

#### 3. Investment considerations (投資優勢)

Although Islamic funds are guided by the Shariah, they can be invested by Muslims or non-Muslims. The selection criteria required for Shariah-compliant investments ensure that the companies in the fund are generally more financially stable and less speculative in nature. Generally speaking, the narrower portfolio of investments due to the Shariah restrictions and the donation of interest and dividend incomes to charities may result in Islamic funds performing less aggressively than other funds. However, Islamic funds can be treated as "defensive products" which are less affected by the movement of interest rates.

Nothing shall constitute legal advice to any person by Messrs. Maurice WM Lee Solicitors (Tel: (852) 2537 5833) (Website: www.wmleehk.com)

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