Introduction: the origins and nature of the Islamic financial market

Abdulkader Thomas, based upon the work of Bryan Kraty, Stella Cox and Lawrence Oliver with Mustafa Hussain[1]

Introduction

The *Qur'an*, the revealed text of Islam, provides general advice about wealth. Not only does the pious Muslim have an obligation to spend wisely, and for the benefit of others, but he finds direction in the *Qur'an* relating to the accumulation of wealth. As the Islamic faith took root in sophisticated cities such as medieval Cairo and Baghdad, the precursors of today's banks took shape. These rules-based intermediaries provided an important source for the modern activity that we now call 'Islamic banking and finance'. Our challenge in this book is to work with these same rules, their modern applications, and cases exemplifying contemporary Islamic commercial contracts.

During the colonial area, the attention of Muslim governments, merchants, scholars and jurists to the particular rules of Islam relating to commerce withered. Only in the 1960s did new thinking about the subject become widespread, leading to multi-state and commercial experiments during the mid 1970s. These experiences have evolved into Islamic financial practice as we understand it today.

Early experiments

Classical Islamic expressions of commerce are found in the juristic and theological literature of the Middle Ages, when Islamic empires led the world in commerce. Yet many of the principles perfected both in the classical period and their modern applications pre-date Prophetic Islam. Chapter 1: Examining the role of Islamic law, looks at the methods applied by Muslims to adapt or modify existing tools and invent new ones in order to engage in commerce. To follow the evolution, we must first understand that the modern, emerging business of Islamic finance began with an experiment in micro-credit in the Nile Delta town of Mit Ghamr. The persistence of the project's primary sponsor, Dr Ahmad Elnaggar, to define key methods of Islamic finance led to the founding of a number of today's leading Islamic institutions including the Islamic Development Bank, Dubai Islamic Bank and the Dar Al Mal group of financial institutions.

Dr Elnaggar's project was ultimately terminated and he went into exile. He endured often hostile public debate in his quest to establish Islamic banking. Nonetheless, Dr Elnaggar was able to forge a consensus for the formalisation of Islamic banking by reaching out to important political, social and

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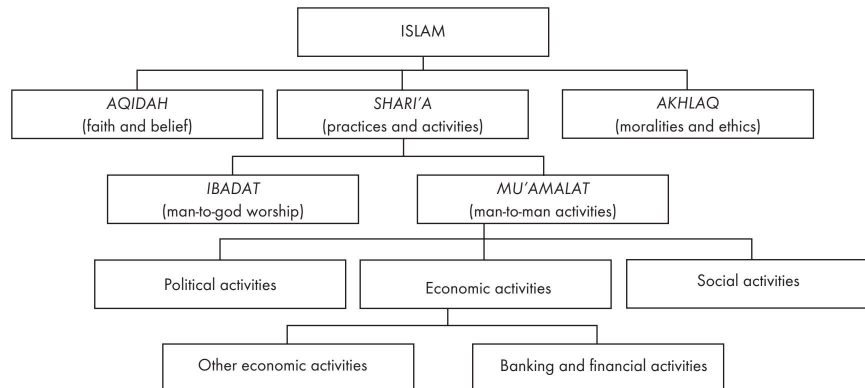
Exhibit 1 **Traditional Islamic construct**



Source: Bahrain Monetary Agency, *Islamic Banking & Finance in the Kingdom of Bahrain* (Bahrain: Bahrain Monetary Agency, 2002), p. 15. *Adapted from Islamic Banking Practice* (Bank Islam Malaysia Berhard, 1415H/1994).

commercial leaders in the Arabian Peninsula and Malaysia. These personalities included King Faisal of Saudi Arabia, Tengku Abdul Rahman of Malaysia, and Saeed Lootah of Dubai.

Dr Elnaggar persuaded these leaders that *riba*, something similar to interest, is explicitly forbidden in the *Qur'an*. If there is no other reason or justification, the devote Muslim must find a way to lead a life free from *riba*. And this means that contract forms, deal substance and approaches to commerce must be adjusted to comply with the injunction against *riba*. Dr Elnaggar's achievement was to raise the consciousness among Muslim opinion leaders and businessmen that modern alternatives to *riba* were feasible and realistic.

Prior to Dr Elnaggar's efforts, most Muslims had ignored the role of *fiqh al mu'amalat,* or the jurisprudence of commerce, in their financial arrangements. The traditional Islamic construct (see Exhibit 1) is to build upon belief and manners with the *Shari'a*, or Islamic law, the way to organise worship and human affairs, in ways that are consistent with the revealed text of Islam and the traditions of the Prophet Mohammed (PBOH).[2] *Fiqh*, which means 'understanding', and *mu'amalat*, which means 'works', combine to define the understanding of Muslims relating to social, political and commercial activities. Although the field has been well honoured in the social sphere, and less so in the political realm, it was widely ignored between the late 1700s and 1960s. When one considers the above classical depiction of the priorities driven by an individual's profession of Islam, it becomes clear why some may consider banking and finance a relatively low priority in the management of one's life. Dr Elnaggar, however, provided a reminder of the severity of the punishment for contracting with *riba* and Islamic scholars and opinion leaders began to view the diagram not as a prioritisation, but as a means of highlighting and organising faith-driven obligations.

The early pioneers of Islamic finance were driven by the overall tenet of sustaining an ethical and equitable mode of conducting financial affairs. Governed by *Shari'a*, Islamic finance derives its principles

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from the *Qur'an* and *Sunnah*. Although the *Shari'a* prohibits interest and similar forms of income, this does not mean that capital is cost free in an Islamic system. Islam recognises capital as a factor of production, but it does not allow the factor to make a prior or pre-determined claim on the productive surplus in the form of interest.

The core principles of Islamic finance are founded on the 'productive' use of money for community benefit. These will drive us to an asset-based system where money is not a commodity in itself, merely reflecting a value linked to the passage of time, interest, for a return. Because of this, financiers are party to the underlying transactions, which must be transparent with all details ascertainable, if not agreed, in advance with undisputed ownership. Preventable uncertainty, undue risk or systemic speculation is prohibited as well.

This book will show that Islamic finance is very flexible, despite its apparent limitations. When structuring in line with Islamic principles, financing may be provided to: private, public or sovereign entities; Islamic or conventional entities. Funding may come from Islamic or conventional investors. Although funds may be commingled, a point explained in Chapters 1 and 9, no Islamic funds may be used in conventional financings or governed by a contract that is impermissible according to Islamic rules. During the course of this book and its related cases, these points and related elements will be demonstrated.

For a financier to comply with Islamic ethics, the financier is not allowed to finance any activity or entity related to the manufacture, distribution or any facilitation of those things which are explicitly forbidden by Islamic law, namely: alcohol, pork products, illegal and intoxicating drugs, gambling, pornography, arms, and so on. Although business speculation in the ordinary course is understood, undue speculation akin to gambling and 'unjustified enrichment', as we will discuss in the next chapter, are forbidden. Furthermore, a primary value for Muslims is that money is not a 'commodity' and no receipt or payment of interest is allowed.

The growth of the Islamic finance industry

These concept points matter because as much as 20 per cent of the world's population adheres to Islam. The estimated 1.3 billion Muslims are one of the fastest-growing global communities. As we saw above, Islam is one of the most active religions in its efforts to provide comprehensive life guidance to its adherents.

The Islamic finance business is an industry which has known gradual and broadening success. The Islamic banking and finance business is undergoing remarkable growth. Between 2000 and 2004, the number of Islamic banks increased by 70 per cent with a comparable growth in both shareholder equity and assets.[3] Within this universe, money managers estimate that there is an active market for liquid funds looking for quality assets in the range of US$30–50 billion at any given time. This growing, but opaque, market includes trade finance within the Organization of the Islamic Conference (OIC) members, global trade flows, investment activity, and consumer finance and investment.

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Geographic dispersion

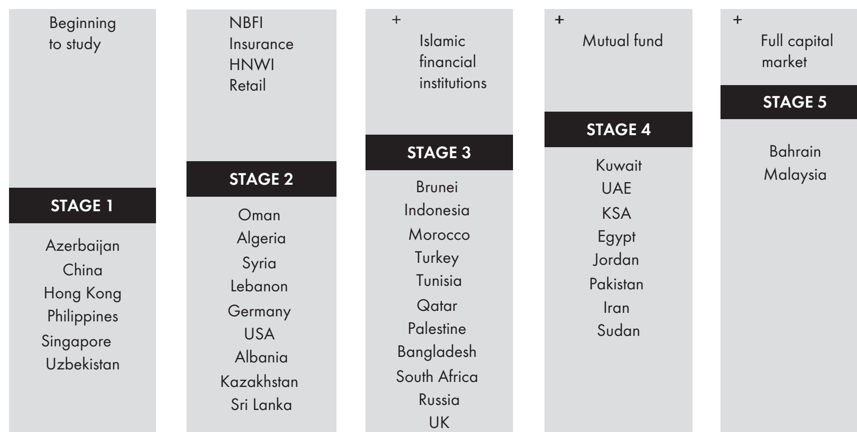
The growth is driven by an accelerating shift to Islamic finance in all Muslim societies. Retail investors are committed and surveys in Saudi Arabia have shown that as much as 76 per cent of the population desires Islamic banking.[4] Consumers, retail and corporate, are making themselves better informed about Islamic financial opportunities. Conventional bankers, too, are growing their knowledge and competitive position in this business segment. Both conventional bankers and Islamic bankers are improving their cooperation, increasing product offerings and enhancing the drive for improved Islamic finance infrastructure in Muslim countries. Demand is diversified by product and is experiencing geographic dispersion: more than two-thirds of Islamic funds are from the Middle East, with the bulk of the rest from south-east Asia and an emerging number from Africa, North America and Europe.

As much as the modern expression of Islamic values in finance has been centred in the Arabian Peninsula and Malaysia, London has been a global capital market centre for Islamic finance. For example, many transnational Islamic deals are governed by English law. And, with English as an important language for Islamic finance, we find logical expansions of Islamic finance in North America, South Africa and growing comfort with the concepts in a growing number of global jurisdictions. The client universe includes both Muslim consumers and global corporations. Indeed, with the *sukuk* (Islamic bonds, see Chapter 10: Opportunities with *sukuk* and securitisations) issuance by the German state Saxony Anhalt, Islamic financial vehicles are showing themselves to be useful tools for public finance.

This evolution is captured in Exhibit 2 which shows the distribution of institutional establishment of Islamic financial institutions around the globe.

Since the mid-1970s, Islamic finance has followed in the wake of innovations in the global financial services industry. First, this has a strong connection to the importance of London as a global

Exhibit 2 **Evolution of Islamic finance – markets overview**



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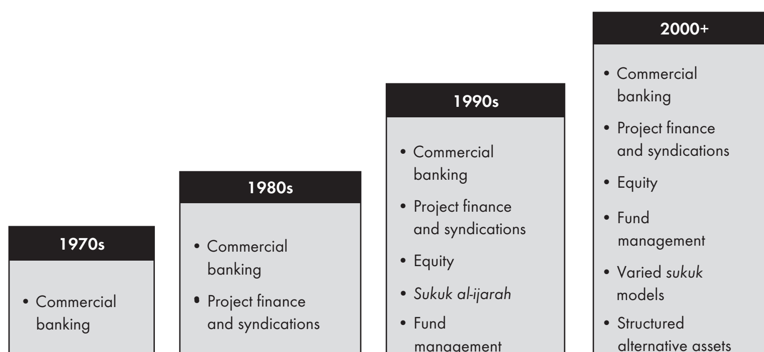
Islamic finance centre. Secondly, global developments have guided the shift among Islamic financial institutions from simple commercial banking products to more sophisticated capital market products with longer tenors. Although London is a premier centre providing capital market services to the global Islamic market, only Malaysia and Bahrain have fully integrated Islamic capital markets which offer virtually all of the capital markets resources found in highly developed conventional markets. Stage 3 and 4 countries are enjoying rapid development and may well be expected to leap rapidly to Stage 5. The number of Stage 1 countries is likely to increase with significant migration to Stage 2.

Curiously, Stage 2 is the most difficult space from which to graduate. Countries such as Algeria, Sri Lanka and the United States have been Stage 2 countries for a number of years and do not look likely to graduate to Stage 3 in the near future. Stage 2 is often the space in which ad hoc accommodations are made from a regulatory perspective. But, the commitment has not been made to formalise or grow specific regulatory regimes that accommodate the evolution of the business domestically.

From a product perspective, the developing Islamic financial markets have shown the following progression (see Exhibit 3).

When Islamic banking took form in the 1970s, the first-generation investors were familiar with such banking role models as Citibank, Barclays, Crédit Lyonnais (now CALYON) and similar commercial banks. The typical chief executive of a new Islamic bank was drawn from such commercial banks or their branches in the Islamic world. Along with the commercial banks, the Islamic banks undertook longer tenors and entered syndicated and project finance in the 1980s. Only in the 1990s did Islamic finance proponents begin to manage a shift to capital markets activities. These have flourished and this book will document the techniques that have been perfected by Islamic banks over these past 40 years, as well as many of the cutting-edge Islamic concepts now gaining a foothold in the Islamic market and its interactions with the global capital markets.

Exhibit 3 **Product timeline**



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Islamic finance principles

In the emerging business of Islamic finance, Islamic scholars play crucial roles in product development, compliance oversight, and validation of a product's or business' *Shari'a* compliance. A scholar may or may not have a formal degree in a relevant field relating to Islamic finance; or the scholar may have significant experience in the field and attain sufficient respect of others to be accepted as a formal scholar. Although some *Shari'a* scholars believe Islamic finance arrangements relate predominantly to the distribution of wealth,[5] the fact is that the universe of Islamic ideas that governs financial affairs does not fit uniquely into the categories of economic behaviour so well debated in the western academy: capitalism, socialism, communism or mercantilism. In fact, one can reasonably argue within each of these ideas of economic organisation that Islamic ideas might easily be applied. Yet, an examination of two primary precepts of Islam help one to understand better that Islamic finance is more properly a form of 'ethical capitalism'. The first precept is theological: free will. The second is commercial and has a corollary: it is the permission to own private property and the corollary is to freely contract with that property within Islamic confines.

The primary Islamic confine is the prohibition of *riba*, a concept explored in Chapter 1: Examining the role of Islamic law. As we work through the Islamic principles, we will learn that Islamic scholars worry about transactions in which:

> 'the investor has no concern whether the business runs into profit or loss, he automatically gets an interest (Riba) in both outcomes at a fixed rate on his capital. Islam prohibits this kind of trading and the Holy Prophet [sls] enforced the ruling, not in the form of some moral teaching, but as the law of the land.'[6]

With these very basic rules in mind, the primary stipulation of Islamic *Shari'a* is freedom to contract: that is, the parties to an Islamic financial transaction are free to agree any terms they wish, provided those terms are then expressly abided by, and do not conflict with or contradict aspects specifically prohibited under Islamic law.

Core mechanisms

It has been said that: 'In fact, the majority of financial instruments are not revolutionary or new instruments. They are merely combinations of older generation derivatives and/or standard cash market instruments.'[7] Islamic finance is based on the productive use of money for community benefit and is an asset-based system. As such, Islamic products parallel the range of conventional products except for those involving interest unrelated to underlying assets – such as overdrafts, non-inventory-based working capital, general purpose short and medium-term loans and most derivatives. The reason for this parallel existence is that most expertise for financial architecture is in the West and the East is following behind in its tracks. Market forces dictate that to achieve a quicker business success it is easier to tweak conventional models to make them Islamic, or to apply the least-complicated Islamic concepts under conventional regulations, than it is to engineer from scratch new models that can be used bespoke.

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In Islam, the owner of capital may profit by sharing risks and rewards in commerce. The range of such activities runs from what one views as being traditional investment management to the partnering in a particular transaction or operating business. The latter may include a true merchant risk with all attendant liabilities or it may mean highly structured funding mechanisms such as those covered in the advanced chapters of this book. Capital may be applied to merchant trading – mark-up governed by contractual pricing or leasing with rentals made fixed or variable according to mutually agreed terms.

Islamic finance instruments

These core mechanisms are the principal groups of trade-related financing instruments. What we mean, and will demonstrate throughout our text, is that these are not 'trade finance' products, even if they may serve that purpose. Rather, the Islamic product universe of financial products is closer to the channels of commerce and trade than traditional debt instruments.

The classical partnership models are explored in Chapter 3: Equity finance vehicles: *mudaraba* and *musharaka*. These methods are finding new and exciting applications in western banks as well as emerging markets corporate finance. For instance, the most widely applied tool of Islamic banking over the past 30 years is the deferred payment sale. When one examines *fiqh al mu'amalat* in the classical texts, the dominant body of literature relates to sales: whether current, deferred or future delivery. These vehicles, including sale of the usufruct or leasing, are covered in Chapter 5: Lease finance and *ijarah*. The widespread acceptance of these applications relates both to the immaturity of the market and the ease with which conventionally trained financiers may adapt to them, easily analogising them to standard loans or leases. Nonetheless, an increasingly informed universe of bankers and consumers is demanding more sophistication as is suitable to more financial risks and challenges.

Complex adaptations of these for working capital, construction and leasing are covered in Chapter 5: Lease finance and *ijarah*, and Chapter 7: Complex transactions: *istisna'a*, pre-export or manufacturing finance working capital and project finance. The extension of these concepts to the management of excess funds is covered in Chapter 11: Liquidity management: developing the Islamic capital market and creating liquidity.

Understanding how equity and contractual arrangements may be reconstituted to generate marketable securities is discussed in Chapter 10: Opportunities with *sukuk* and securitisations, and Chapter 9: Islamic asset management. In this former case, the expanding universe of *sukuk* is transforming how the entire market conceptualises risk management and the transfer of ownership. This has important implications for the future evolution of risk management procedures and other derived instruments as discussed in Chapter 12: Risk management and derivatives. Just five years ago, the white and black boxes in Exhibit 4, along with the least aggressive leasing models, were the primary engines of Islamic financial behaviour.

When we examine the risk–reward distribution of Islamic assets as now deployed in the Islamic market, we see a growing richness. The rapidly expanding range runs from structured commodity trades

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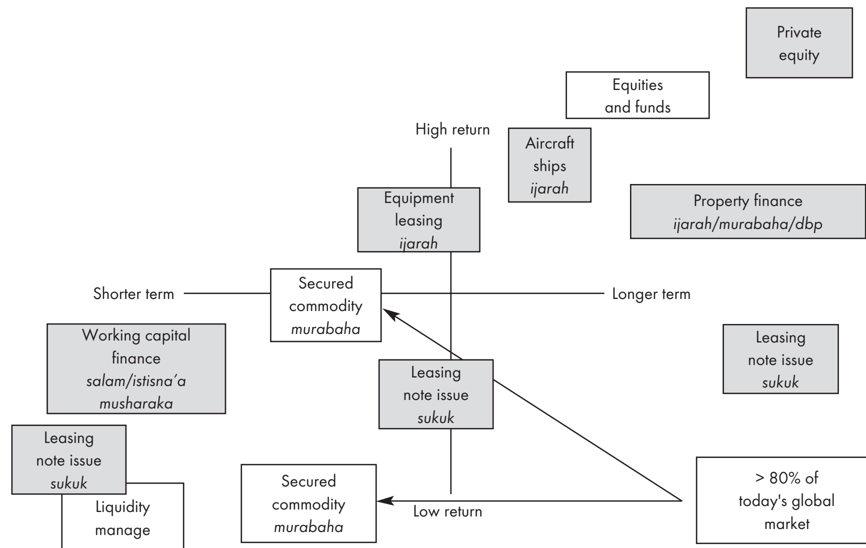
Exhibit 4 **Islamic financial assets**



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to private equity transactions. The transparent white boxes represent the dominant transaction universes of Islamic banking over the past 35 years; the black boxes are the areas of current rapid growth; and the grey boxes are the evolving areas of Islamic finance most suitable for securitisation and prospectively liquidity management, depending upon the structure of the securities issuance. The focus of this book is to describe the principles that allow one to structure the named transactions in this exhibit and how these are evolving to benefit the global financial markets.

A repeated theme of this book will be that assets and funding have to be structured in accordance with Islamic law. Whether one is serving private, public or sovereign sectors, Islamic or conventional obligors, the assets are subject to what we consider to be the 'sin' screens. Although it may surprise some Muslims, Islamic scholars are agreed that the funds applied may be sourced from Islamic or conventional investors, and their funds commingled, so long as the structure, applications and contracts are compliant with *Shari'a*.

These strictures mean that *Shari'a* authentication is the keystone of this emerging market. *Shari'a* opinions are needed for new products and structures, as well as for the complex documentation associated with syndications in the project and lease financing businesses. Significant work has been made in agreeing standard forms, contracts and structures. As a result, as individual transactions fall into standard or pre-approved structures, then new *Shari'a* authentication is not needed provided the individual transactions contain no alteration to terms of the pre-approved model. Nonetheless, all transactions are open to *Shari'a* audit so long as the provider wishes to retain its certificates (called *fatawa* – plural, or *fatwa* – singular) of *Shari'a* compliance.

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What is money?

The classical Islamic scholar Abu Hamid Muhammad Al Ghazali wrote that money:

> '… only reflects the value of goods … Money should not be created just because its very existence should create a demand for it, but rather it should be used for the procurement of other goods.
>
> '… money has been created so as to be a measure of values and an instrument for exchange. Money itself has no intrinsic value. Had it an intrinsic value, it could not have played its role as money and would have become like other commodities …
>
> 'Hoarding of money, as well as collecting *riba* on money, means man has turned money into something desirable for its own sake. "*Riba*" denotes that man is trying to "create" money through the medium of money itself, earn more money with less money.'[8]

This classical definition of money is the defining element in Islamic transactions. Each time we cover a specific concept, we will seek to remove money as the object of the contract and return it to its role as our yardstick, measuring the return on our transaction.

What does this mean for banking and finance?

Al Ghazali's concept hearkens directly to the original *Qur'anic* injunction and how the Prophet Mohammed (PBOH) interpreted the *Qur'an* through his judgement or recorded actions. Chapter 1: Examining the role of Islamic law looks at the *fiqhi*, Islamic juristic rulings, the basis for modern Islamic finance. These rulings will provide a specific way of defining a contract, its object and how the contract transacts upon the object with others. We will see that the object itself, not money, is going to limit the ultimate derivations of the transaction. The outcome will be a more restrictive universe of financial arrangements with fewer options for parsing the elements of contract and allowing for a separation of the object, the contract and the cash flow. This asset-dominated family of contractual and transactional processes will have a different impact on the financial system, perhaps reducing the absolute risks to the financial system.

Systemic challenges

Throughout the past 200 years, the evolution of banking has been closely paired to the challenge of managing risks, from consumer and client risks to systemic risks. The unique shocks to the western banking system, particularly the US system, of the Great Depression of the 1930s and the Savings and Loan Collapse of the 1980s, separated by nearly 50 years, have led to well-structured systemic safety nets. In effect, regulated financial institutions are today well supervised, obliged to meet exhausting and improving capital adequacy measures, and must be increasingly transparent in their reporting. As a result, institutional size is less of a concern than institutional inclusion.[9] As we read through this book,

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we will learn better whether or not Islamic instruments introduce or reduce the prospect of systemic risk as it has been introduced into the US capital markets.

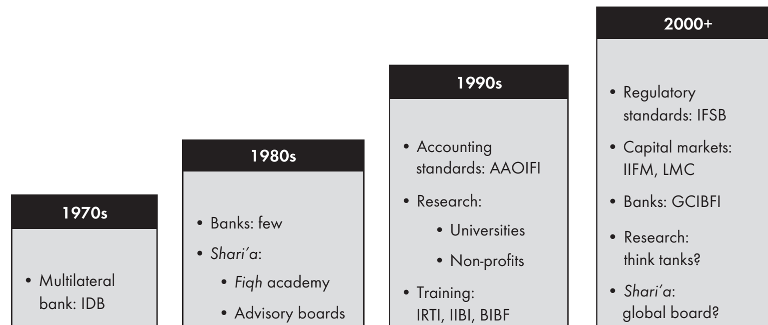
> '… it is worth noting – rather ominously in my view – financial risk is growing rather rapidly outside the regulated institution sector. Enron, Long Term Capital [Management], large private equity operations and even some telecommunications companies are but examples of institutions that today are financial services companies in whole or considerable part but are able to operate totally outside the system of financial services supervision and regulation. In many cases, they compete head-to-head with entities that are regulated, creating a seriously un-level playing field and causing, in my view, regulated institutions to "reach for risk" in order to compete with the cost advantage that comes to institutions that do not have to bear the added burdens that come with being a regulated institution.'[10]

Up until the 1990s, most efforts to systematise and regulate Islamic finance have been ad hoc and sporadic. There were no global *Shari'a* standards, a limited secondary market, and modest integration with conventional banking systems and regulations.

The Islamic banking community is keenly aware of the last point and, through two important collaborative institutions: (1) the Accounting and Auditing Organization for Islamic Financial Institutions (AAOIFI) and (2) the Islamic Financial Services Board (IFSB), has been working closely with the Bank for International Settlements, the International Monetary Fund, the World Bank and global central bankers to ensure that Islamic banking, as a family of methods, is included and that Islamic banks are part of the system. As this book will show, the practices and instruments of Islamic banking may be made to fit, with increasing ease, within the global financial system, and may do so with fewer risks.

AAOIFI, the IFSB and various training institutions have slowly generated a growing consensus relating to *Shari'a* standards, even if the ultimate outcome is likely to be a bi-polar standards set with one polar centring in Bahrain, and the other in Kuala Lumpur: and Gulf and Malaysian standards accommodating

Exhibit 5 **Regulatory infrastructure trends**



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an agreement to disagree about specific rules underlying certain structuring concepts. These tightening, coalescing standards lead to a clear movement to facilitate not only a secondary market for Islamic instruments, but a secondary market that connects to the global capital markets.

The Islamic sector is developing strong vehicles to instill global regulatory confidence in the sector. But what of Muslim consumer confidence[11] and the reputational risk for both institutions and the sector? When one surfs the web, various chat groups provide platforms for consumer and activist complaints about the evolution of the industry, its selection of solutions, and how it is governed. A common refrain in these chat groups is that 'anybody' can give/get a *fatwa* for almost any product. Participants in these chats challenge whether or not there is a system instead of some businesses with Islamic labels. These queries raise a direct question as to whether or not there is an Islamic legal order that plugs into the larger legal and financial order with rules that allow confidence in Islamic products and providers to be protected. Although the Islamic Development Bank (IDB) was designed to be a central bank for Islamic banking,[12] it has not yet filled this role. Into the gap, the BMA, Bank Negara Malaysia and a growing list of central banks have been providing international basis, through bodies such as AAOIFI and the IFSB, for building a global Islamic regulatory approach based on increasingly clear Islamic standards. Such emerging standards are also leading to a tightening of variances between *Shari'a* approaches. This book works through the structures that most closely comply with the core consensus among Islamic scholars and these leading regulators.

The emerging Islamic regulatory framework, however, still does not allow for the prospect of providing liquidity during a crisis. Although certain Islamic banks faced liquidity crises during the first Gulf War of 1990 and 1991, this liquefaction risk was addressed ad hoc when specific central banks elected to step in and make funds available to Islamic institutions. Thus, the question of confidence comes full circle to the question of whether or not there is an institutional commitment backed by means to protect the emerging Islamic financial system from shocks.

Notes about the book

Until the revival of Islamic rules applied to commerce, there seemed to be little basis for collaboration between banking and *Shari'a*.[13] As we work through this book, we will learn that the progress in Islamic finance has created the impression that there are conflicts among *Shari'a* scholars in their analysis or that the *Shari'a* itself is not systematic. However, it should be pointed out that when the field began its revival, 'the handful of scholars that had published on related subjects were without practical experience, having had no exposure whatsoever to modern banks and financial markets.'[14] This is no longer the case, and a growing global universe of *Shari'a* scholars has very practical capital markets' experience.

This book is designed to demonstrate the systematic guidance and structure that the *Shari'a* provides to the fields of commerce and finance. The book, particularly in the formative chapters, draws on a diverse universe of sources. Foremost, you will find that many of these are in English and often easily accessible. This is deliberate and meant to allow you to develop your own library and expand your

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research. In addition, we have offered a mix of classical and modern sources, some well known and some less so, strict *madhhab*-oriented, and apparently less strict more spiritual *sufi*-oriented.[15] The point is to demonstrate the unity in financial matters that comes from the diversity of thought in the Islamic scholarly and juristic traditions. There is no emphasis or priority on the stricter schools of thought; instead the book focuses on the actual practices according to the evolving consensus of modern scholars and the leading regulators.

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[1] Key elements of this chapter are derived from Kraty, Bryan and Abdelhaq Kafsi, *Islamic Finance & Mechanics* (Bahrain: unpublished manuscript, November 2004), as well as presentations developed by Stella Cox, Lawrence Oliver, Bryan Kraty and Abdulkader Thomas for the pre-conference workshops at the annual Euromoney Islamic Finance Summits in London from 2003 to 2005.

[2] In the Islamic theological tradition all prophets before Prophet Mohammed (PBOH) are deemed to be 'Muslim', carrying the same message. Prophet Mohammed (PBOH) is the final prophet according to Muslims.

[3] Ayyan Leasing & Investment Co., 'The Work of Islamic Banking & Investment Companies in the Gulf Cooperation Council', *Al-Mustathmiroon Magazine*, no. 37, April 2005, pp. 100–103.

[4] State of the US Islamic Home Finance Market, unpublished report, AJIF.org, March 2005, also see Kraty and Kafsi, *op. cit.*

[5] Usmani, Muhammad Imran Ashraf, *Meezan Bank's Guide to Islamic Banking* (Karachi: Darul Ishaat, 2002). See Chapter 2. Also see Thomas, Abdulkader, *What is Permissible Now!?* (Singapore: Muslim Converts's Association of Singapore, 1994).

[6] Usmani, M.I.A., *Meezan Bank's Guide to Islamic Banking*, *op. cit.*, p. 13.

[7] Edwardes, Warren, *Key Financial Instruments: Understanding & Innovating in the World of Derivatives* (London: Pearson Education, 2000), p. 8.

[8] Shirazi, Habib, ed., *Islamic Banking* (London: Butterworth & Co., 1990), pp. 12–13: Quoting Murtadha Mutahhari's Persian translation of Imam Al Ghazali's *The Renaissance of Religious Knowledge*.

[9] Lugwig, Eugene, *Systemic Risk: A Regulator's Perspective in Housing Matters: Issues in American Housing Policy* (Washington, D.C.: Fannie Mae, 2004), p. 175.

[10] *Ibid*, p. 187. Also see Wirtz, Ronald, A., *Community Banks Full of Change*, (Minneapolis: 9th District Fed Gazette, January 2005).

[11] *Ibid*, pp. 176, 177.

[12] Thomas, Abdulkader, tr. of Elnaggar, Ahmed, *Memoirs* (unpublished 1995).

[13] DeLorenzo, Yusuf, 'Shari'a Boards and Modern Islamic Finance: From Jurisprudence of Transformation and Adaptation', paper presented at IFSB, London, May 2004.

[14] DeLorenzo, *op. cit.*, citing Dr Muhammad Abd al-Ghaffar al-Sharif, 'The Shari'a Supervision of Islamic Banks', presented at the First Conference of *Shari'a* Supervisory Boards for Islamic Financial Institutions, organised by the Accounting and Auditing Organization for Islamic Financial Institutions, October 2001.

[15] A *madhhab* is one of the primary Islamic schools of juristic thought. There are four major *Sunni* schools and one primary *Shia'a* school which have strong views informing financial transactions. *Sufi* tends to refer to a form of spiritualism that is not specifically legalist or tied to a particular school.

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