

New pathways: Islamic financing structure in Australia

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As interest in Australian real estate from investors subscribing to Islamic investment principles grows, so too does the need for Shari'ah-compliant financing structures. Against this backdrop, a pioneering financing option, developed by Ashurst, is finally emerging in Australia.

GROWTH OF THE GLOBAL ISLAMIC FINANCE MARKET



2013: US\$1.2 trillion

Our national broadsheets spend considerable column inches on the appetite for Australian real estate from offshore investors. The pros and the cons are endlessly debated, but what's not in doubt is the strength of interest in Australian real estate assets, thanks to a stable legal and political environment, and a sophisticated real estate finance market.

In a post-global financial crisis (GFC) world, investors from Asia and the Middle East with significant funds to deploy have registered their interest in assets around the globe, including within Australia. These are buyers with profound and growing influence with significant capital at their disposal. They also include buyers with a key requirement – for Shari'ah compliant financing structures.

According to a report by PwC, the global Islamic finance market has grown at 23% CAGR to over



2017: US\$2.6 trillion^[1]

US\$1.2 trillion and is expected to reach US\$2.6 trillion by 2017, with the MENA region and Asia accounting for a large part of the growth^[1]. Consequently, this is a liquidity pool that cannot be ignored.

Within an Australian context, we have seen strong interest from significant pension funds and other investors from Malaysia, Qatar, UAE, Saudi Arabia and Kuwait for Shari'ah-compliant structures that will facilitate investment in property. With the right structures in place to enable these investors to participate, there's a huge opportunity for financial institutions to adopt a structure that will make this kind of inbound investment with onshore gearing easy and expand the investor base for Australian real estate significantly.

^[1] Islamic Finance: Creating value report, PwC

A paradigm shift

With the sheer breadth of this opportunity in mind, many of our clients felt it was time for a paradigm shift in the Australian market. Australia does not have a well-developed Islamic financing industry, mainly because the right structures have not been available to enable local banks and financial institutions to provide a compliant product. In contrast, and by way of example, the UK has a sophisticated Islamic financing market, a large number of specialist Islamic financing institutions and related service providers. So we developed, with the input of our London-based colleagues including head of our Islamic Banking practice, Abradat Kamalpour, a Shari'ah-compliant structure that is suitable and practical within the context of Australian legal, taxation and stamp duty regimes.

Ashurst worked with CIMB-Trust Capital Advisors, a major Singapore real estate investment manager to structure and execute a Shari'ah compliant real estate financing structure for one of Malaysia's largest pension funds, Tabung Haji. The transaction partially finances Tabung Haji's co-investment stake in 747 Collins Street, Melbourne, a commercial property which it acquired in September 2013. It is the first

time the structure has been applied in Australia. A major Australian bank is the financier. The structure resolves key operational issues around booking and servicing these kinds of financings, as well as the usual consideration of credit security and enforcement.

Looking ahead

The structure is suitable for long and short term financing, and even for development financing. And, at least based on our initial experience, it prices in line with equivalent structures – there is no premium built in based on the structuring.

Ashurst are also assisting other stakeholders, including an Australian bank, on the development of other Shari'ah compliant financing structures for use in Australia.

Jamie Ng, Ashurst Finance Partner comments that, "It's an exciting development for the Australian real estate market – and one destined to be replicated across other finance and even capital markets. We're seeing real interest in real estate financing using Shari'ah compliant techniques. The structure we have developed could also be used to fund the purchase of infrastructure assets or by corporates for term or revolving financing".

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