FINAL EXAM
FIRST SEMESTER SESSION 2012/2013

COURSE CODE / NAME : BWFS 3053 / QA WAID FIQH FOR FINANCE AND BANKING
DATE : 2 JANUARY 2013 (WEDNESDAY)
TIME : 2.30 – 5.00PM (2 ½ HOURS)
VENUE : DPA 1

INSTRUCTION :

1. This question paper contains THREE (3) questions in FOUR (4) printed pages excluding the cover page.
2. Answer ALL questions in the BOOKLET provided.

MATRIC NO : ____________________________ (with word) ____________________________ (with number)
IDENTIFICATION CARD NO. :

LECTURER :

GROUP : __________ TABLE NO. : __________

DO NOT OPEN THIS EXAMINATION PAPER UNTIL INSTRUCTED

CONFIDENTIAL
QUESTION ONE (30 MARKS)

1. Qawaid Fiqh is a discipline of knowledge related to Islamic principles of law.
   
   i. Define the meaning of the terminologies below:
      a. Qawaid Fiqh
      b. Usul Fiqh
      c. Usuluddin
      d. Dhubit Fiqh.
      
      (4 marks)

   ii. Gives ONE (1) example of Al Quran verse and ONE (1) from Al Sunnah used as the dalil for the creation of the maxims in the Qawaid Fiqh.

      (4 marks)

   iii. What is the view of Al Juwaini, Ibnu Daqiq Al Id and Ibnu Nujaim towards the status of Qawaid Fiqh as evidence in Islamic law?

      (4 marks)

2. In order to develop a reliable Islamic banking and finance industry, it becomes an essential requirement to understand the research methods of Qawaid Fiqh.

   i. Briefly explain the meaning of “al umur bimaqosiduha”. Give ONE (1) evidence (dalil) used for the origin of this maxim.

      (3 marks)

   ii. Explain the meaning of the maxim “al niayatu fil yamini takhussu al lafdza al a’am wa la tau’mmu al khos”. Give ONE (1) example in Islamic finance related to this maxim.

      (4 marks)

   iii. Briefly explain the meaning of “al yaqin la yazulu bi al syakk”. Give ONE (1) evidence (dalil) used for the origin of this maxim.

      (3 marks)

   iv. Explain the meaning of the maxim “man syakka : hal fa’ala syaian au la?, ful ashu annahu lam yaf’alhu”. Give ONE (1) example in Islamic finance related to this maxim.

      (4 marks)

   v. Give the solution to this situation from the Islamic legal maxim point of view. Ali asked Abu to look over his farm as wadihah contract and he monthly pays RM 200 to Abu for his service. Somehow, the farm was caught on fire. What is the clarification for this situation according to Islamic Law?

      (4 marks)
QUESTION TWO (35 MARKS)

1. Imam Al Ghazali in *Ihya Ulum al Din* is reported to have said that everything that exceeds its limit changes into its opposite. It is relevant to the concept of concession (rukhshah), leniency and tolerance or relief (takhfif) in *ibadah* (worship).

   i. Define the general meaning of the hardship in *ibadah* (worship). Why the difficulties such as *sa'ie* and *iawaf* in *hajj* (pilgrimage) are not considered as “al masyaqqah” in Syariah.

      (3 marks)

   ii. Give TWO (2) examples of the application of the maxim “al masyaqqatu ta'libu al taisir” in Islamic finance and banking. Explain your answer.

      (4 marks)

   iii. Give the origin (dalil) of the maxim “al masyaqqatu ta'libu al taisir” from both *Al Quran* and *Al Hadith*.

      (3 marks)

   iv. Explain all the concessions (rukhshah) below with ONE (1) example for each of them.

      a. *Al Marodh* (sickness)

      b. *Al Ikroh* (forced or compelled)

      c. *Al Naqs* (deficiency)

      d. *Umum balwa* (general difficulties)

      (8 marks)

2. Harm should be avoided and eliminated. The prevention should become priority.

   i. Define the general meaning of the words “dhlor” and “dhlor”. Give TWO (2) examples of the application of the maxim “al dhlor yuzal” in Islamic finance and banking.

      (5 marks)

   ii. Give the origin (dalil) of the maxim “al dhlor yuzal” from both *Al Quran* and *Al Hadith*.

      (3 marks)

   iii. Explain this situation using the Islamic legal maxim. Leh leases an agricultural land from Yus in term of six months to grow paddy with a payment of RM 500 monthly. When the time is ended, Leh still cannot cultivates his crops and needs for another month to do that because the paddy is still immature and isn’t ready to be cut. Give the solution to this problem?

      (3 marks)
iv. Explain the meaning of the maxim “al dhorer yudfa’u bi go’dri imkaa’il”. Give ONE (1) example of its application in Islamic finance. (4 marks)

v. Why we must now stop immediately from using the conventional banking products even though some said it was allowed by karohah (compelled) before the existence of Islamic banking system? Give your answer by relating it to the Islamic legal maxim. (2 marks)

**QUESTION THREE (35 MARKS)**

1. The maxim “al ’adah muhakkamah” is accepted as one of the sources of Islamic legal maxim.
   i. Discuss the meaning of the words “al ’adah”, “al urf” and “muhakkamah” with necessary explanation. (3 marks)
   ii. Give the origin (dalil) of the maxim “al ’adah muhakkamah” from both Al Quran and al Hadiih. (3 marks)
   iii. Explain the meaning of “Uruf Amm” and “Uruf Khos”. (3 marks)
   iv. Explain the meaning of the maxim “al ma’ruf ‘urfan kal masrur syartan”. Give ONE (1) example of its application in Islamic finance. (4 marks)
   v. Explain the meaning of the maxim “al mutani’u ‘adatu, kal mantani’u haqiqoh”. Give ONE (1) example of its application in Islamic finance. (4 marks)
   vi. Give THREE (3) examples of the application of maxim “al ’adah muhakkamah” in contemporary islamic banking and finance with necessary explanation. (3 marks)

3. There are also other Legal Maxims under the discussion of the science of Qawaid Fiqh, which are known as the maxim other than the five major maxims.
   i. Discuss the general meaning of the maxim “annahu la yufrad bi al hum, li annahu inmama jaa’la taba”. Give ONE (1) example of the application of this maxim in Islamic muamalah. (3 marks)
ii. Discuss the general meaning of the maxim "iza ijtamaa' al halal wa al haram ghuliba al haram". Give ONE (1) example of the application of this maxim in Islamic muamalah.

(3 marks)

iii. Discuss the general meaning of the maxim "al jawaz al syar'ie yurafi al dhoman". Give ONE (1) example of the application of this maxim in Islamic muamalah.

(3 marks)

iv. Discuss the general meaning of the maxim "al ghorm bil ghonm". Give ONE (1) example of the application of this maxim in Islamic muamalah.

(3 marks)

v. Discuss the general meaning of the maxim "ma harama isti'maluhu harama ittikhozuhu". Give ONE (1) example of the application of this maxim in Islamic muamalah.

(3 marks)

END OF QUESTIONS