



Benefits and Challenges of Shariah Convergence: Educators' Opinion in Bahrain

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Abstract: The purpose of the paper is to identify benefits and challenges of Shariah convergence. The paper uses library/literature based method which is a kind of qualitative research approach. In addition, structured interview were conducted with 3 Shariah scholars asking their opinions about the benefits and challenges of Shariah convergence. The paper finds that there are many benefits of Shariah convergence. Those benefits can boost the development of Islamic financial industry into a higher phase if they are materialized. However, to realize those benefits there are several challenges that need to be overcome. This paper is expected to bring the attention of Islamic finance stakeholders towards the issue for further actions.

Keywords: Benefits, Challenges, Shariah Convergence, Educators, Bahrain.

1. Introduction

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Realizing the consequences of the above issue, Islamic financial industry standard setting bodies like the Accounting and Auditing Organization for Islamic Financial Institutions (AAOIFI) and the Islamic Financial Services Board (IFSB) have come out with a complete set of Shariah standards and guiding principles on Shariah governance systems for IFIs respectively (Kasim et.al, 2013). The purpose is to come out with a global Shariah standard and guiding principles that can be applied universally across IFIs. However, despite the standards and the guiding principles being available for quite sometimes, only a few jurisdictions have made them obligatory or suggested to be adopted. In the case of the AAOIFI Shariah standards, the standards are made either obligatory or suggested only in Bahrain, Brunei, Indonesia, Jordan, Malaysia, Lebanon, Saudi Arabia, Sudan, Syria, UAE and Qatar (Annuar, 2015). Also, some countries like Malaysia also have created their Sharia governance guiding principles which have



several differences from the AAOIFI standards and the IFSB guiding principles. In fact, when a comparative analysis is made on the guiding principles of Shariah governance between the AAOIFI and the IFSB standards, it is found that there are several differences between them. For example, the definition of Shariah governance is only provided by the IFSB. On the other hand, the AAOIFI standards discuss in more details about the importance of Shariah review and audit functions than the IFSB guiding principles. One important note to take is none of them discusses the Shariah risk management and research functions. As a result, both of them have still not yet been viewed as comprehensive enough by industry stakeholders (Kasim et.al, 2013).

Actually, the above highlights have been discussed by many industry practitioners and academics and they have made calls for one standardized and comprehensive guideline or framework that can be used as a universal reference for all Islamic financial industry's stakeholders (Robinson, 2007; Shanmugam and Zahari, 2009; Smolo and Habibovic, 2010; Farook and Farooq, 2011; Yaacob et.al, 2011; Yaacob and Abdullah, 2012; Kasim et. al, 2013; BNM, 2014). Obviously, a universally comprehensive Shariah standard has a lot of benefits for the industry. However, to fully apply it, there are challenges that must be tackled. Based on this background, this study attempts to identify several benefits and challenges in the application of a common Shariah standard or Shariah convergence.

2. Literature review

Review of the available literature reveals that there are several previous studies that discuss the issue of Shariah convergence, Shariah standardization and Shariah harmonization. However, most of those studies don't focus specifically on Shariah standard convergence. Shariah convergence, standardization and harmonization are just parts of the discussion in those previous studies.

Smolo and Habibovic (2010) identify some key benefits of Shariah standardization.

There are at least four key benefits of Shariah standardization, namely better transparency and consistency, improvement in efficiency, greater market confidence and enhancement in the market integration. Farook and Farooq (2011) identify the challenges in the implementation of Shariah governance for Islamic finance and their solutions. Lack of universal framework for Shariah governance is pointed out as one of the challenges by this study. The study also highlights some benefits of Shariah standardization. One of those benefits is cost efficiency. Standardization will provide economies of scale since it will allow the IFIs to distribute the costs over multiple transactions. However, one of the challenges in the standardization process is the resistance of some existing Shariah scholars towards the process, as they view the process as a threat to their roles in the Islamic financial industry.

Yaacob et.al (2011) highlight the urgent need for standardization within Islamic financial industry. Using literature-based/library based method, the authors point out some benefits of standardization namely eliminating confusion, improving efficiency, consistency, transparency, and providing better environment for innovation. Yaacob et.al (2011) also identify several challenges of standardization such as the established view among Shariah scholars that differences in the Shariah interpretation are part of the beauty of Islam. Thus, standardization is seen as unnecessary. The study found that a treaty with regards to uniformity and standardization is needed since this treaty will not only stimulate a healthy and stable Islamic financial system but also demonstrate its sustainability and reliability to the global financial community. Given the importance of standardization to the sustainability of the Islamic financial industry, the authors urgently recommend the standardization of at least the basic Islamic financial instruments to be put in practice.

Yaacob and Abdullah (2012) point out that legal uncertainty as a result of differences in Shariah interpretation has become one of the key issues within Islamic financial industry. Using literature/library-based method, the study



attempts to provide justification or rationale of having an international treaty towards standardization within Islamic financial industry. The study finds that standardization will enhance the stability and soundness of Islamic financial industry and show its reliability and credibility to the global financial community.

Adeyemo and Oloso (2013) identify several issues and their implications within Islamic financial industry. Using literature/library based method, the study finds the differences in the interpretation of Shariah by Muslim jurists as one of the key issues that need to be addressed. The paper also argues that the differences, if they are not resolved, may put Islamic financial industry in the state of uncertainty and create confusion among the general public. This also might destroy the reputation of Islamic finance. The study recommends all fatawa (rulings) to be harmonized, codified and easily accessible to ensure effective and efficient operations of IFIs.

Kasim et. al (2013) compare between Shariah governance guidelines framework of the AAOIFI, IFSB and BNM. Using document analysis approach, the study finds that all the three Shariah governance guidelines frameworks are not comprehensive enough. For example, only the IFSB, Shariah governance guidelines framework provides the definition of Shariah governance. In terms of the discussion on the importance of Shariah review and audit functions, the AAOIFI Shariah Standards provide much more details discussion than the other two guidelines. In terms of Shariah risk management and research function, only BNM Shariah governance guidelines framework discusses the topics. Therefore, a common comprehensive Shariah guidelines framework needs to be developed which will be used as a single reference for Islamic finance stakeholders.

BNM (2014) publishes a report highlighting the importance of harmonization standards within global Islamic financial industry. The report believes that standards harmonization including Shariah harmonization will boost the development of the industry into the higher stage. In the report, it is highlighted that one of the benefits of Shariah harmonization

is boosting the investors' and consumers' confidence towards Islamic financial institutions (IFIs). Also, the report believes that Shariah uniformity can help IFIs in their operational practices and product innovation. The report also highlights that even though there are efforts by multilateral bodies like the AAOIFI and IFSB on Shariah harmonization, the challenge is how to convince the member countries of those institutions to adopt a common global standard while the current existing standards in each country are different from each other.

3. Research Methodology

This study employs qualitative research method. Related previous studies and other secondary data were reviewed and used to meet the objective of this study. This approach is known as library or literature based method. This methodology has been employed by most related previous studies (Yaacob et. al, 2011; Yaacob and Abdullah, 2012). Also, structured interviews were also conducted to 3 educators specialized in Islamic finance and Islamic commercial jurisprudence across universities in Bahrain. The opinions of three qualified educators on the benefits and challenges of Shariah harmonization were taken to compliment the information gathered from the previous studies in addressing the objective of the study.

4. Benefits and challenges of Shariah Convergence

Based on the previous studies and the interview results, several benefits of and challenges to the application of a common Shariah standard (Shariah convergence) have been identified. Regarding benefits, there are at least seven benefits identified namely (1) Applying a common Shariah standard will significantly help the promotion and spread of Islamic finance globally since it looks more organized than having several standards in place. In addition, the common standard will also boost customers' confidence towards IFIs since they have an assurance that IFIs' products that they use are universally Shariah compliant; (2) The common standard will



also improve harmonization in the practice of Islamic banking and finance among Muslim countries thus minimizing Shariah risk for the international investors; (3) Applying a common standard will ensure fairness for all Islamic finance's stakeholders. Mr. Khalid Hamad, Executive Director, Banking Supervision, Central Bank of Bahrain (CBB) recently has emphasized the importance of applying all universal Shariah standards in their real essence by IFIs to ensure fairness for all stakeholders. He said it is not correct for an IFI to apply one standard and for another IFI competing in the same industry to apply another standard; (4) The common standard will ensure the best practices are adopted by IFIs worldwide since it was developed based on consultations made with scholars from all over the world and thorough review procedures; (5) The common standard will reduce possible conflicts and disputes between IFIs and customers and it will ease in solving any legal disputes between IFIs and customers globally since a reference will only be made to a single standard rather than many standards; (6) Applying a common Shariah standard will help the regulators of Islamic financial industry to set up comprehensive regulatory and supervisory frameworks for IFIs in their jurisdictions since an easy reference has been provided by the common standard; and (7) The common standard will promote efficiency in the Islamic financial industry. Currently, it is costlier to structure Islamic financial products than conventional financial products since Islamic financial products normally require more documentation than their conventional counterparts. Also, separate documentation is also required for a different contractual relationship. A common standard will provide economies of scale since it distributes the costs over some transactions.

However, despite the above identified benefits, there are several identified challenges to the full application of a common Shariah standard to all IFIs worldwide. This article managed to identify at least five challenges namely (1) Muslim countries, where IFIs are operating, are adopting different Fiqh schools of thoughts (Mazahib) to interpret Shariah.

The question is how to incorporate all those differences in a single Shariah standard?; (2) Every country, where IFIs are operating, has different public interest due to the differences in the economic condition and other demographic characteristics. As a result, IFIs in a particular country normally develop products based on the public interest (Maslahah) of that country and Istislah is known as one of the secondary sources of Shariah which might influence the decision on the ruling (Hukm) of a particular financial product or transaction; (3) Applying a common Shariah standard might be viewed by some of the current Shariah scholars as a threat to their roles in the industry since the scholars only need to refer to the standard for each Shariah matter which might be not in their favor. Therefore, there is a possibility of firm opposition from those scholars towards this idea; (4) If a common Shariah standard is to be applied, the question is how are the details of the standards is to be developed. In other words, how a particular Shariah matter will be decided given there are differences in the opinion regarding the same matter. Should it be taken from the opinion of the majority of the scholars (Jumhur) or should it be taken from the practicability point of view, even though it is derived from the opinion of minority? The case of a unilateral promise (Wa'ad) in Murabahah contract can be used as an example. It is derived from the opinion of a minority of scholars (a small fraction of scholars from Maliki Fiqh School of thought) not from the opinion of majority (Jumhur). As a result, the validity of the opinion is still debatable; and (5) lastly, the biggest challenge is the lack of a unified authority to enforce the application of a common Shariah standard. In fact, this has been the biggest hurdle for all Islamic financial standard setting bodies like the AAOIFI and the IFSB. They don't have the authority to enforce their standards to be adopted by IFIs worldwide. As a result, even though a common Shariah standard is available, without the implementation of the standard, it will be meaningless since it is not put in practice.

5. Conclusion and Recommendations

The Islamic financial industry has been



growing significantly since its inception in the 1960's. One of the issues that has not yet been resolved within the industry is Shariah harmonization. There are efforts made by Islamic financial industry standard setting bodies like the AAOIFI and the IFSB to address the issue. However, it seems a universally comprehensive Shariah standard is still not yet in place. This article attempts to identify several benefits and challenges of the full application of a common Shariah standard for IFIs worldwide by reviewing available literature and the opinion of Shariah scholars about the subject. It is found that there are many benefits that a common Shariah standard offers to Islamic financial industry's stakeholders. Those benefits are believed to be significant enough in boosting the development of the industry to a higher level and ensuring sustainability of the industry. Therefore, this article, like several similar other articles, proposes to bring the idea of a common Shariah standard to be implemented for all IFIs through intensive collaborative efforts of all industry's stakeholders. However, to realize those benefits, several identified challenges must be overcome. It is expected that this article can draw the attention of the industry regulators, players (IFIs) and other stakeholders to the issue for further actions.

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