

Important Shariah Guidelines for Islamic Financial Institutions' Operation



Yussuf Adam Al-Badani
Researcher
International Shariah Research Academy for Islamic Finance

One of the most important and current issues in today's world is Islamic banking and finance, which was the reason why many writers are busy writing in all its parts. However, despite the amount of literature on the subject, it still needs further study to highlight some of the important principles, provisions and parameters of Islamic law in order to reach better performance and optimization which is the goal of IFI. Some of these principles are as follows, for example;

Firstly: Commitment to Islamic Faith (Aqidah Islamiah):

IFIs must adhere to the Aqidah as it is the corner stone of its existence. The belief that Islam through Shariah is the guiding light in this life principles commitment in totality to the Islamic faith. Furthermore, when an institution declares to be Islamic it must carry with the all that represent Islam in form and substance. Although, economics are materialistic in nature the imprints of Aqidah are evident and inherent making denial its direct effects inconceivable. IFIs must also have a unique line of thought that distinguish from that of the conventional, thus; this belief separate between what is the truth about this whole existence and what is falsehood.

Secondly: Applying the Shariah rulings and Principles which more than a billion and a half million of Muslims believe.

No doubt those Islamic financial institutions can not apply the name without the application of Islamic Shariah and its principles. Thus; in order for IFIs to reach real state of Islamicity in all its issues, Shariah rules and principles must be the base. Its importance and its role of is obvious in the formulation of Islamic banking system and practices. What more in correcting and distinction what is the halal and what is haram. All of the above cannot be achieved without the existence and the presence of Shariah Committee. The role of Shariah Committee in IFIs is more than just monitoring and applying the Shariah in the IFIs' operation. The Shariah Committee undertakes the study of everything that is related to the IFIs. Also find for an alternative in providing solutions for IFIs needs. Furthermore another important role of Shariah Committee is the ongoing review of all operations of the bank to see how the bank's commitment to the decisions that were issued by the Shariah Committee. And to assure that the operation of the IFIS is in line with Shariah.

Thirdly: Avoid dealing with riba:

Among the most important features of IFIs is the prohibition of usury. This was evidenced in each of the Qur'an, the Sunnah and The consensus.

- The Quran:

There are many verses from Qur'an. Some of these versus in the following: surat al-Baqarah (O you who believe, fear Allah and give up what remains of usury, if ye are believers* But if ye Take notice of war from Allah and His messenger; if you repent, you have your capital shall not be dealt with unjustly), surat al-baqarah verse: and says: (those who devour usury will not stand except like the standing of a person beaten Satan by his touch, because they said it sale, such as usury and Allah has permitted trading and forbidden usury, so whosoever receives an admonition from his Lord and stop eating advances and told him to God, and whosoever of the fire they will abide therein), al-Baqarah: 275. And he said in Ali Imran: (O ye who believe! Devour not usury, doubled and fear Allah that ye may prosper). Ali- Imran, verse 130.

- The Sunnah,

It has been narrated by Jabir that: "The Messenger of Allah peace be upon him has cursed who consumes riba, the client, the one who writes, and those who witnessed it, and He said all are the same".

- The Consensus:

The Muslims jurists agreed on the prohibition of usury and that is a major sin. Based on the above mentioned, there is no doubt that Islam enjoins economic fairness so as not to prey the strong on the weak and the rich on the poor. Islam only recognizes the gains that were obtained rightfully as Allah has permitted trading and forbid usury. This is because the money alone in the eyes of Islam cannot generate money, but money must combine with work and production which in turn benefits the nation and serves the public interest. Usury is the most vicious and deadliest sins in Islamic economic system and social system. It destroys the unity, compassion and empathy of the Ummah.

Fourthly: Committed to Only Halal Transactions and Avoidance of Prohibited Transactions.

The application of Halal and Haram in all transactions of IFIs is one of the most important features and principles that IFIs must abide. For example: IFIs cannot provide services to leads the prohibited activities or in the near prohibition, This is because of the serious damage caused to society in providing such services, such as drug trafficking, dealing with interest, deceit or fraud or monopoly, or facilitator, or a bribe or buying and selling of pork, etc., causes of

corruption receivables and destruction of the souls. The above mentioned are prohibited due to the following reasons:

- It is non-existent and unknowable.
- It is sale of interests or ambiguity
- Or everything that the seller knows that the buyer is not intended to use it in what is permitted, such as; selling artificial inflation of prices, and monopoly and so on.
- Selling when the Azan of Friday or selling in the mosque.

Thus; IFIs must observe this principle (Halal and Haram) through their investments, and productions of commodities, and finance, manufacturing, buying and selling, and all services provided to customers, all these must be in the area of Halal at all stages of production and operations.

Fifthly: Avoid Eating People's Wealth Unlawfully:

One of principles that must be adhered to by Islamic financial institutions is not to eat people's wealth unlawfully. Eating people's money unlawfully is either by bribery, theft, gambling, fraud, usury, treason, monopoly, or all of the prohibited money that taken from the owner without his concern or permission. And the prohibition of all this is said in Surat al-Nisa'a: (O ye who believe, do not consume your wealth among your selves unjustly except it be a trade by mutual consent of you, do not kill your selves, Allah is Merciful to you). Surat al-Nisa'a verse 29. It can be understood from this verse that, gains and trades based on mutual consent is legal, while consuming your wealth and others wealth unlawfully is forbidden as well as any types of gains that are illegal.

Sixthly: Avoid Holding the Money and Conceal it from Circulation:

The circulation of money and development and non-holding it is one of the Shariah objectives (maqasid al-Shariah). As the Islamic financial institutions dealing with funds of depositors, or being an agent, or investors, or work on the development of such funds and invest it effectively for the benefit of the society, therefore, they must use those funds in an effective and innovative way that is in compliance with Shariah. This will bring revenue to the owners and the Banks. IFIs must avoid withholding money because when money is disabled from its function and from expanding of its fields of production as Allah has condemned withholding money in Surat al-Tawbah: (And there are those who bury gold and silver and spend it not in the way of Allah: announce unto them A most grievous penalty). Al-Tawbah verse 34. Thus; development of investing awareness is important in order to mobilize resources required in IFIs.

Lastly: Transparency in Transactions and Shariah Control:

Another principle that should be adhered to by IFIs is the existence of Shariah Committee. The Shariah Committee characterizes the IFIs. It is different from legal, audit and accounting board and because the scope of its roles is wider especially in monitoring the Shariah compliance status. Thus; IFIs need a Shariah control and supervision system, which is objective and independent. The Shariah Committee is the manifestation of that control as it an independent body of scholars specializing in fundamentals of jurisprudence and the jurisprudence of transactions. With such control, transaction and activities are easily checked whether they comply with Shariah or otherwise.

In conclusion, IFIs should observe the above mentioned throughout its operations in order to be fully Shariah Compliance Institutions.

Finally whatever I have said that is correct is from Allah and His messenger, and whatever I have said that is wrong is from me. I seek for His forgiveness as I'm a human being who is full of mistakes. Nevertheless, the Prophet said that (All children of Adam make mistake; however, the best among those who make mistakes are those seek for Allah's forgiveness).

Allah knows best

