


Managing the Transition of Wealth Across Generations via Shariah-Compliant Solutions

Aida Othman

Kuala Lumpur, 8 May 2018

ASEAN INSIDERS 
by origin and passion

● Content

- Islamic perspective of the importance of managing and transferring wealth to the next generation.
- Structuring family wealth and succession planning through Trusts and Foundations.
- Application of *Waqf* Foundation: A unique Shariah-compliant wealth management solution.

● The Islamic Perspective

- Property is a trust and test for human beings during life in this world from Allah al-Mighty.
- It is to be managed in accordance with Islamic teachings, for the benefit of oneself, family and community.
- Attention to the financial provisions for one's family members and relatives is highly encouraged.
- An increasing number of Muslim high-net-worth individuals are exploring legal options and structures to achieve strategic objectives and optimal arrangements for asset management, planning and distribution.
- Contemporary Shariah scholars have approved structures such as the trust and foundation for wealth management and transfer.
- Trusts and foundations may have the appropriate structures and terms in place to address the following:
 - Professional expertise: investments, tax, financials, business operations, Shariah, philanthropy, security
 - Family governance and dynamics
 - Management, transfer, distribution of assets

● Labuan's Legal Framework

- Clear legal framework for Islamic structures, enabling Shariah governance, compliance and certainty.
- The Labuan Islamic Financial Services and Securities Act 2010 (LIFSSA)
 - The Labuan Trust Act 1996 (LTA)
 - Labuan Foundations Act 2010 (LFA)
 - Guidelines on the Establishment of Labuan Foundation including Islamic Foundation
 - Circular on the Appointment of Internal Shariah Advisory Board or Shariah Advisor under the LIFSSA
- Resolutions of the Shariah Supervisory Council of the Labuan Financial Services Authority (FSA) which is the ultimate authority and reference on Shariah matters, in particular on the Islamic trust and foundation.

● Islamic Trusts

Trusts can be structured to be fully Shariah-compliant:

- Advice and approval from a Shariah advisor
- Nature of the trust assets
- *Hibah* and transfer of the *hibah* assets to trustee
- Management of the trust assets
- Investments
- Terms of the trust deed
- Beneficiaries' activities
- Channeling of any impermissible amounts arising from investments
- Shariah review and Shariah audit.

● Islamic Foundations

Foundations can be structured to be fully Shariah-compliant:

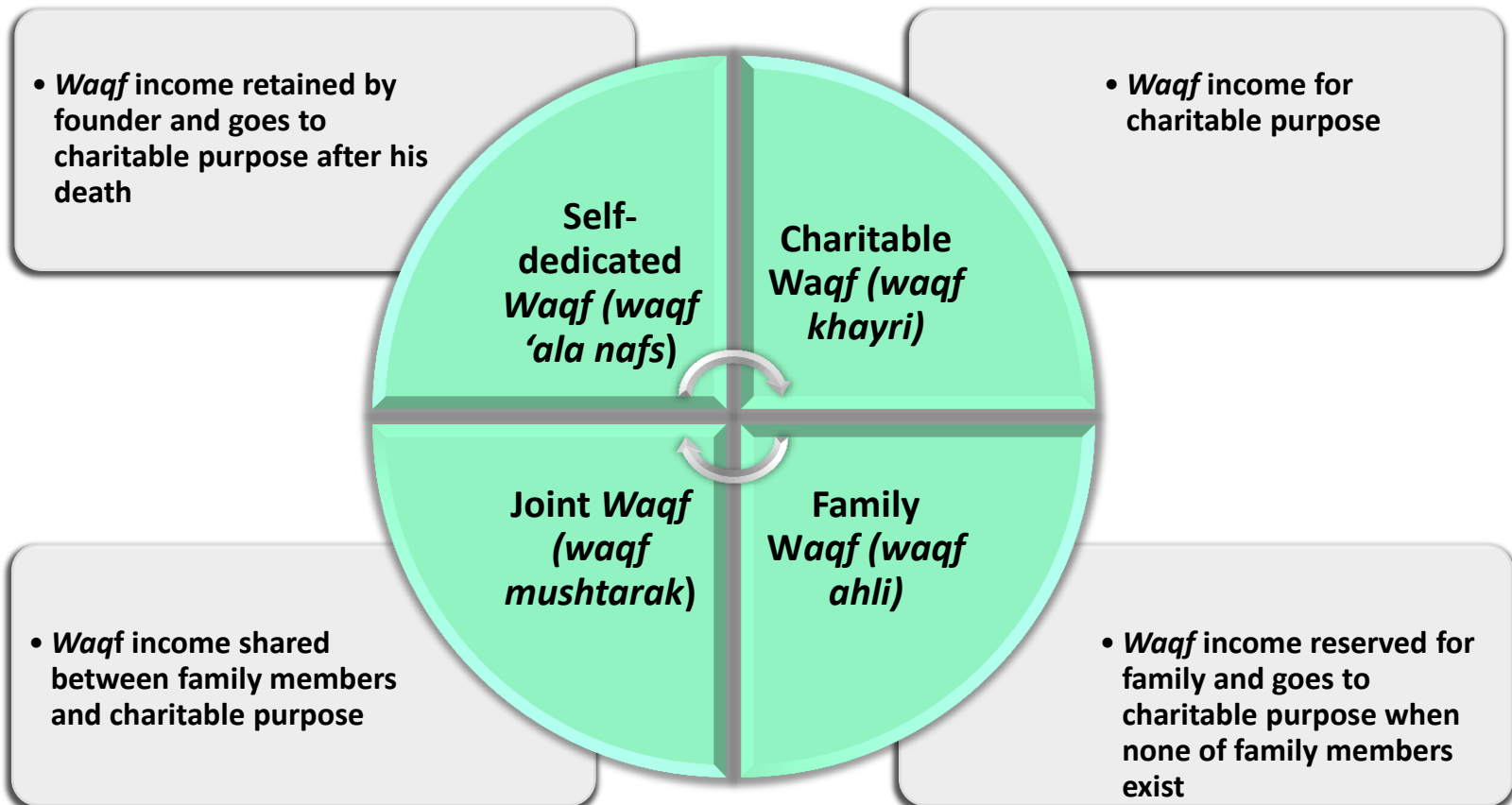
- Advice and approval from a Shariah advisor
- Establishment, object and purpose of foundation
- *Hibah* and transfer of assets to the foundation
- Nature of the foundation assets
- Management, operations & activities of the foundation
- Investments
- Terms of the charter and its articles
- Beneficiaries' activities
- Channeling of any impermissible amounts arising from investments
- Shariah review and Shariah audit.

● Labuan International *Waqf* Foundation (LIWF)

- The Labuan foundation may be structured based on the concept of *Waqf*, which has in-built mechanism for wealth preservation and management.
- It means holding certain property and preserving it so that benefits continuously flow to specified beneficiaries for religious, charitable or pious purposes as recognised by the Shariah to obtain enduring rewards from Allah al-Mighty.
- An LIWF holds and manages *Waqf* properties for identified beneficiaries based on Shariah principles on *Waqf*.
- It can be utilised for private Islamic wealth management, charitable purposes and to promote financial inclusion.
- Established under Section 107 of LIFSSA and all provisions of the Labuan Foundations Act 2010 shall apply to LIWF unless otherwise provided.

● Labuan International *Waqf* Foundation

- LIWF can be established for different types of waqfs:



● Advantages of LIWF

- Gives founder (*waqif*) a structure with legal certainty for the proper control and management of his *Waqf* in accordance with his wishes following Shariah principles on *Waqf*.
- Allows *waqif* flexibility and exclusive control over how to structure his *Waqf* foundation, handle, manage and disperse the assets, and how to preserve it for a long-term period.
- The foundation acts as the Trustee (*Nazir/Mutawalli*).
- The *waqfiyyah* or charter of an LIWF outlines its management, beneficiaries and distribution of income.
- Upon death of founder, the *faraidh* is not applicable on endowed properties in LIWF provided endowment of *Waqf* property into LIWF satisfies specific conditions.



ASEAN INSIDERS
by origin and passion

Thank you! •

CAMBODIA | INDONESIA | LAOS | MALAYSIA | MYANMAR | SINGAPORE | THAILAND | VIETNAM