

SHARED RISK & REWARD

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My Reading List

- AT Kearney, The Future of Islamic Banking ([pdf](#))

Blog Posts This Week

- [Islamic REITs in Indonesia? Not yet](#)
- [Has the OCB directive had an impact on Islamic banks?](#)
- [AAOIFI needs to adapt](#)

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Blake Goud
blake@sharingrisk.org

SHARING RISK

1500 SW FIRST AVE., SUITE 910
PORTLAND, OR 97201

<http://www.sharingrisk.org>

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Arcapita bankruptcy update

The latest developments in the Arcapita bankruptcy center around Arcapita's wish to continue using their internal cash management system, hardly a compelling question at first glance, but one which is important (particularly for creditors). When Arcapita filed for bankruptcy, it only filed for some of its entities: Arcapita Bank in Bahrain and several holding companies in the Cayman Islands.

Absent from the list were the US subsidiary, Arcapita Inc, and the various portfolio companies. This is important to the creditors because if Arcapita is allowed to continue to use its internal cash management system and is successful in getting a final order allowing them to make inter-company transfers as a part of the "ordinary course" of its business, the creditors could find all the liquid assets moved away to companies that were not part of the bankruptcy process.

Shifting assets away from creditors is not allowable in bankruptcy, but it is much easier to prevent the movement of cash up front rather than try and recover it later. In order to reduce the likelihood that assets are transferred out, the committee of unsecured creditors has requested greater oversight over inter-company transfers. In their motion, they cite Arcapita's sale and leaseback of the

Lusail property project in Qatar with QIB two weeks before the bankruptcy filing, and other transactions.

Creditors contend this was an attempt to move assets away from the creditors in the \$1.1 billion murabaha that matured on March 28th, and they raise questions about links between Arcapita and QIB through Jassim bin Hamad al-Thani, the son of Qatar's prime minister, who sits on the board of both QIB and Arcapita. Arcapita replies that the transaction is permissible and was simply a loan to Arcapita for \$200 million secured by the property and allowable under the maturing murabaha.

In other developments, Arcapita continues to battle with Commerzbank over whether the latter can deliver a claim notice to Arcapita for a guarantee on a €125 million line of credit to portfolio company profine GmbH, which was recently sold to Hidden Peak Capital, a German private equity company. Arcapita claims that Commerzbank is trying to step around the bankruptcy process to collect on its debts, while Commerzbank says that it is just a ministerial act and that Arcapita is trying to invalidate a claim using the bankruptcy process as a "shield and a sword".

Until next week,
Blake Goud