GLOBAL ISLAMIC ECONOMY SUMMIT

Series Roundtable: Ethical & Islamic Finance

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GIES ROUNDTABLE SERIES I
ETHICAL & ISLAMIC FINANCE

Monday, 22nd September 2014
Dubai Chamber of Commerce & Industry, Dubai, UAE

ORGANIZED BY:

غرفة دبي
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H.E Hamad Buamim
President & Chief Executive Officer
Dubai Chamber of Commerce & Industry

Nadim Najjar
Managing Director MENA
Thomson Reuters

H.E Essa Kazim
Governor of Dubai International Financial Centre and **Secretary General and Board Member** of Dubai Islamic Economy Development Centre

The roundtable opened with introductory remarks from **H.E. Hamad Buamim**, President and CEO of **Dubai Chamber, Nadim Najjar,** Managing Director for GGO MENA at **Thomson Reuters,** and **H.E. Essa Kazim,** Governor of the **Dubai International Financial Centre** (DIFC) and Secretary General and Board Member of the **Dubai Islamic Economy Development Centre** (DIEDC). Their remarks, which highlighted the growth of Islamic banking assets in the UAE (reaching $95 billion in 2013), also underlined the overwhelming presence of banks and limited role for institutional investors.

Sukuk, **H.E. Kazim** noted, will make up a large proportion of the portfolio exposure for institutional investors and while the total outstanding volume is projected to increase from $237 billion in 2013 to $750 billion by 2018 this growth will have to be accompanied by maintaining consistency with international standards to propel the growth in Islamic capital markets. This push for internationalization and consistency remained a consistent theme in the first session as a lynchpin for attracting institutional investors to Islamic finance.

SESSION ONE:

Building a Robust Institutional Investor Base

SPEAKERS

Eric Van Biesen
Acting CEO
Takaud Savings & Pensions Company

Omer Selim
CEO
Arabesque Asset Management Ltd

Summary Recommendations:

- Appoint a task force to educate Islamic asset managers and service providers to expand distribution to include institutional investors
- Appoint a task force to identify barriers to Islamic pension funds in OIC countries to meet the need of the local population as well as expatriate communities
- Establish a source for objective, independent and peer-reviewed research on the impact of Islamic finance and the Islamic economy on financial stability and economic development
- Convene a roundtable discussion with standards-setting bodies, national regulators and industry participants on the adoption and enforceability of global standards
- Establish a task force with the responsibility to oversee the development of standardized product templates for common financial products in i) global (English law), ii) civil law, and non-English common law countries
- Appoint a neutral organization to conduct research on the impact of rating, listing and the presence of investment grade sukuk on market depth and inflows of institutional capital

Detailed Recommendations:

1. Appoint a task force to develop a resource to which Islamic fund managers can refer to educational resources relating to how institutional investors' investment committees use requests for proposal (RFPs) to implement their asset class allocations and pick specific managers. As a part of the task force, a roundtable with sovereign wealth fund representatives, regulators and central banks should be conducted. The roundtable should be guided by a process where detailed interviews with key players are used to identify specific impediments to institutional investors allocating a share of their investments to Shariah-compliant alternatives within each asset class.
2. Appoint a task force to identify specific regulatory, accounting, capacity and portability (for expatriate workers) barriers to widespread adoption of Islamic pension funds in OIC countries. In addition to identifiable barriers, the task force should consider whether distribution presents a problem, whether bank-led distribution can increase adoption and whether limited tax advantages for pension funds in some countries (e.g. GCC countries) represents a barrier.
3. Identify or create an objective and independent academic/research organization to produce peer-reviewed studies about the impact of Islamic finance on financial stability, on economic development and whether an Islamic-oriented economy would face similar or fewer issues of growth, inflation, volatility and financial stability.
4. Convene roundtable on enforceability of standards involving IFSB, AAOIFI, IASB and regulators from countries that have made compliance with these standards mandatory, those that are in the process of official adoption of these standards for Islamic financial institutions in their countries and those countries that have opted to leave these standards as voluntary for Islamic financial institutions.
5. Establish a task force with existing standards-setting organizations including AAOIFI, IFSB, IASB, IOSCO, IIFM to develop standardized product documentation for common financial products to increase the volume of issuance that institutional investors can understand with no more difficulty than a comparable conventional product.
6. Identify neutral research/consulting institution to assess the direct costs of local and international ratings and quantify the benefits in terms of overall market deepening including secondary market liquidity and fund flows from institutional investors from i) requiring credit ratings; and ii) requiring listing on an exchange. Quantify the impact of a 10% increase/(decrease) of the share of instruments which are i) rated; and ii) which hold an investment grade rating from either a local or international credit rating agency on market depth and secondary market development.

Session Overview

Following an introduction from **Abdulla Mohammed Al Awar**, CEO of the **DIEDC**, the first speaker, **Omar Selim**, CEO of **Arabesque Asset Management Ltd** laid out two of the conflicting forces driving Islamic finance which has made the industry more shallow than many would like. The adoption of a focus on a business approach has led to use of products which receive criticism for not being authentic while the adoption of more authentic approaches can lead to a 'piety gap' where the performance lags relative to its conventional competitors. The performance gap has left Islamic funds as a very small, complex and highly fragmented sector with a fee structure in need of improvement to meet the expectations of institutional investors.

In response to a question from **Al Awar** about the limited presence of sovereign wealth funds (SWFs) with exposure to Islamic finance, **Selim** highlighted performance as the major issue limiting diffusion by the sector. However, he said, there is a value proposition for Islamic funds that makes their returns potential attractive as an alternative to government bonds for many investors. This should allow Islamic funds to outperform relative to government returns in listed and private equities, as well as commercial-backed securities if these products actually share risk (and reward) instead of transferring it.

During the discussion, **Khalid Howladar**, the Global Head of Islamic Finance at **Moody's** raised the issue that with the small size of the sukuk market, many institutional investors do not find it worth their time to review because the lack of standardization means they must review the full, often complex, documentation and they find it difficult to carry over research into one sukuk to another because of differences between the documentation. As more familiar and in-demand sovereigns like the United Kingdom, Hong Kong SAR and the Republic of South Africa tap sukuk markets, this is changing but it remains slow progress.

Habib Ullah, a partner at **Taylor Wessing** highlighted that there was success in conventional finance with the Loan Market Association (LMA) creating a standard loan documentation template 15 years ago that is ubiquitous today. In Islamic finance, it would be possible to standardize a high proportion—possibly 90%--of what is contained in sukuk documentation while still leaving room to customize for transaction-specific differences.[1]

Jamal Bin Ghalaita, the CEO of Emirates Islamic, agreed that standardization is a major obstacle and highlighted the separation between Shariah scholars and regulators as a key obstacle to ease the issuance of sukuk. He also reiterated the point made by **Howladar** about the shortage of high quality sukuk where the presence of many unrated sukuk turns off many banks and SWFs.

With the identification of several factors which push away SWFs and other institutional investors, Aamir Abdul Rehman, a managing director at Fajr Capital, shared his own firm's experience with institutional investors including SWFs. For these institutional investors 'Islamic' is not an asset class and they want investments that will fit within their existing asset allocation. The stakeholders in the assets being managed by these institutions are concerned that their assets are being managed by their institutional representatives in a way that conforms with their values.

Some institutions are slowly building this more concretely into the investment mandate, such as the upcoming split by Malaysia's EPF into separate Islamic and conventional funds. However, there could be a more active effort to consider both conventional and Islamic alternatives within each asset class. For example, if a government fund is considering a fixed income fund, it should also review an equivalent sukuk fund. Even if the conventional options are chosen most of the time, having the Islamic equivalents considered will be an important step.

Moving from the supply side to the demand side of the equation, **Eric Van Biesen**, Acting CEO of **Takaud Savings & Pensions Company** highlighted the challenge from limited development and even regulatory framework for private pensions. Private pension funds would fit in particularly well within the GCC for nationals to use to supplement the public pension and expatriates, which **Al Awar** noted that at 42% represent a sizeable population share, to build up investments in lieu of their home countries' systems to which they are not contributing.

Takaud Savings & Pensions found a place within the regulatory framework in Bahrain where they are registered as an investment company servicing off-shore clients making them accessible and portable globally but also highlights the limited dedicated regulatory setup for similar firms. **Van Biesen** highlighted that despite **Takaud** setting up options for both conventional and Shariah-compliant, customers were primarily using conventional products despite similar product offerings.

Emirate Islamic's **Ghalaita** added to **Van Biesen**'s suggestion about the challenges facing Shariah-compliant options not just in relation to conventional funds but in comparison to other investments in real estate and other markets with higher recent returns like India or Pakistan. Sayd Farook, Global Head of Islamic Capital Markets at **Thomson Reuters** asked **Van Biesen** whether the issue was one of distribution and whether they could widen the net by expanding distribution through Islamic banks that can only use Shariah-compliant funds.

Van Biesen countered that he didn't want a product that was selected because nothing else was available but instead it should be selected because it was good. **Hassan Al-Jabri**, CEO of **SEDCO Capital** highlighted that there was the (outdated) perception among institutional investors that Islamic funds offered lower returns which had led to far lower takeup by institutions compared to retail investors who have by and

[1] *Habib Ullah's comments were submitted after the session because the alloted time ran out before he could speak.*

large chosen the Shariah-compliant alternative. To highlight the disappearance of the performance gap, **Al-Jabri** said the Dow Jones Islamic Index had outperformed the MSCI World Index over the past 8-10 years.

Moving beyond the asset classes that are familiar in Islamic capital markets, Nasser Saidi, President of **Nasser Saidi** & Associates, returned the discussion to a starting point of identifying a specific need in the GCC—the availability of housing which is rising quickly due to the low median age in the region—and connected it with a gap in the market for mortgage-backed securities (MBS). While the entire housing financing sector is in its infancy in the region, leaving many opportunities, the MBS sector is important because takaful operators need to find longer-tenor assets to match with their long-term liabilities.

One challenge to the development of home finance is that the natural provider would be banks and Islamic banks have a high reliance on short-term deposit funding. As a result, they prefer shorter-term assets with less exposure to rate of return risk. **Prof. Datuk Rifaat Abdel Karim, CEO of the International Islamic Liquidity Management Corporation** (IILM) explained the challenge facing Islamic banks in dual banking systems in terms of the competitive position with depositors expecting similar returns. As a result, if the bank's assets are a long-term fixed rate as in a mortgage, they will face challenges offering competitive rates to depositors if rates rise in the future. One way of easing this constraint is to have a national mortgage company like Malaysia's Cagamas which can provide refinancing to banks by buying their long-term mortgages and funding the purchases with long-term sukuk which can be sold to investors with longer-term liabilities to match.

Another area where **Dr. Saidi** sees a present need matches with the need for longer-tenor assets is infrastructure projects, which some governments (like Malaysia and Saudi Arabia) are starting to see as opportunities for issuing government-linked sukuk. Governments must lead in using public markets to raise financing along with establishing mandates for SWFs and get ahead of arguments from these investors about the lack of liquidity and domination of these markets by banks. The government's use of capital markets for both infrastructure finance (to create long-term assets) and short-term sukuk (to develop financial markets) cannot just be an issue of whether they need the money or not. It has to incorporate the government's role for financial sector development.

Following on this point, **Kaiser Naseem**, head of Banking Advisory Services for the MENA region at the **International Finance Corporation**, added that SWFs should not look to other financial services market participants to develop Shariah-compliant products. They also need to look to modify their mandate to include Shariah-compliant investments in a way that makes their investment allocation match the preferences of their stakeholders.

These stakeholders, in some cases, are divided even if they are mostly Muslim because the industry doesn't offer a compelling value proposition to them. **Tariq Al-Sudairy**, Managing Director and CEO of **Jadwa Investment Company** distinguished between the pitches used for retail (where the pitch is "this product is Shariah-compliant") and institutions ("this product is Shariah-compliant and offers competitive returns"). However, where governments and SWFs interact to decide the long-term objectives from the investments, it may benefit if there is research to demonstrate not only that Islamic products are Shariah-compliant and can offer competitive returns, but also whether the increasing integration of Islamic finance in an economy can deliver better outcomes. The end points of this analysis should include volatility (susceptibility to crises) as well as better GDP growth with more stable inflation.

In summarizing the earlier discussion, **Sayd Farook**, Global Head of Islamic Capital Markets at **Thomson Reuters** pointed out the need to change perceptions about Islamic finance by providing high quality products and effectively communicating and relating their merits to audiences. **Harris Irfan**, Managing Director at **European Islamic Investment Bank**, highlighted how regulatory policy was opening up for Islamic finance faster in some non-Muslim countries like the U.K. where the government is studying ways of attracting Shariah-sensitive investors by offering Islamic financial products to fund infrastructure projects. This should serve as an example for countries in the MENA region which have by and large been slower at facilitating the growth of innovative uses for Islamic finance.

In response to the observation from **Irfan, Dr. Ali Ibrahim**, Vice President at **Al Baraka Banking Group**, raised the problem of regulations that force Islamic banks (the largest providers of financing) to act like banks rather than being entrepreneurial. These regulations hinder the ability of these banks to take green field opportunities and also have hindered their ability to more fully participate in areas of social responsible finance like impact investing which is now estimated to be $30 trillion in size and 90% concentrated in OECD countries.

The problem with connecting these opportunities across Islamic finance, according to **Rehan Pathan**, Chairman of **Takseem**, is that there is a disconnect between fund managers and SWF investors. As an example, he highlighted sukuk (one area where Islamic finance is able to connect) and said if you took a $100 million sukuk to institutional investors like SWFs it would be quickly subscribed but if you took the same sukuk wrapped in a fund it would not receive the same interest. Institutional investors are largely directly investing their own funds, and because of the overhang of demand relative to supply in sukuk, most of the sukuk are held directly by asset management companies which crowds out emerging fund managers.

In many regards, the question of whether the lack of supply of sukuk is responsible for the lack of institutional investors or whether the reverse is true brings in the question about the role of government in the development of Islamic finance. **Khalid Howladar** argued that Malaysia didn't succeed based on market forces alone, but it was led by top down growth starting with Bank Negara Malaysia which led regulators to developing a coordinated policy. In the GCC, the growth has been far slower and is not being led by governments.

In contrast, **Jamal Bin Ghalaita** argues that banks drive growth based on their assessment of risks and returns of different products. The customer will have to make a choice in the end and everything will be governed by the market. **Datuk Dr. Mohd Daud Bakar** Chairman of **Amanie Advisors**, took a middle ground pointing to the importance of small depositors funding Tabung Haji leading from the bottom up while a government guarantee of investors funds provides support for the consumer-led growth.

A multi-pronged approach of government and private sector was the way **Badlisyah Abdul Ghani**, CEO of CIMB Islamic Bank, saw the growth of Islamic finance in Malaysia with the private sector heavily involved in drafting the Islamic Banking Act of 1983 that was then reviewed and approved by the government. In coming years, the largest fund (Employees Provident Fund) will be split into conventional and Islamic funds to meet the expectations of its stakeholders. **Dr. Aznan Hasan**, Deputy Chairman of Shariah Advisory Council of the Securities Commission Malaysia and Shariah advisor to the **Employees Provident Fund**, highlighted though that an institutional fund is likely to have different expectations from retail investors. This means the challenges facing SWFs are different as well, something which **Abdelilah Belatik**, Secretary General of **CIBAFI**, attributed to limited options for diversification and a universe of small funds.

In agreement with earlier comments from participants about the multiple players responsible for developing Islamic finance, the **IILM's Prof. Datuk Rifaat** said it was unfair to place the entire responsibility on the industry or the regulators. In countries where the government has taken a lead, like in Malaysia and more recently in Dubai, there has been more growth as a result of the resources the government brings while in other countries there has been much more of a market-driven approach, like in Saudi Arabia.

Some of the responsibility on the part of the government is ensuring there are enforceable standards to ensure higher quality by mandating compliance with AAOIFI and IFSB standards which also brings enhanced transparency if regulators support them. **Kaiser Naseem** agreed that the governments have a role and should intervene to give a temporary boost that eventually leaves the market to take initiative and build the capacity needed to support growth and meet the needs of, for example, the 32% of small businesses in the MENA region which refuse to work with conventional banks.

The cross-border activities of Islamic financial institutions are impacted by the uneven distribution of Islamic finance across different markets and the infrastructure (relating to liquidity and risk management) is not in place. In many markets with limited Islamic financing, the cross-border activity is also hindered by lack of consistent adoption of common standards, according to **Jamil El Jaroudi**, CEO of **Bank Nizwa**.

Dr. Osaid Kailani, the Global Head of Shariah at **Abu Dhabi Islamic Bank**, provided an explanation for one reason why AAOIFI standards are not more widely adopted as being due to issuer and investor unease with things like the requirement that asset transfers be done as true sales so the investors have recourse to the underlying asset and also bear price risk of the asset that accompanies this change. When issuers and investors are ready for this, the wider adoption of AAOIFI standards will become possible.

Another point of unease for many institutional investors is unrated or sub-investment grade credit ratings and so expanding the ratings coverage to more investments may be equally as important as adhering to a common set of Islamic finance accounting, auditing and regulatory standards. For the most common (AAOIFI and IFSB), **Dr. Saidi** said they had been well-developed but currently lack sufficient enforcement.

Sohail Zubair, CEO of **Dar Al Sharia** raised the issue that some investors could not get the Islamic structures past their lawyers without concerns blocking the way about whether the Islamic structure would not be done cleanly and would add to the legal risk. **Rehan Pathan** generalized noting that institutional investors including SWFs will be more concerned about risks arising from the structures and choices of domicile.

42%
GCC expat population share

$2.4 trillion
GCC sovereign fund assets

$200 billion
Sukuk supply gap

$56 billion
Global Islamic Fund AUM

44%
Top 10 funds share of global Islamic AUM

80
Number of Islamic funds with AUM > $100 million

20%
Institutional share of Islamic fund AUM

70%
Institutional share of conventional fund AUM

Source: Economist Intelligence Unit, SWF Institute, Thomson Reuters Zawya *Sukuk Perceptions and Forecast Report 2014*, Thomson Reuters Lipper *Global Islamic Asset Management Report 2014*.

SESSION TWO:

Shariah Governance and Templatization of Islamic Finance Products

SPEAKERS

Professor Datuk Rifaat Ahmed Abdel Karim
CEO
International Islamic Liquidity Management Corporation

Datuk Dr. Mohd Daud Bakar
Founder and Group Chairman of Amanie Advisors and **Chairman** of Shariah Advisory Committees of Bank Negara Malaysia, Securities Commission of Malaysia and International Islamic Liquidity Management Corporation

Summary Recommendations:

- Establish a task force to develop a checklist for countries new to Islamic finance for areas known to create uncertainty in legal interpretation of Islamic products
- Commission research into the feasibility of requiring adoption of end-to-end Shariah governance systems within Islamic financial institutions
- Establish a task force to identify implementation documentation usable in multiple forms of Shariah governance
- Establish task force to identify key market-tested sukuk structures for creating templates to encourage corporate issuance and oversee creation by existing and newly-created bodies

Detailed Recommendations:

1. Establish a task force to recommend a template to guide countries in establishing a process within their legal system to reduce uncertainty about the enforceability of Islamic finance in their legal system. Task force should represent countries with variation of civil and common law jurisdictions as well as secular governments and those which have established a 'national' religion.
2. Commission a research study to assess the economic feasibility of requiring specific enterprise-wide Shariah governance systems to institutionalize the process by which companies organize their Shariah compliance from product development to sales to customers to post-sale audit of the internal Shariah supervisory system.
3. Establish a task force to evaluate the results of the research study and recommend ways to promote implementation within national regulatory systems that are acceptable in both markets where Shariah rulings are established within regulatory organizations and in those markets where a fully market-based approach is taken.
4. Establish a task force to identify key sukuk structures for corporates to use and work with existing standards-setting bodies (IIFM, AAOIFI, IFSB) and their respective Shariah boards to create product templates based, where possible, on structures that are market-tested.

The second session opened with the question of what the industry can learn from the various approaches to Shariah governance where some countries take the approach of positioning an apex Shariah board inside the regulators while others defer to the market for both Shariah interpretation and Shariah governance. **Prof. Datuk Rifaat Abdel Karim** began discussing the role of national boards for creating national standards and the importance of housing them within the central bank or regulatory institutions. Putting the Shariah review process at the national level, as Malaysia's **Islamic Financial Services Act 2013** does, provides certainty to the industry that it will be able to enforce Shariah rulings through the legal system and that it will not be frustrated by judges who take a position contrary to the position of the national Shariah board.

Beyond the national level, however, these efforts run into problems because the regulators (whose institutions house the national Shariah board) do not have jurisdiction outside of their home market so a product that is accepted within that market may receive more limited approval internationally. This was an issue with the **IFSB**, for which **Prof. Datuk Rifaat** served as Secretary General. The standards the IFSB drafted and approved were not enforceable and do not have the endorsement of a government and so adoption is slower than action that could take place within a country where the standards will be enforceable and carry the backing of the government.

The **International Islamic Liquidity Management Corporation**, for which **Prof. Datuk Rifaat** currently serves as CEO has its own Shariah board and has received widespread Shariah approval because it has worked to meet the strictures of not just its own board, but the boards of its nine primary dealers which buy and resell the sukuk in cross-border transactions and rely upon a globally acceptable product. One area where the use of tighter standards is evident is in the ratio of tangible and financial assets backing the IILM sukuk. AAOIFI rules require that such sukuk have no fewer than 30% tangible assets to ensure tradability. In order to reach a wide investor base, however, the IILM uses a higher standard of 51% tangible assets.

The issue that **Prof. Datuk. Rifaat** raised demonstrates that in many cases, it is not just about the process by which Shariah governance is carried out, said **Sayd Farook**. The reason that a jurisdiction would consider a central Shariah committee is to provide a unified source of Shariah rulings to create certainty to investors and a clear source of legal guidance that can be enforced within the courts. This approach, however, is complicated on a cross-border basis and these products may have to comply with more stringent Shariah standards to be accepted in multiple countries.

In response to the issue of templatization which is an outcome that flows logically from national Shariah standards implementation, **Datuk Dr. Mohd Daud Bakar**, CEO of **Amanie Advisors**, highlights a potential roadblock. His comments highlight the greater diversity of interpretations about Islamic finance that is absent from conventional finance. He links this diversity to the multiplicity of contract types usable in Islamic financing in contrast with conventional finance where a loan contract is relatively standardized. As a result, **Datuk Dr. Daud** believes that templatization is not possible in Islamic finance the same way it is in conventional finance.

Outside of the templatization, however, he believes there is benefit from a central Shariah board which provides certainty in the law and also to have rules around conflicts of interest by Shariah scholars who are both members of private financial institutions' Shariah boards and the national board. An example, said **Datuk Dr. Daud** of how a more decentralized system does not work is provided by Indonesia where the national

Shariah board is highly independent from the central bank.

Datuk Dr. Daud also offered comments about the potential for Dubai to institute a national Shariah board where he was skeptical that providing a Shariah board with supervisory powers to overrule individual institutions' Shariah boards would be beneficial within the present Dubai/UAE context. A national board in Dubai could provide benefit if it works in ways that will increase certainty of law and to provide guidance for Islamic financial institutions but there is not a one-size-fits-all and if the end goal of providing certainty can exist without a national Shariah board, then it is not necessary to create one. In contrast, **Sheikh Osaid Kailani**, Global Head of Shariah at **Abu Dhabi Islamic Bank**, took the position that Dubai and the UAE would benefit from a national Shariah board which could serve as the first step to further standardization.

In response to the point about ensuring that a Shariah board, if one is composed at the national level, provides certainty **Badlisyah Abdul Ghani**, CEO of **CIMB Islamic**, reiterated the example offered by Datuk Dr. Daud of Indonesia as a case where the separation of the Shariah board from the regulators could create uncertainty. The existing national board in Indonesia is viewed as equal in stature to the government which gives its fatawa weight even where they are in opposition to the regulatory policy, which has hindered adoption of Islamic finance.

The new board being created at Indonesia's new Financial Services Authority (OJK) aims to change this and will bring the responsibility for determining Shariah standards into the regulatory authority to provide more certainty in a way that the board today cannot. Regardless of the final approach (national Shariah board or decentralized approaches), the key for creating certainty is that government has to take a stand and put in place a process for Shariah governance. It can choose from many options like the centralized approval of individual fatwa in Malaysia or allowing financial institutions to just provide a record showing the existence of a fatwa, as in Singapore.

The use of a centralized Shariah board, **Prof. Datuk Rifaat** mentioned, can provide benefits by being connected with regulatory bodies and therefore be in the position where their role has legal backing and enforcement. In response, **Datuk Dr. Daud** agreed that connecting the national Shariah board to the regulator was important, but differed on the need for a national board where one does not already exist, pointing to Kuwait and the UAE as markets where there has been de facto harmonization even without a central board. In these types of situations it is fine not to have a national Shariah board as long as scholars, muftis and practitioners can get together to put together rules and include them into the law.

The national Shariah boards still leave a gap in cross-border acceptance and **Ijlal Alvi**, CEO of the International Islamic Financial Market (IIFM), said that in the course of creating templates accepted for cross-border transactions, the regulators played an important role. While IIFM can create standards with trade bodies that are acceptable across markets, the ability of regulators and governments putting them into law to ensure the legal certainty is key for increasing adoption.

Beyond the centralization of Shariah guidance, **Sohail Zubairi**, CEO of **Dar Al Sharia** criticized existing implementation of Shariah governance and recommended three requirements that would improve the implementation of existing standards:

- Scholars should be responsible for writing their own fatawa
- A fatwa should be certified by the scholar, and the certification should include reference to existing Shariah standards
- The execution of the transaction (movement of funds and assets) covered by the fatwa should be subject to external Shariah audit and all listed sukuk should be required to have an external Shariah auditor.

Concluding, **Zubairi** said that in Dubai, the process may be complicated by the federal structure of the UAE but a Shariah board at an organization like the DIFC could be a starting point.

In response to **Zubairi's** criticism, **Dr. Aznan Hasan** pointed out that while every word might not be written by a scholar, the fatwa is vetted and approved by the scholar. On the standardization issue, Dr. Aznan highlighted the importance of keeping the standardization process speedy without too many layers, which he said limits the applicability of standardization to each jurisdiction. However, it is possible to create templates for the basic products within each jurisdiction.

Responding to the recommendation for **Zubairi**, Sheikh Kailani said that the existing Shariah board was created within the UAE but it was not an official body, but one created by the Islamic banks that the national central bank can engage with in a consultative role. Additionally, within the Dubai Financial Market, listed sukuk include the fatwa as a part of the legal documentation and the fatwa will prevail in any cases of disagreement between the fatwa and the legal documentation.

Khalid Howladar also weighed in on the impact that a UAE centralized Shariah board would have for managing uncertainty that comes with the complexity that results from many Islamic finance products. Two of the most complex structures (Sorouh and Tamweel's asset-backed securities) have succeeded in Dubai so the market can handle the level of complexity that sukuk creates. However, if there were a centralized Shariah board, it could set up standards and templates for institutions (particularly corporates) to use to lower the cost of issuing sukuk and reduce the need to have new sukuk created *de novo*, which would increase the efficiency of the issuance process.

In terms of the process that institutions have to incorporate, **Yasser S. Dahlawi**, the CEO of Shariyah Review Bureau, highlighted the importance of having the right internal process that has good internal controls to increase efficiency. It is not just having the contracts, there has to be audit to review the execution and implementation of Shariah-compliant products. Most of the institutions he has dealt with have good internal control systems and they have relatively minor issues as a result. If the regulators set minimum supervisory requirements on organizations to ensure certainty and reporting it would have a positive impact.

This point was elaborated by **Ahmed Al-Gebali**, the Director of the Islamic Financial Services Department at the **Islamic Development Bank** who spoke about the challenges he faced as a banker and now at the IDB working in technical assistance projects with OIC member countries with differences in opinion among Shariah scholars. In some cases, the response from a scholar for a particular product will depend on what question is asked of the scholar. He knows of one case where the same product was approved by the same board at two different institutions based on how the question was asked of the board.

As a result, **Al-Gebali** recommended that there be a non-voting member added to Shariah boards who is a practitioner who can advise on the financial aspects of a product to clarify for the Shariah board. In addition, it would benefit the industry if there were a high level advisory board made up of scholars, lawyers and practitioners to look out of the box for a solution to the best way to oversee Shariah governance in the Islamic finance industry.

The push for standardization was opposed by **Haris Irfan** who criticized the idea of templatization in Islamic finance as undermining the important role for Shariah scholars within the Islamic finance industry. With respect to sukuk being seen as just a fixed income product, **Irfan** cautioned that this would represent a defeat for the idea that Islamic finance is doing something different. In a broader sense, Shariah rules should not be like speed limits where they are observed while Shariah scholars are watching and not when they are absent. This does not respect the Shariah compliance process.

AAOIFI has worked with countries like Malaysia where standards are well-developed. In newer markets, AAOIFI can engage with the Shariah boards to increase international harmonization by adopting AAOIFI standards. In either case, the national Shariah boards are consulted and provided an opportunity to be engaged in the development of new standards.

The process of accepting variation in Shariah governance is good, said **Dr. Ali Ibrahim**, who stressed that there is not a one-size-fits-all strategy and when you look at the realities on the ground, the GCC has reformed itself without needing a national board set up. In addition, the entire process including Shariah scholars, advisories, law firms, market makers and ratings agencies have had to move up a learning curve which has created some de facto standardization.

Instead of looking at a national Shariah board as an institution that is established permanently, **Ibrahim** recommended, it could instead be set up with a more limited mandate to update standards and then hand off the task of establishing certainty to the judicial system in implementing what the Shariah board comes up with. **Sayd Farook** responded bringing the discussion back to the cost and efficiency issue pointing out that with the decentralized, non-standardized method, it is not cost-effective for most issuers to come to market with anything under $500 million.

Datuk Dr. Daud reiterated that the idea of standardized templates is not possible because each situation has different cash flows. Efforts for standardization have also focused on ensuring high standards to meet the expectations in different markets. Perhaps the discussion should move towards setting the minimum standards rather than reaching consensus on the highest standards. An international body could approach the issue to find the widest acceptable minimum standards for Islamic financial institutions without undermining the position of sovereign countries to set their own standards.

Sulaiman Al-Harthy, CEO of **Meethaq**, agreed and highlighted the specific challenges that windows face. When Oman's law came into force, it was clear for standalone Islamic banks and if not done properly, could have resulted in chaos for conventional banks looking to set up Islamic banking services. The rules set up in Oman to avoid making Islamic banking replicate conventional banking and in creating proper governance has helped allow banks to introduce Islamic banking to customers used to conventional banking.

Along similar lines, **Abdul Ghani** said that it was critical not just to establish enterprise-wide Shariah governance, but also establish Shariah governance across the financial system. All market players, stakeholders and employees should have a proportional responsibility for ensuring Shariah compliance. In his opinion, anything less is not good enough. The Malaysian model, the institutionalization (which includes laws holding people from sales staff to Shariah scholars responsible for any misconduct) has aided growth.

Abdul Ghani continued to argue that having the head of the regulatory body, aided by a Shariah advisory council, responsible as the final arbiter for Shariah is the best way. The Central Bank is the regulator of the financial sector and it holds the responsibility to ensure the credibility and integrity of the financial market, which includes overseeing its Shariah governance. He continued saying that the cross-border goal should be accepting other Shariah rulings from credible scholars, something that received push back from several participants.

Prof. Datuk Rifaat wrapped up the session highlighting the need for critical mass in order to generate support for a national Shariah board. At the end of the day, the entire Shariah governance process is dispute resolution and it will need to be tested in a cross-border setting. One potential way to approach the differences between markets would be to establish an international court for Islamic financial services to ensure certainty.

In many cases, parties prefer English law, but the treatment of corporates and sovereigns are different. In either case, an international court would run into difficulty because nations would have to sign up to be subject to its jurisdiction. The idea of moving away from English law, however, did not receive complete approval and **Habib Ullah**, a partner at **Taylor Wessing,** argued in a comment added after the event that it would lose the certainty of hundreds of years of jurisprudence that is embedded in English law and English courts.

RECENT DEVELOPMENTS

Malaysia
New IFSA imposes penalties for shariah non-compliance

Pakistan
New governance standards limit scholars to fewer boards, mandate external shariah audit

Oman
Members of the Central Bank of Oman shariah board are currently being selected

Kuwait
Central bank governor supports more external shariah review

United Arab Emirates
Plans to establish separate agency and shariah board to supervise Islamic financial institutions

Bahrain
Waqf Fund proposes mandatory external shariah audits

Islamic Finance Industry
Scholars plan Association of Shariah Scholars in Islamic Finance (ASSIF) as SRO

International Islamic Financial Market
Plans to develop first sukuk template for ijara sukuk

Source: Laws of Malaysia, State Bank of Pakistan, Reuters, Times of Oman

ADIB مصرف أبوظبي الإسلامي

Islamic Banking – Ethics Leading Growth

Islamic banking is now into its 5th decade. It has become an established feature of the financial arena not only in the Middle East and Southeast Asia, but is also beginning to make its presence felt in Europe.

With assets of the industry's top 20 institutions increasing at 16 percent annually over the last three years, its growth has far outpaced that of conventional banks. Total Islamic financial assets now amount to over $1.6 trillion, from just $200 billion in the mid-1990s.

While the Islamic banking industry can be pleased with this growth, they cannot be complacent. They are still only a small part of the global financial system, and they need to ask themselves if this growth will peak as its traditional customers fulfil their financing needs, or can they extend the appeal of Islamic banking to new customers?

The industry's expansion is due to both supply and demand factors. Islamic banks are well capitalised, and have the capacity to increase financing. Their home markets in the Middle East and Asia have tended to be economies with outperforming growth rates. And the focus they have on ethical finance have enabled them to avoid the worst effects of the financial crisis of the late 2000s.

A survey carried out in 5 countries by Abu Dhabi Islamic Bank (ADIB) in 2013 suggests that this focus on ethical finance signposts where the industry's future growth will come from. It shows that there is a hunger for more ethical and straight-forward banking in diverse markets, and Islamic banks can benefit if they are correctly positioned around the universal values that they offer. This means remaining true to the industry's roots in Islam by concentrating on its core values of respect, hospitality, and openness – but not to use religion specifically to sell products and services.

There is certainly scope for growth, not only within the core markets for Islamic finance, but also outside them. The fact that Western governments, most recently the UK, have started to tap into Islamic finance by issuing sukuks, is one indicator of this trend. Another is ADIB's successful acquisition of Barclay's retail assets in the UAE, through which it has gained over 110,000 new customers. It could be said that the edges between conventional and Islamic finance are beginning to blur, just as they are for instance between petrol and hybrid engines in cars.

The growth in Islamic finance will also depend on the resources available to it. This means both the skills available to the industry and the structures being innovated to enable it to continue to increase its market share. To this end the awards offered by ADIB (Ethical Finance Innovation Challenge Awards, or EFICA) are important both in encouraging original thinking as well as in demonstrating how they can successfully be put into practice in the Islamic context of banking and finance.

What happened to the global financial system in 2008 need not be repeated if the industry as a whole adopts a more ethical and sustainable model. This is where the Islamic finance industry can lead the way forward.

SESSION THREE:

The future of Islamic finance: Driving the broader ethical framework

SPEAKERS

Dr. Ali Adnan Ibrahim
Vice President
Al Baraka Banking Group

Hassan Al Jabri
CEO
SEDCO Capital

Summary Recommendations:

- Create an international advisory body to recommend ways to add Environmental, Social, Governance (ESG) and other ethical criteria to existing Islamic finance standards and oversee implementation
- Conduct research on the support in Shariah for ethical criteria used globally which are not part of the current Islamic screens
- Conduct a market study about the cost and benefits of using the 'Islamic' label
- Establish a task force for mandatory transparency standards for Islamic financial institutions
- Conduct roundtable discussion between Islamic asset managers and institutional investors which have minimum investment allocations to ESG/SRI.

Detailed Recommendations:

1. A task force should identify gaps and recommend areas for standards-setting bodies for Islamic financial institutions to expand their recommended standards for institutions that wish to meet both Shariah compliance and broader ethical financial standards such as ESG criteria or Triple Bottom Line reporting. The task force should explore the feasibility of setting up an international advisory body composing representatives of all Islamic finance infrastructure organizations to manage ongoing implementation of the task force's recommendations.
2. A research study should identify best practices used in broadly ethical and socially responsible investment sectors and work with Shariah scholars to identify overlapping areas where these best practices are also encouraged in Shariah.
3. Conduct a market study to quantify the costs and benefits in expanding outreach to new investors, maintaining existing investors and broadening the outreach within the Muslim community by the removal of the 'Islamic' label.
4. Establish a task force to recommend mandatory reporting/transparency standards for Islamic financial institutions in areas of Shariah compliance and compliance with ESG/SRI standards.
5. Hold an event to bring together Islamic asset managers with leading ethical/socially responsible fund managers and large institutional investors (e.g. Norway's sovereign wealth fund) which mandate a specific allocation towards ethical/SRI investments.

For all of the growth in Islamic finance, its $1.65 trillion in assets are still much lower than the $13 trillion in assets managed according to Environmental, Social and Governance (ESG) principles. **Abdulla Al-Awar** opened the session laying out the agenda around the question of where the gap is between the ESG and Islamic finance industries even though they are both based on similar principles. In one stark example, he noted that only one Islamic financial institution was signed up to the UN Global Contact, none with the Equator Principles.

Following from **Al-Awar**'s lead, **Hassan Al-Jabri**, CEO of **SEDCO Capital**, highlighted that the Islamic asset management sector was growing its total assets under management at the same time that the conventional side drops. As was discussed in earlier sessions, the Islamic asset management sector is dealing with challenges associated with perception, talent, volume, transparency, and unified standards. The challenge into the future is how to grow faster and more efficiently to unify the industry and globalize so that Islamic finance becomes better understood around the world.

In laying out the challenges and opportunities for growth, **Al-Jabri** floated the idea that Islamic financial institutions should work with one another more frequently where they can offer complementary pieces through join ventures. For example, institutions in private equity can team up with those with expertise in listed equities. The focus should be on connecting good products with good distribution so that the industry focuses on providing the best products and doesn't try to reinvent the wheel.

The existing scale of Islamic asset managers is too small, but beyond just size international investors are also attracted by volume and performance. In addition, many investors have requirements associated with transparency and reporting which provided the reason for SEDCO to look to a Luxembourg SICAV vehicle.

In response to a question from **Al-Awar** about whether the 'Islamic' label was an obstacle to growth, **Al-Jabri** made a distinction between geographies. In the Gulf region, he argued, Shariah was overused. In other markets, however, the Shariah label made Islamic finance something 'different' and to bridge the gap it is important to speak the language of the people being addressed, which in the ESG and SRI sectors are Western institutional investors.

SEDCO compared the Islamic screens with the ESG and SRI screens and found that the only difference in the negative industry screens was the exclusion of pork. The reason, **Al Jabri** surmised, was that they are aiming to get economic sustainability which is also a goal from Islamic finance since day one. The main difference was that the ESG investors were active investors and work with companies that don't meet their screens to become fully compliant. They are much more active investors than Islamic asset management.

Looking at the other side of the coin, **Dr. Ali Ibrahim**, Vice President at **Al Baraka Banking Group,** focused on what was not being done. Even in the large universe of ESG funds, most of the difference from other investment management was done with screening rather than being deployed in a way that directly influences people's lives. For Islamic finance, that should focus attention on whether the industry is just interest-free.

As an example, **Dr. Ali** highlighted the lack of institutionalization of zakat and sadaqa, which left the industry in a position where it has ignored the fundamental principal of enhancing

financial inclusion. Islamic finance, in his opinion, should be active in taking risks that others won't to encourage entrepreneurship. The lack of progress in this area has disappointed although some of the regulatory issues holding the industry back are understandable.

The key point is that Islamic finance cannot just expand its market share in an existing market and has to look towards areas not being served. The government and industry are responsible for creating an enabling environment. Islamic banks could focus on infrastructure finance, and even move more dramatically into making a conscious decision to target economic development and poverty alleviation as a market segment. With Islamic finance, it is not just smart business but it is a moral obligation.

Asked by **Sayd Farook** how an institution could embed this social responsibility within itself and also make it financially sustainable, **Dr. Ali** highlighted the example from Al Baraka Banking Group where it looks at social responsibility in four areas. One of these areas is philanthropy but it is limited to where it can be most effective. The other three areas are economic opportunities, qard al-hasan and giving a time commitment to socially responsible initiatives.

In order to make the changes implementable, however, it has to be included in the fundamental business process of the bank like the articles of association. One way it has been implemented by Al Baraka is through the credit application process which covers the social benefits including job creation alongside more traditional metrics. They prefer to work more with companies with a higher social impact and have made it durable by including it within the credit application.

Shifting from a single institution perspective to an industry-wide one, **Al-Awar** asked why there hadn't been as much emphasis placed on working with global ethical initiatives in the past and asked **AAOIFI**'s Deputy Secretary General **Khairul Nizam** what it would take for standards-setting bodies to include additional ethical criteria. **Nizam** highlighted the existing Corporate Social Responsibility (CSR) standards that AAOIFI includes as one of its (non-binding) governance standards which provides, for example, recommendations for policies that Islamic financial institutions should have in regards to zakat collection and SME development.

While setting up policies is the first place to turn to incorporate additional ethical criteria, it will take more encouragement for more institutions to agree to adopt the existing CSR standards and fully disclose their performance in a CSR report. In order to expand the adoption of these standards and expand into other ethical screens, he suggested setting a definition of sustainability reporting including assessing the economic, environmental and social costs of an institution. Once the policy is set, it provides specific items to report upon.

Returning to the development of standards, **AAOIFI's Nizam** said that the organization is focused on and needs to continue to work more on encouraging adoption of these standards, both with investors who provide the impetus for reporting as well as with stock exchanges. With emerging markets such as South Africa, Mexico and Malaysia leading in sustainability reporting, the stock exchanges serve as one source of influence to expand adoption of CSR policy and disclosure reporting.

Omar Selim discussed the differences between Islamic criteria and those from other sustainability and faith-based orientations. The UN Principles for Responsible Investment (PRI) and Global Compact provide the most similar approach because like the Islamic screens, they target specific areas that are automatic exclusions. The difference is in what is being excluded where the PRI but not the Islamic screens target human rights, labor law, environment and anti-corruption.

One of the ways that these alternatives have defined themselves is in focusing not just on financial returns, which is something that Islamic finance could do if it took a different label than 'Islamic', said **Tariq Al-Sudairy**. With the Islamic label, people expect to get the same performance. If the label were 'responsible' or 'prudent' banking, it would be easier to communicate that there is not the same expectation of short-term performance. Some of the short-term underperformance, if it existed, would not be a 'piety gap' but an investment in long-term sustainability.

Dr. Ali added that along these lines, if you are not making a difference in people's lives, it isn't as durable. However, you have to do something on the ground in order to make a discussion of the labeling important. **Dominic Selwood**, the General Counsel for **Arabesque Asset Management** agreed and said the focus should shift to being based less on rules and more about values. Rather than focus on the legal rules and enforceability, Islamic finance needs to work around consensus and vision which require data.

The data for the ESG and SRI space show that incorporating these extra factors in investment decisions not only doesn't detract from performance but drives outperformance. To support this contention, he pointed to a meta-analysis study (PDF) jointly commissioned by Arabesque Asset Management which found economic benefits from adopting strong sustainability practices. Within the Islamic context, **Sohail Zubairi** pointed to the efforts in Dubai Islamic Bank to institutionalize the distribution of zakat and purification of tainted income. Instead of directly disbursing it, they work with charitable organizations, a model which could be further centralized.

However, **Zubairi** thinks there are other areas to consider like how distributions to depositors are calculated. Rather than focusing on matching the conventional interest-based benchmark, he suggests looking more closely at whether the distribution between the bank and depositors is fair. Another area where Islamic financial institutions could look to expand their ethical impact is in services they provide to other organizations.

As an example, **Zubairi** highlighted the work DIB had done with an Islamic relief organization developing a fund for micro, small and medium sized businesses where DIB is developing the structure and documentation for a qard fund and may help it expand also into products that are capable of generating profits.

Form discussions of how Islamic finance could incorporate more ethical activities, there remained a distinction between ideas that incorporated Western-originated ESG or SRI screens and those that focus on highlighting the distinctiveness of Islamic finance. **Mohammed Nadeem Aslam**, head of the Islamic Banking Division at **Bank Muscat**, said the focus shouldn't be on the label but on the vision which should start with identifying problems with conventional banking. The solution should look to Shariah and use existing institutions within Islam like zakat and sadaqa to remove the problematic areas.

Khalid Howladar disagreed with the idea that the label didn't matter and highlighted the challenges of moving beyond the GCC and other core markets. The way to expand will be to shift the focus to the values that make Islamic finance what it is. **Ahmed Al-Gebali** agreed that the label could be a barrier and pointed to the experience of the Islamic finance program within the MBA at the Rotman School of Management at the University of Toronto which grew from a few Muslim students in the first year to a much more diverse group of students who may perceive too much focus on the 'Islamic' label as a statement that they are 'other'. Alternatively, using a label like 'ethical' implies that others are not ethical.

Following along **Al-Gebali**'s point about being concerned with the brand and the label, **Rehan Pathan**, suggested that a label should not be Shariah-based but should be something inclusive. However, it is challenging to position as 'ethical' because what is ethical to some will not be to others. The branding process should start with the idea of finding a minimum level of what is ethical, Shariah-compliant and socially responsible. It is not an expensive change but it is a branding process that demands attention.

Al-Jabri agreed that it was not a dramatic change to add ESG criteria to the Islamic criteria and did not change the investment universe much. **Muneer Khan**, a Partner at **Simmons & Simmons** suggested that it would be valuable if Islamic asset managers teamed up with leading asset managers to jointly develop products, even if it did not immediately make sense in terms of remuneration. The benefit will be bigger by bringing the Islamic finance sector into the awareness of the ESG/SRI sector.

The point of all of these efforts, **Harris Irfan** argued, was that actions speak louder than words but it takes time to build relationships with institutions that tend to be nervous about adopting new practices. A product that he saw as valuable in improving the value proposition from Islamic finance is asset-backed (ABS) sukuk like the one issued by FWU which involved a 'drag-and-drop' structure of a portfolio of takaful transactions into a vehicle.

The FWU sukuk provides an example of how, in contrast to the divergence between the financial and real economy before the 2008 crisis, Islamic finance retains a greater link to the real economy. Besides ABS, it would help if some of the commodity

murabahah and sale-leaseback structures were replaced with 'real' wakalah on 'real' businesses to differentiate Islamic finance because it is easier to communicate that there is something 'real' and 'ethical' about it that conventional finance lacks.

Proceeding along a similar argument, **Sohail Zubairi** explained that when he explains Islamic finance to others it starts with the structures and explanation of why they are different, why there is a change. This lets you show a difference without changing the name. **Sohail argued** that there is beauty in the 'Islamic' name and changing it may be perceived as hiding the underlying source of ethics which he said provided a universal ethical way for handling money.

Badlisyah Abdul Ghani agreed and pointed out that Islamic, ethical, socially responsible and impact investing are all subsets of a much larger industry. The Islamic label is appropriate because that is the market that they are serving. More importance should be placed on moving forward on the commercial value of the business.

On the issue of transparency and reporting, **Nida Raza**, the Director of the Islamic Finance Centre at **Ernst & Young**, argued that it should not take requirements for Islamic financial institutions to share information. The industry is young and institutions are all trying to grow as equal stakeholders and should give transparent information.

Jamil Jaroudi, CEO of **Bank Nizwa**, highlighted the historical basis for using transparency to grow, pointing out that trade was one of the major forces driving adoption of Islam across Asia centuries ago and could be again today if it is practised as it should be, which includes being transparent. As discussed earlier in the session, this transparency needs common standards and **Ahmed Al-Gebali** highlighted the benefit that would come from an advisory body that pulls together the Islamic finance infrastructure organizations like the AAOIFI, CIBAFI and IFSB with the multilateral development banks through an advisory committee.

$156 trillion
Global financial assets

$13.6 trillion
ESG managed assets

$1.65 trillion
Islamic finance asset

0
Islamic banks signed up for Equator Principles (project finance)

1
Islamic financial institution signed up to UN Global Compact

Source: Business Insider, Global Sustainability Investment Review 2012, Thomson Reuters' *State of the Global Islamic Economy Report 2013*, Equator

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ACKNOWLEDGEMENT

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