

Conceptual Analysis of Shariah Advisory board in the Corporate Governance of Islamic Financial Institutions in Minority Muslim Country: The case of Uganda

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Abstract

The Islamic finance industry has grown rapidly not only in Muslim countries such as Kuwait, Malaysia, and Saudi Arabia, but also in non-Muslim countries such as the United Kingdom, France, and Ghana. Shariah Advisory Board plays an important role in corporate governance of Islamic Financial Institutions. The primary goal of this paper is to address proper understanding of Shariah and Shariah Advisory Board in order to place them in their proper corporate governance in minority Muslim countries like Uganda as a new market for Islamic financial institutions. Furthermore, the research focus on the role of Shariah Advisory Boards and the qualifications for Shariah scholars on the board. It also demonstrates the importance of Shariah Advisory Board's independence in implementing its decisions using the previous studies. The research is an exploratory study, the data was gathered from secondary sources such as statutes, articles, online materials and annual reports of Islamic financial institutions that were accessible in different countries. The study's findings are expected to be extremely beneficial to Islamic financial institutions in Uganda and other countries where there is no proper literature on Shariah advisory board concept and corporate governance.

Keywords: Shariah, Shariah Advisory Board, Corporate Governance, Islamic Financial Institutions.

Introduction

The Accounting and Auditing Organisation of Islamic Financial Institution's secretary general said "It is Allah's Grace that He bestowed on us the great religion of Islam, and made us the

best Ummah raised up for mankind, graced with the noblest of Prophets and Heavenly Books and religious codes. This comprehensive religious code encompassed and ordained all things beneficial to humankind in this life and in the Hereafter, as well as prohibited and banned all evils and vices” (Merah, 2015). This is made clear by Quran injunction;

“.... This day I have perfected for you your religion, and have bestowed upon you My bounty in full measure, and have been pleased to assign for you Islam as your religion. (Follow, then, the lawful and unlawful bounds enjoined upon you....)” (Quran Ma’idah 5:3).

Islamic financial institutions must be shariah compliant in all aspects of their products, instruments, operations, practices and management, which will be accomplished through the establishment of a sharia advisory board. As a result, SAB is critical to the governance and performance of Islamic financial institutions (IFIs). Shariah Advisory Board is a term that can be used interchangeably with Shariah Advisory Council (SAC), Shariah Board (SB) and Shariah Supervisory Board (SSB).

According to (Haddad & Bouri, 2022) explained that, the SAB is in charge of verifying the compliance of activities, products and services, as well as controlling transactions carried out by IFIs in accordance with Shariah principles. Because of the increased application of Islamic finance principles, SAB decisions and complaints must be strictly followed at all times. The research maintains that, shariah advisers play a critical role in ensuring the IFIs' credibility and legitimacy, as well as maintaining public trust in the soundness of their operations.

In Uganda, IFIs are still in their infancy and the concept of Shariah is not fully understood. It should be noted that Islamic finance is not only available to Muslim countries such as Saudi Arabia, Malaysia, and Pakistan. Islamic financial systems can thus be found in pluralistic secular countries such as Albania, Australia, the Bahamas, Bosnia and Herzegovina, Denmark, France, Germany, Ghana, Ireland, Luxembourg, Switzerland, the United Kingdom, and the United States of America (Augustine, 2022). As a result, the conceptualization of Sharia and Shariah advisory Boards in countries where Islamic finance has developed for over a decade must influence countries like Uganda, where Islamic finance is in its infancy to ensure Shariah compliance and governance credibility of IFIs.

By investigating the concept of Sharia and Shariah advisory boards, the general state of IFIs in Uganda, as well as the products and services they provide, can be better understood. Therefore, the following objectives will guide the research paper: (1) To address proper understanding of Shariah and SABs in order to place them in their proper context and seek their corporate governance in IFIs; (2) To investigate the role of SAB and the requirements for Shariah scholars on the boards of Islamic financial institutions; and (3) To demonstrate the role played by corporate governance and importance of SAB independence in implementing its decisions.

Methodology

The research is an exploratory study, secondary sources of information was used and extracted from sources such as statutes, articles, online materials and annual reports. To analyze the data, we used content analysis. Content analysis is a method of categorising various elements of a document into a number of groups. It is an appropriate method to use when there is a large amount of qualitative data to be analysed. The use of content analysis was supported by (Boyatzis, 1998). Content analysis was used to evaluate the literature of shariah governance in IFIs and publications in various countries such as Malaysia, Indonesia, Pakistan and Bangladesh.

Sharia

Shariah is defined in general sense as the body of laws and rulings extracted primarily from the Qur'an and Sunnah and the detailed rules of fiqh that jurists and scholars had developed through ijtihad (Muhammed & Ali, 2017). The Quran uses the term Shariah to mean religion, in the sense that man's entire life demonstrates obedience to what Allah has ordained. It is written in the Quran that; "Thereafter We have made you upon a Law of the Command; (i.e., a religion from our command to Jibril (Gabriel) so follow it closely, and do not ever follow the prejudices of the ones who do not know." (Quran 45:18).

Similarly, it's further stated that;

"For each of you We have appointed a Law and a way of life" (Quran 5:48).

In another verse, the Qur'an describes Shariah as a healing guide and mercy for mankind.

"O mankind! There has come to you a good advice from your Lord (i.e. the Quran, ordering all that is good and forbidding all that is evil), and a healing for that (disease of ignorance, doubt, hypocrisy and differences, etc.) in your breasts, – a guidance and a mercy (explaining lawful and unlawful things, etc.) for the believers" (Quran 10:57).

Analytically, the above Quran injunctions would mean that in whatever man can do has to be guided by the supreme law that's shariah. In the context of the study, all transaction carried out has to be corresponding to the teachings of shariah (Islamic law).

Furthermore, western writers such as Joseph Schacht 1982, described sharia as the sacred Law of Islam is an all-encompassing body of religious duties, the totality of Allah's commands that govern the life of every Muslim in all aspects; it includes ordinances concerning worship and ritual, as well as political and legal rules (Muhammed & Ali, 2017b).

In short, Shariah was sent by Allah to accomplish specific objectives, also known as Maqasid asyar'iah. According to al-Ghazali, the main goal of Sharia is to achieve general benefit, specifically to protect the five essential elements of human life. Shariah's specific objectives include five basic principles: 1) protecting religion (hifzh al-din); 2) protecting the soul (hifzh al-nafs); 3) protecting the intellect (hifzh al-aql); 4) protecting human sustainability (hifzh al-nasl); and 5) protecting property (hifzh al-maal) (Ismanto, 2021).

Sources of shariah

According to book authored by (Muhammad & Elesin, 2022) the primary sources of Shariah are the Quran and Sunnah/hadith and the secondary sources mainly include not limited to the following; Ijma (Consensus) and Qiyas (Analogical Reasoning). The authors continue and explain the sources as follows;

The Quran is the holy text of Muslims and the word of God which was revealed to prophet Muhammad (peace be upon him). It is the original source from which all principles and ordinance of Islam are drawn. The Quran was revealed in piecemeal within an approximated period of 23 years, according to the needs of time and to provide solutions to the problems which came before the Messenger of Allah (peace be upon him).

The Sunnah/hadith, technically, Sunnah according to the jurists is "the saying (qawl), practice (fi'el) and approval (taqrir)" of the Messenger of Allah, prophet Muhammadi (peace be upon him). Sunnah is the second primary source of Islamic law. It is a rule of life and refers to the exemplary conduct or the model behaviours of the Messenger (peace be upon him), comprising what he said, did or approved. Thus, it becomes a very important source of the Shariah.

Ijma (Consensus of Opinion of Jurists). Besides the Quran and Sunnah, the consensus of opinion of scholars (Ulama) learned men and women, known in Shariah terminology as Ijma

follows next. Ijma plays an important role in Islamic law, since it provides a broad vehicle of progress when there is no clear guideline or explicit rule in the Quran and Sunnah on the subject under consideration.

The fourth source of Shariah is Qiyas (analogical deduction). Literally, Qiyas in Arabic means: measuring or ascertaining the length, weight, quality or value of something according to the value of its equivalent. Qiyas also means comparison with a view of suggesting equality or similarity between two things. It thus suggests an equality or close similarity between two things one of which is taken as the criterion for evaluating the other. Qiyas is a legal principle introduced in order to arrive at a logical conclusion of a certain law on a certain issue that has to do with welfare of the Muslims. In exercising this, however, it must be based on the Quran, Sunnah and Ijma. Qiyas therefore means a parallel source in its juristic use. Thus, if some practice was previously allowed or disallowed, as the case may be, by a text or Ijma and especially if the effective reason (العلة) behind the previous decision is known, it will be a basis for allowing or disallowing a new practice of similar nature especially if it will fulfill the underlying justification or reason (العلة) or in some cases, the wisdom (hikmah) for or against such practice.

In conclusion, the Quran and Sunnah, take precedence in Islamic law over secondary sources, which, however, are very relevant to the development of rules for Islamic finance. As a result, these serve as broad guidelines for Islamic finance institutions.

Shariah Advisory Board

Shariah Advisory Board (SAB) is another name for Shariah Supervisory Board (SSB) and has no standard definition. Accordingly, Sharia Advisory Board (SAB) refers to the follow-up, testing and analysis of the works, behaviors and actions that are conducted by individuals, groups, institutions, units and others to ensure that the Islamic financial transactions are in accordance and within the requirements of the Shariah by using the legitimate means and indicating any irregularities and their solutions (Injas et al., 2016). According to Accounting and Auditing Organisation for Islamic Financial Institutions (AAOIFs), Shariah supervisory board is defined as “an independent body of specialized jurist in fiqh al mu’amalat (Islamic commercial jurisprudence). However, the Shariah supervisory board may include a member other than those specialized in fiqh mua’malat, but should be an expert in the field of Islamic financial institutions (IFIs) with the knowledge of fiqh mua’malat.” Their main responsibility is to provide direction, guidance, supervision related to the activities of the Islamic financial institution. The purpose is to ensure IFIs are in compliance with Shariah rules and principles (AAOIFs governance standard No.1). It’s also maintained by the same governance standard that; SAB conduct board meetings to form a report to be presented to board of directors and the basic elements within the report include; Title, Addressee, Opening or introductory paragraph, Scope paragraph describing the nature of the work performed, Opinion paragraph containing an expression of opinion on the compliance of IFI with shariah rules and principles, Date of report and Shariah supervisory board’s signature.

Sharia Scholars

According to (Fakhruddin et al., 2020) revealed that, educational background is a significant factor in the disclosure practice. Education can be used as a sole measure for determining the professional level. With regards to the unique role that SAB members are expected to fulfill, SAB members should have the knowledge especially of Islamic law, economics, and financial and accounting practice, which will enable them to know not only the Shariah problems but

also problems relating to law and economics, since such problems in many situations are brought about by the manner in which they are interpreted. Members of the SAB with a doctorate are clearly more knowledgeable about the current implications of Islam for the IFIs. Furthermore, (Pollard & Samers, 2013) stressed that, shariah scholars do not simply embody, perform, and mobilize Islamic values and expertise but also exercise formidable and often unquestionable religious authority measured by their ability “to modify, in a deep and lasting fashion, the practice and world-view of lay people”. Shariah scholars working in IFIs are an especially select group, combining as they do specialized knowledge of the Qur’an with training in fiqh al-mua’alat (Islamic commercial law), financial and commercial law. Similarly, (Laldin & Furqani, 2014) posits that, a shariah advisor should possess necessary knowledge, expertise or experience in fiqh al- mu’amalah or usul al- fiqh, have considerable knowledge of current practices in finance and Islamic finance, and be a person of reputable character.

Establishment of Shariah Advisory Board

Alnofli & Ali (2020) explained that, in Malaysia, BNM lays out that the appointment of Shariah committee members must be made by the BOD upon the recommendation of its nomination committee with the prior written approval of BNM. In Pakistan, the State Bank of Pakistan (SBP) states that the BOD has the responsibility of appointing the SSB to advise it on all Shariah issues and assist in developing a sound Shariah compliance framework. Moreover, the BOD has the duty to approve the terms of reference (TOR) and to fix the SSB’s remuneration in the case of local IFIs. Alnofli & Ali (2020b) maintains that, in the case of foreign banks with Islamic banking branches, the appointing of the SSB must be made by the country manager or the chief executive officer of the bank. In Nigeria the SSB is referred to Shariah Advisory Committee (SAC) and Islamic financial institutions referred to as Non-Interest Financial Institutions (NIFIs). The Board of Directors of a NIFI appoint members of the SAC subject to the approval of the Central Bank of Nigeria (Financial Policy & Regulation Central Bank Of Nigeria, 2010). Similarly, to Bank Indonesia states that the SSB members should be appointed by the Central Bank, thus, the members will enable to be above all the institution's stakeholders' interests. Hence, the SSB members may be enabled to be really representing the interest of all of the Islamic financial institution's stakeholders, particularly in ensuring that the Islamic financial institution's operations are in accordance with Shariah principles (Arsyanti, 2010).

As a result, there are some differences between AAOIFI, Malaysia, Pakistan, Nigeria and Indonesia in appointing the members of SSB. Accordingly, (Hussain et al., 2016) discloses that, in AAOIFI the shareholders have the right to appoint members of the SSB during the AGM with a recommendation of the BOD. However, all recommend Islamic Financial Institutions to have established Shariah Advisory Boards, despite the differences in its formation.

Roles of Shariah Advisory Boards

Fadhana Mohd Noor & Affendi Ismail, (2021) elaborates that, shariah governance of the IFIs, specific roles are entrusted to the SAB. These roles are generally formed from the SABs’ responsibilities and they were adopted from Bank Negara Malaysia (BNM) Shariah Governance Framework (SGF): (1) Advisory Role. Among the imperative role of the SAB is to advise the Board of Directors on Shariah matters. The advices given by the SAB is to ensure that the business operations of the IFIs comply with Shariah principles at all times. This role is practiced through the Shariah meetings conducted within the IFIs regularly; (2) Consultancy

Role. This role is different from the advisory role placed on the SAB. There are a few occasions where the SAB has to perform its consultancy role. For instance, related parties of the IFIs, such as the IFIs' legal counsel, auditor or consultant, may seek advice on Shariah matters from the SAB. Under this circumstance, the SAB is obligated to provide appropriate consultancy for them. BOD consultation with the SAB is also a must when the BOD intends to approve policies related to Shariah matters; and (3) Oversight Role on Shariah Matters. Instead of issuing decisions, views, and opinions on Shariah matters, the Shariah governance obligates the SAB to observe the Shariah review and Shariah audit reports to identify issues that need the attention of the committee and where applicable, recommend corrective measures. This role is carried out by reporting the issues to the BOD. If the SAB has reason to believe that the issues have not been addressed adequately or effectively or the IFIs have not taken the corrective measures, they must report it to the relevant Authority. For example, if the SAB is for Takaful operator, the issue has to be reported to Insurance Regulatory Authority Central Shariah Advisory Board or Council (CSAB/C). It should be noted that when the CSAB/C is established, it; (1) advise the authority on matters of regulation and supervision of IFIs and (2) approve any product to be offered by financial institutions conducting Islamic finance (BoU Statutory Instruments, 2018).

Responsibilities of the Shariah Advisory Board

Fadhzana Mohd Noor & Affendi Ismail, (2021) further maintains the responsibilities of SAB: (1) Issue Decisions, Views, and Opinions related to Shariah Matters. The SAB is under the obligation to issue decisions, views, and opinions on the Shariah matters pertaining to the business of the IFIs. The decisions, views, and opinions are considered accountable advice to the BoD and the IFIs regarding the IFI's Shariah compliance; (2) Identify Issues Related to Shariah Matters (Oversight). Instead of advising the IFIs in Shariah meetings regularly and provide advices or consultancy upon request, it is also the responsibility of the SAB to identify issues that require the attention of the IFIs. For instance, in the case of non-compliance activities by the IFIs. To discharge this responsibility, the SAB is under the obligation to scrutinize the Shariah review and Shariah audit reports; (3) Endorse Policies, Procedures, and Relevant Documents. It falls under the responsibility of the SAB to endorse Shariah's policies and procedures. This endorsement by the SAB is necessary before the BoD approves the policies and procedures. At the same time, the SAB also has to endorse and validate certain documents to fulfil its advisory and consultancy roles. When the SAB issues its views on certain matters, like product and manual, all the related documentations must be endorsed and validated.

Duties and Responsibilities of IFI Regarding the SAB

According to (Herrera et al., 2013), to ensure the smooth running of the Shariah Advisory Board (SAB), an IFI is responsible: (1) To refer all Shariah issues to the SAB. The IFI must refer all Shariah issues in its business operations to the SAB for advice. The submission for advice or a decision must be made in a comprehensive manner for an effective deliberation by the SAB. This will include explaining the process involved, documents to be used and other necessary information; (2) To adopt the SAB's advice. The IFI is required to adopt and take necessary measures for the implementation of SAB's advice; (3) To ensure that product documents be validated. The IFI shall obtain validation of the SAB relating to Shariah issues in all product documentation; (4) To have a Shariah Compliance Manual. The IFI shall ensure that the Shariah Compliance Manual is endorsed by the SAB; (5) To provide access to relevant

documents. The IFI must provide necessary assistance to the SAB. The SAB must be given access to relevant records, transactions, manuals or other relevant information, as required by them to perform their duties; (6) To provide sufficient resources. The IFI must provide the SAB with sufficient resources, such as budget allocation, independent expert consultation, reference materials and training. It is also the duty of the Islamic financial institution to familiarize the SAB on its operation and business; (7) To remunerate the members of the SAB accordingly. The Board shall determine the remuneration of the SAB members (through its Remuneration Committee). The remuneration shall commensurate and reflect the roles and functions of the SAB. Observably, every IFI should have a Shariah Advisory Board (SAB), to play an independent role in ensuring Shariah compliance in IFIs. In the matter of independence, (Fadhana Mohd Noor & Affendi Ismail, 2021) revealed that, the significance of SAB's independence is linked to the success of the Shariah governance of the IFIs. The independence of the SAB in Shariah governance Framework (SGF) is described as being "free from any undue influence that would hamper the Shariah board from exercising objective judgment in deliberating issues brought before them. Correspondingly, the Shariah board is expected to make sound decisions on Shariah matters independently and objectively.

Shariah Governance Framework and AAOIFI

Ahmad et al., (2023) explained that, the primary goal of the Framework is to strengthen the overall Shariah compliance environment of IFIs by defining the roles and responsibilities of the various organs of IFIs, such as the Board of Directors (BOD), Executive Management (EM), Shariah Board (SB), Shariah Compliance Department (SCD), Product Development (PD), internal auditors and external auditors, regarding Shariah compliance. Despite the primary goal of the framework, according to (Proceedings of the 14th Meeting of the COMCEC Financial Cooperation Working Group, 2020) Dr. Malik introduced the AAOIFI shariah Governance Framework components and the corresponding governance standards in these areas, these include: (1) Central Shariah Board; AAOIFI has issued GS 8, which aims to establish an advanced degree of harmonization and convergence in the work of Shariah Supervisory Boards of Islamic financial institutions to iron out the situations of inconsistencies and differences between the Fatwas, rulings, decisions and applications by such entity-level boards. This will allow uniformity in products and services offered by the IFIs and the promotion of standardized practices. By issuing this standard AAOIFI encourages CSB but does not mandate it in countries where AAOIFI standards are adopted; (2) Shariah Supervisory Board; A Shariah supervisory board is an independent body of specialized jurists in Fiqh Al-Mua'malat that is entrusted with the duty of directing, reviewing and supervising the activities of the Islamic financial institution in order to ensure that they are in compliance with Shariah Rules and Principles. AAOIFI has issued GS 5 on independence of Shariah Supervisory Board; (3) Shariah Compliance Function; AAOIFI issued GS 9 with the objective to set out a comprehensive framework for Shariah compliance function for the IFIs comprising of defining the role of Shariah compliance as part of governance, controls and practices of the IFIs; and the establishment of a Shariah compliance department within IFIs and its key functions, responsibilities and structure; (4) Internal Shariah Audit; GS11 on Internal Shariah Audit aims to provide improved guidance on Internal Shariah Audit function in Islamic financial institutions. The standard prescribes the compliance, quality control and ethical requirements, objectives and organizational structure along with the professional requirements with regard to the principal procedures, documentation and reporting for internal Shariah audit. The internal Shariah audit guidelines are also in the process and will be

issued in some time; (5) External Shariah Audit; AAOIFI has already issued a Shariah audit standard (AS 6) while it is in the process of issuing guidelines, which is required to ensure an independent conclusion on the Islamic financial institutions' compliance and on the design and operating effectiveness of controls implemented to achieve the compliance.

Dr. Malik also presented similarities and differences between AAOIFI Shariah Governance Framework and IFSB Shariah Governance Framework. Some of the important points include: (1) Tenure of appointment of Shariah board is not specified in the IFSB Shariah governance framework, however AAOIFI Shariah governance framework states rotating at least one member every five years; (2) Minimum number of Shariah board members according to AAOIFI is three for institutional Shariah board while it is five or seven for CSB, while IFSB does not specify it; (3) On the terminations, appointment and remuneration IFSB is silent, while AAOIFI specifies that shareholders in annual general meeting on board of director's recommendations are responsible; (4) On the minimum number of meetings, a year, IFSB recommends twice a year while AAOIFI is silent for individual Shariah boards and leaves CSB to decide for itself; (5) With regards to delegating Shariah boards powers to internal Shariah officers, AAOIFI has placed no such provision while IFSB has allowed it; and (6) External Shariah audit is required based on AAOIFI Shariah governance framework however, it is not a requirement from IFSB.

Corporate Governance

According to (Hasan, 2008) states that, the concept of corporate governance (CG) from Islamic perspective does not differ much with the conventional definition as it refers to a system by which companies are directed and controlled with a purpose to meet the corporation's objective by protecting all the stakeholders' interest and right. Further (Abd Razak, 2018) argued that, the concept of CG is evident within the Shariah legal principle of al-siyasah al-Shariyyah, which refers to public policy in accordance with Islamic law on matters necessary to the community such as, inter alia, market regulation, taxes and public security. Therefore, CG clarifies the need for good governance and constructive collaboration between authorities and other members of the community. For example, corporate governance is categorized as one of the best factors for influencing growth of takaful industry (Ullah, 2023). From the Quran, the concept of CG would be achieved through justice and good conduct. Adil which means justice and good conduct in action which also means an act that is not biased or unfavourable to one party and give something to the others in accordance with their right. With this, the quranic injunction says; "Indeed, Allah orders justice and good conduct and giving to relatives and forbids immorality and bad conduct and oppression. He admonishes you that perhaps you will be reminded" (Quran 16:90).

Further, the code of conduct would lead SAB members to carry out their duties with high responsibility, honesty and transparency in all activities. This is elaborated and extracted from Quran injunction which says;

"To Allah belongs whatever is in the heavens and whatever is in the earth. Whether you show what is within yourselves or conceal it, Allah will bring you to account for it..." (Quran 2:284). Ahmed & Khatun, (2013) asserts that, the philosophical foundation of corporate governance in Islam requires an additional layer of governance for the purpose of Shariah compliance. With this aspiration, corporate governance in IFIs needs a set of institutional arrangements to oversee the Shariah compliance aspect of their business and operations. According to (Elamer et al., 2020) stresses that, Islamic governance in the form of the SAB is an important internal CG mechanism assuring sharia compliance, which is rooted in Sharia principles and

rules. Theoretically, agency theory suggests that effective SAB can mitigate agency conflicts and information asymmetry between insiders (management) and shareholders by providing fruitful and independent supervision regarding Shariah compliant products and operations. Kachkar & Yilmaz, (2022) explained that, corporate governance in IFIs is unique due to the nature of Islamic finance, which distinguishes IFIs from conventional Financial Institutions. This peculiarity poses additional challenges for IFIs in CG including internal control, risk management, transparency, Shariah approval, external audit and prudential supervision. Moreover, the modes of business contracts are quite important in IFIs. For instance, in the mudarabah contract (profit-sharing partnership), IFI managers act as an agent for the shareholders as well as a mudarib for the investment account holders (IAHs). This situation increases the possibility of conflict of interest for IFI managers in reaching a trade-off between the interests of shareholders and IAHs. However, in the governance system, BOD is responsible for the overall Shariah issues, managerial responsibilities and application of the suggestions of the SAB to protect and accomplish the demand of the concerned stakeholders (Alam et al., 2020).

Nevertheless, (Md Zain & Shafii, 2018) denoted that, IFIs are required to adopt the framework as guidelines on Shariah governance. Other than Central Shariah Regulatory Authority, the Shariah Governance Framework (SGF) is monitored by Shariah Board whereby the Shariah Board functions to control the IFIs transactions based on Islamic law. The Shariah Board members are entrusted towards the duty of directing, reviewing and supervising the activities of IFIs to ensure all transactions comply with Shariah principles. In the same context the study by (Mahmud et al., 2022) shows that Shariah governance of Islamic financial institutions needs to work in coordination with the Board of Directors, Executive Management, and Advisory Council of Experts to achieve the objectives of Islamic finance and Shariah compliance in every product and service.

Islamic Financial Institutions

Islamic Financial Institutions (IFIs) follow ethical practices in compliance with Shariah principles which insist on lawful transactions and prohibit interest and speculation in business transactions. Shariah compliant financial products are the foremost feature of IFIs (Ali Aribi & Arun, 2015). The Islamic financial system or IFIs encompasses the Islamic banking system, Islamic money market, Islamic insurance or takaful, Islamic capital market and the specialised financial institutions which provide alternative sources of financing (Billah, 2019). According to (Tatiana et al., 2015) Islamic financial institutions are part of the modern world economy and subject to the same economic laws as traditional (non-Islamic) financial market participants. In practice, the role of Islamic finance is increasing every year. The former researcher maintains some of the reasons causing this phenomenon as follows; observingly these seem to be the same case to Uganda;

First, in many countries there has been a rapid growth of the Muslim population. For example, the Muslim community in Europe is becoming every year more and more to be taken into account by politicians as well as economists.

Secondly, there is currently a growing interest in Halal (allowed) financial products is observed among non-Muslims. Investments of European banks in sukuk (Islamic securities) aroused interest among private investors who would like to take into account ethical and/or religious aspects in their investment decisions. Choosing the Shariah compliant products, they can be sure they don't invest in unethical from the point of view of the religion industry. This can be

important also for Christians and Jews: they can be assured that prohibited interest is excluded.

Thirdly, there is a wave of issuing licenses and permits, which allows you to start providing retail banking (mortgages, insurance and loans) in accordance with the Shariah. European governments changed their policy, they now call to pay more attention to the needs of Muslim communities in Europe. The authorities have begun to respond to these needs that were not taken into account.

Fourth, government officials and traditional banks saw in Islamic banking and finance promising business opportunity and not a "handout" of ethnic minorities. In addition, a large number of professional investors want to include Islamic financial products in their portfolio for diversification purposes.

Principles of Islamic financial institutions

According to (Van den Berg, 2016) explains that, Islamic finance involves three key principles with which all IFIs must comply: (1) Riba (interest). Interest whether fixed, floating, simple or compound interest is prohibited because no one should be able to earn an income from money alone; and (2) Gharar (excessive or deceptive uncertainty or risk). Excessive risk or uncertainty that may void a transaction or contract, particularly with regard to future events and qualities of goods, also includes deceit; and (3) Maysar (gambling). It is forbidden for one party to gain significantly at the expense of another. This includes borrowing money to speculate on currency movements or similar activities. Moreover, in any Shariah compliant financial transaction, certain products are prohibited. For example, it is forbidden to purchase, invest in, negotiate or trade with or in any way involve products related to alcohol, tobacco, pork, pornography, gambling or weapons.

Conclusion

Based on this paper, it can be seen that; (1) Shariah is the body of laws and rulings extracted primarily from the Qur'an and Sunnah. The Quran uses the term Shariah to mean religion, in the sense that man's entire life demonstrates obedience to what Allah has ordained; (2) Shariah supervisory board also referred to Shariah Advisory Board is an independent body of specialized jurist in fiqh al mu'amalat (Islamic commercial jurisprudence) and other member other than those specialized in fiqh mua'malat, but having expertise in the field of IFIs with the knowledge of fiqh mua'malat. Their main responsibility of SAB is to provide direction, guidance, supervision related to the activities of the IFIs; (3) Islamic financial institution means a company licensed to carry on financial institution business whose entire business comprises Islamic financial business and which has declared that its entire operations are and will be conducted in accordance with the Shariah; (4) Every financial institution which conducts Islamic financial business shall appoint and maintain a Shariah Advisory Board; (5) The significance of SAB's independence is linked to the success of the Shariah governance of the IFIs; (6) In the corporate governance system, BOD is responsible for the overall Shariah issues, managerial responsibilities and application of the suggestions of the SAB to protect and accomplish the demand of the concerned stakeholders; (7) Shariah scholars should have the knowledge of Islamic law, Islamic commercial law (Mua'amalat) and experience in financial service industry and a person of reputable character; (8) Central Shariah Advisory Council for all regulatory Authority of Islamic finance is fundamental for establishment so that, they can supervise and monitor the overall activities of Islamic finance business for each IFI. (9)

Benchmarking with international organizations and other countries to share best practices and experiences in

In the Ugandan perspective there's scanty literature about the topic under study. Since it's the first of its kind in Uganda, it will guide the IFIs on developing the conceptual model and integrating it into the performance of IFIs by benchmarking the best practices of Shariah governance. In addition, the study is applicable to any relevant institution or jurisdiction similar to Uganda and it will help to strengthen the understanding of shariah advisory board in the corporate governance of any IFIs.

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References

- Abd Razak, A. H. (2018). Centralisation of corporate governance framework for Islamic financial institutions: Is it a worthy cause? *ISRA International Journal of Islamic Finance*, 10(1), 36–51. <https://doi.org/10.1108/IJIF-08-2017-0020>
- Accounting and Auditing Organization for Islamic Financial Institutions*. (n.d.). Retrieved February 14, 2023, from <https://aaoifi.com/our-history/?lang=en>
- Ahmad, Z., Muneeza, A., & Mahomed, Z. (2023). *A Comparative Analysis of Shariah Governance Framework of Islamic Bank in Malaysia and Pakistan*. June. <https://doi.org/10.54045/talaa.v3i1.726>
- Ahmed, M., & Khatun, M. (2013). The Compliance with Shariah Governance System of AAOIFI : A Study on Islamic Banks Bangladesh. *Journal of Islamic Economics , Banking and Finance*, 9(3), 177–191. <https://doi.org/10.12816/0001617>
- Alam, M. K., Tabash, M. I., Thakur, O. A., Sahabuddin, M., Hosen, S., & Hassan, M. F. (2020). A central shariah regulatory authority for the islamic banks in Bangladesh: Legalization or formation. *Journal of Asian Finance, Economics and Business*, 7(1), 91–100. <https://doi.org/10.13106/jafeb.2020.vol7.no1.91>
- Ali Aribi, Z., & Arun, T. (2015). Corporate Social Responsibility and Islamic Financial Institutions (IFIs): Management Perceptions from IFIs in Bahrain. *Journal of Business Ethics*, 129(4), 785–794. <https://doi.org/10.1007/s10551-014-2132-9>
- Alnofli, A., & Ali, E. R. A. E. (2020). The Role of Key Functions of Sharīah Governance in Islamic Financial Institutions. *International Journal of Fiqh and Usul Al-Fiqh Studies*, 4(1), 98–107. [http://irep.iium.edu.my/80268/1/80268_The Role of Key Functions of Sharī'ah.pdf](http://irep.iium.edu.my/80268/1/80268_The%20Role%20of%20Key%20Functions%20of%20Sharī%20ah.pdf)
- Arsyianti, L. D. (2010). the Role of Shariah Supervisory Board in Islamic Financial Industry (Case Study: Iran, Malaysia, and Indonesia). *Jurnal Ekonomi Islam Al-Infaq*, 1(1), 61–79.
- Augustine, A. (2022). Islamic Banking and Finance in Developing Countries: the Goals, Challenges and Prospects. *International Journal of Economics, Commerce and Management*, X(5), 348–369. <http://ijecm.co.uk/>
- Billah, M. M. (2019). The Islamic Financial System. *Islamic Financial Products*, 3–11. https://doi.org/10.1007/978-3-030-17624-2_1
- Elamer, A. A., Ntim, C. G., Abdou, H. A., & Pyke, C. (2020). Sharia supervisory boards, governance structures and operational risk disclosures: Evidence from Islamic banks in MENA countries. *Global Finance Journal*, 46(August 2018), 100488. <https://doi.org/10.1016/j.gfj.2019.100488>
- Fadhana Mohd Noor, N., & Affendi Ismail, N. (2021). *Responsibilities, Rights, and*

- Independence of Shariah Committees in Islamic Financial Institutions Based on Shariah Governance 2019*. 4(1).
- Fakhrudin, I., Jusoh, M. A., & Mat Noerwani, N. (2020). Influence Cross Membership and Qualifications of The Shari'ah Supervisory Board's Towards The Shari'ah Compliance related SSB Information. *Advances in Business Research International Journal*, 6(1), 20. <https://doi.org/10.24191/abrij.v6i1.9953>
- Haddad, A., & Bouri, A. (2022). The impact of Shariah Advisory Board characteristics on the financial performance of Islamic banks. *Cogent Economics and Finance*, 10(1). <https://doi.org/10.1080/23322039.2022.2062911>
- Hasan, Z. (n.d.). *CORPORATE GOVERNANCE OF ISLAMIC FINANCIAL INSTITUTIONS * * * **.
- Herrera, C., DuBois, D. L., & Grossman, J. B. (2013). *The Role of Risk The Role of Risk*. 38(2), 54–60.
- Hussain, M. A., Hassan, R., & Azhar, A. (2016). The procedures of appointment and cessation of the Shariah committee member of the Islamic banks and Takaful companies in Malaysia: Legal analysis. *International Journal of Economics and Financial Issues*, 6(7Special Issue), 266–270.
- Injas, M. M. Y., Haron, M. S., Ramli, R., & Injas, R. A. (2016). The Importance of the Shari' Ah Supervisory Boards (Ssbs) in the Islamic Banking System. *South East Asia Journal of Contemporary Business, Economics and Law*, 9(2), 25–31.
- Ismanto, K. (2021). *the Concept of Maqā Ṣ Īd Al- Syarī ' Ah Al- Ghazali As a Halal Industry Development*. 197(8), 180–197. <https://doi.org/10.5281/zenodo.5090788>
- Kachkar, O., & Yilmaz, M. K. (2022). How diverse are Shariah supervisory boards of Islamic banks? A global empirical survey. *International Journal of Ethics and Systems*. <https://doi.org/10.1108/IJOES-10-2021-0195>
- Laldin, M. A., & Furqani, H. (2014). Meeting expectations: The roles and responsibilities of Shari'ah scholars in Islamic finance. *Handbook on Islam and Economic Life, December*, 336–352. <https://doi.org/10.4337/9781783479825.00026>
- Lujja, S., Mohammad, M. O., Hassan, R. B., & Oseni, U. A. (2016). The feasibility of adopting Islamic Banking system under the existing laws in Uganda. *International Journal of Islamic and Middle Eastern Finance and Management*, 9(3), 417–434. <https://doi.org/10.1108/IMEFM-09-2014-0084>
- Mahmud, M. S., AbdulKareem, I. A., Ali, M. O., Fadah, I., & Arifin, A. A. (2022). Shariah Governance in Islamic Financial Institutions in Nigeria: An Empirical Study. *Proceedings of the International Conference on Management, Business, and Technology (ICOMBEST 2021)*, 194(Icombest), 168–179. <https://doi.org/10.2991/aebmr.k.211117.024>
- Malik, P. G. (2004). On governance. *Canadian Journal of Cardiology*, 20(1), 27. <https://doi.org/10.1007/978-3-030-54572-7>
- Md Zain, S. N., & Shafii, Z. (2018). THE IMPACT OF SHARIAH GOVERNANCE TO FINANCIAL AND NON- FINANCIAL PERFORMANCE IN ISLAMIC FINANCIAL INSTITUTIONS (IFIs): A LITERATURE SURVEY. *International Journal of Islamic Business*, 3(2), 27–40. <https://doi.org/10.32890/ijib2018.3.2.3>
- Moshinsky, M. (1959). No Titleبليب. *Nucl. Phys.*, 13(1), 104–116.
- Muhammad, A., & Elesin, J. (2022). *Basic principles of Sharī c ah (Islamic Law) Liman Sa ' adatu Hassan*. August.
- Muhammed, M. K., & Ali, M. M. (2017). The shariah and law : An analysis. *International Journal of Law, Government and Communication*, 2(5), 48–64. <http://irep.iium.edu.my/59977/>

- Office, C. C. (2020). *"Improving Shariah Governance Framework (SGF) in Islamic Finance COMCEC COORDINATION OFFICE. October. www.comcec.org*
- Pollard, J., & Samers, M. (2013). Governing Islamic Finance: Territory, Agency, and the Making of Cosmopolitan Financial Geographies. *Annals of the Association of American Geographers, 103*(3), 710–726. <https://doi.org/10.1080/00045608.2011.628256>
- Regulations, A. O. F. (2018). *S T A T U T O R Y I N S T R U M E N T S 2018 No. 37. CXI*(21), 337–363.
- Sources of Islamic Law - Islamic Labour Code.* (n.d.). Retrieved March 28, 2023, from <https://islamiclabourcode.org/sources-of-islamic-law/>
- Surah Al-Baqarah Ayat 284 (2:284 Quran) With Tafsir - My Islam.* (n.d.). Retrieved March 30, 2023, from <https://myislam.org/surah-baqarah/ayat-284/>
- Surah An-Nahl Ayat 90 (16:90 Quran) With Tafsir - My Islam.* (n.d.). Retrieved March 30, 2023, from <https://myislam.org/surah-nahl/ayat-90/>
- Surah Jathiyah Ayat 18 (45:18 Quran) With Tafsir - My Islam.* (n.d.). Retrieved March 28, 2023, from <https://myislam.org/surah-jathiya/ayat-18/>
- Surah Ma'idah Ayat 2 (5:2 Quran) With Tafsir - My Islam.* (n.d.). Retrieved February 3, 2023, from <https://myislam.org/surah-maidah/ayat-2/>
- Surah Ma'idah Ayat 48 (5:48 Quran) With Tafsir - My Islam.* (n.d.). Retrieved March 28, 2023, from <https://myislam.org/surah-maidah/ayat-48/>
- Surah Yunus Ayat 57 (10:57 Quran) With Tafsir - My Islam.* (n.d.). Retrieved March 28, 2023, from <https://myislam.org/surah-yunus/ayat-57/>
- Tatiana, N., Igor, K., & Liliya, S. (2015). Principles and Instruments of Islamic Financial Institutions. *Procedia Economics and Finance, 24*(July), 479–484. [https://doi.org/10.1016/s2212-5671\(15\)00613-9](https://doi.org/10.1016/s2212-5671(15)00613-9)
- Transforming Qualitative Information: Thematic Analysis and Code Development - Richard E. Boyatzis - Google Books.* (n.d.). Retrieved March 30, 2023, from [https://books.google.com.my/books?hl=en&lr=&id=_rfCIWRhIKAC&oi=fnd&pg=PR6&dq=\(Boyatzis,+1998&ots=EBuFxaq2n&sig=WLOdnqyd8imPg9emg61ggDt66ZA&redir_esc=y#v=onepage&q=content&f=false](https://books.google.com.my/books?hl=en&lr=&id=_rfCIWRhIKAC&oi=fnd&pg=PR6&dq=(Boyatzis,+1998&ots=EBuFxaq2n&sig=WLOdnqyd8imPg9emg61ggDt66ZA&redir_esc=y#v=onepage&q=content&f=false)
- Ullah, N. (2023). *A Review of Literature on Takaful and Conventional Insurance . Evidence from. May.* <https://doi.org/10.13140/RG.2.2.20096.00009>
- Van den Berg, H. (2016). The Role of Finance in Economic Development. *Economic Growth and Development, 481–540.* https://doi.org/10.1142/9789814733342_0011