

## IIFM Industry Briefing Seminar, Singapore

The ISDA/IIFM Tahawwut (TMA), Mubadalatul Arbaah (MA) (Profit Rate Swap)  
and Islamic Cross Currency Swap Documentation

June 2015

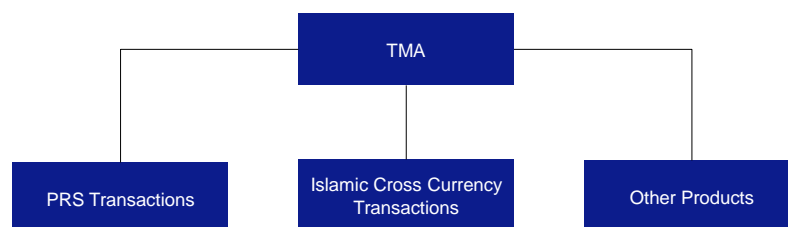
CLIFFORD  
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## ISDA/IIFM Tahawwut Master Agreement

### ■ Architecture

- Framework Agreement
- Multiproduct Single Agreement with close-out and netting



## Explanatory Memorandum

- Guidelines regarding the sorts of transaction that may be entered into under the ISDA/IIFM Tahawwut Master Agreement. For the purposes of Shari'ah compliance:
  - *Transactions entered into under the ISDA/IIFM Tahawwut Master Agreement should only be for the purpose of hedging actual risks of the relevant party*
  - *Transactions should not be entered into under the ISDA/IIFM Tahawwut Master Agreement which are for the purposes of speculation*
  - *Transactions must be real transactions, involving the actual transfer of ownership of real assets, actual risk and real settlement*
  - *The asset itself must be halal*
  - *Interest must not be chargeable under the transaction*

## Transactions/DFT Terms Agreements

- Under the Agreement, you can enter into
  - Transactions
  - DFT Terms Agreements

## Close-out and Netting - Section 6 - Early Termination

### ■ Fully Delivered Terminated Transactions:

- (section 6(d)): accelerate all payments due after the Early Termination Date (*Close-out Amount*)
- (Section 6(e)): add unpaid amounts

### ■ Non-Fully Delivered Terminated Transactions:

- (section 6(e)): add unpaid amounts to Fully Delivered Transactions amount
- (section 6(f)): treat not made deliveries and future payments like a DFT Terms Agreement

## Close-out and Netting - Section 6 - Early Termination – DFT Terms Agreements

- Calculate Market Quotation (or Loss) (section 6(h))
- Result may be positive or negative
- Becomes value of Relevant Index
- Index Amount means, with respect to each DFT Terms Agreement or each group of DFT Terms Agreements, the amount of the losses or costs that would be incurred or gains that would be realised in replacing, the material terms of that DFT Terms Agreement or group of DFT Terms Agreements

## Section 6 - Early Termination - *Musawama*

- Section 6(f)(v): if Relevant Index is positive (Determining Party is in the money), Determining Party can exercise the section 2(e) *wa'ad* of counterparty requiring counterparty to enter into *musawama* and purchase asset from Determining Party at the Positive Indexed Value
- Section 6(f)(v): if Relevant Index is negative (Determining Party is out of the money) other party can exercise the section 2(e) *wa'ad* of the Determining Party requiring the Determining Party to purchase asset from the other party at the Negative Indexed Value
- Need for real transaction with real assets
- Supported by set off (section 6(h))
- The *musawama* price is expressed as a single number (actually calculated by adding cost of asset to Relevant Index Value plus applicable VAT or similar taxes)
- The type and quantity of the asset to be the subject of the *musawama* will be fixed and specified in the Schedule at the outset (minimises *ghara*)

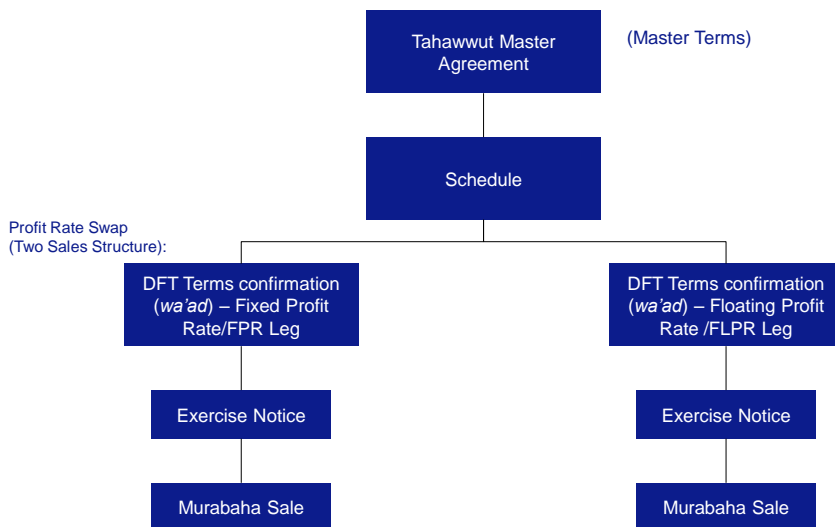
## The Mubadalatul Arbaah (PRS) Documentation

- Party A and Party B have already entered into a Tahawwut Master Agreement
- To enter into the PRS, Party A and Party B enter into two separate **DFT Term Agreements** (each of which is documented in a separate **DFT Terms confirmation**: one in respect of the fixed rate leg of the PRS and one in respect of the floating rate leg of the PRS)
- Each DFT Terms confirmation contains a *wa'ad* (undertaking) to enter into one or more Designated Future transactions (if the *wa'ad* is exercised)

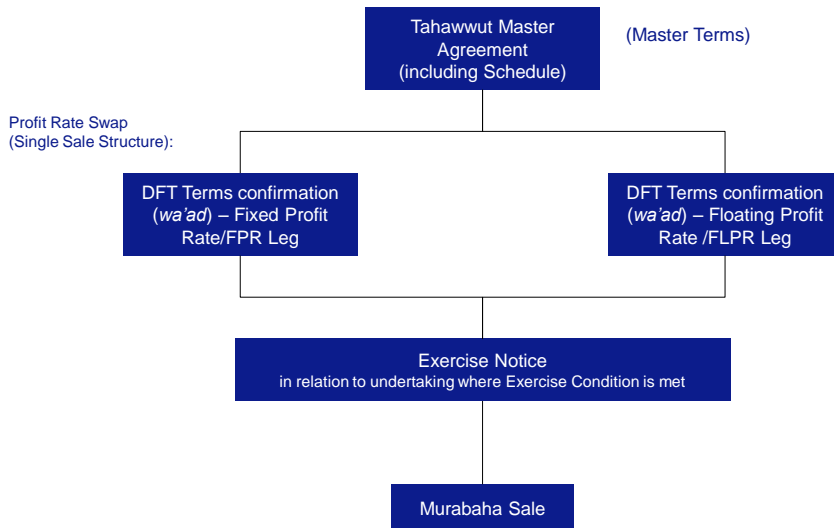
# PRS Templates - Process

- Schedule
- Fixed Rate Leg DFT Terms confirmation (Wa'ad)
- Floating Rate Leg DFT Terms confirmation (Wa'ad)
- Exercise leads to
  - entry into Murahaba (Transaction Confirmation)
  - delivery of asset
  - payment (deferred or spot basis)

# Two Sales Structure documentation architecture



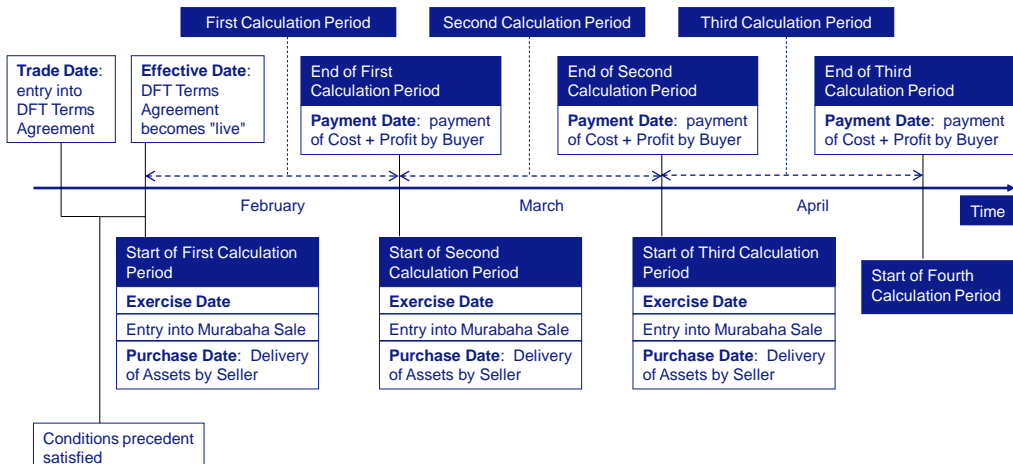
# Single Sale Structure documentation architecture



# Example Timeline of entry into Murabaha Sale at the start of each Calculation Period

This diagram illustrates an **example of entry into Murabaha Sale at the start of each Calculation Period:**

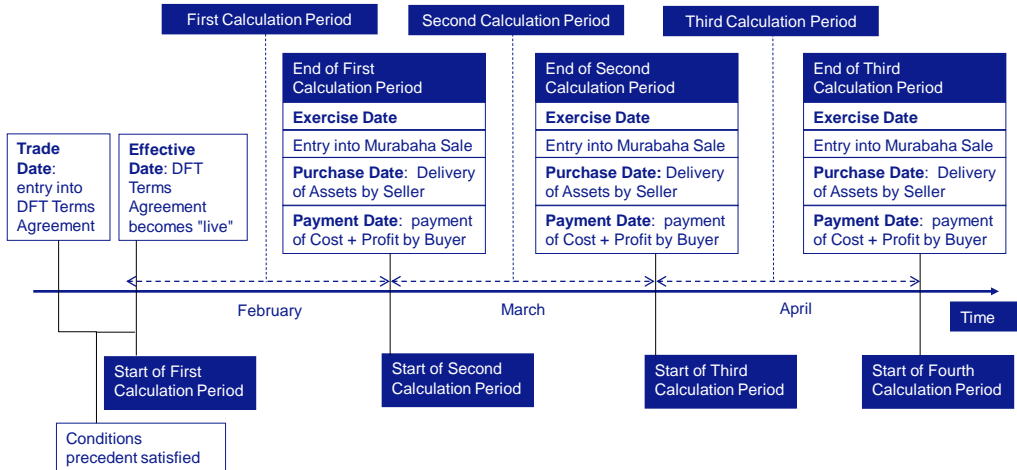
- Purchase Date at start of Calculation Period
- Payment Date at end of Calculation Period



## Example Timeline of entry into Murabaha Sale at the end of each Calculation Period

This diagram illustrates an **example of entry into Murabaha Sale at the end of each Calculation Period**:

- Purchase Date at end of Calculation Period
- Payment Date at end of Calculation Period



## Islamic Cross Currency Swap

- Similar structure to PRS
- Wa'ad (undertaking) leading to murabaha
- The murabaha deal with
  - Initial exchange of currency
  - Interim exchanges for profit rate
  - Final exchange of currency

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14

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