

# Changing Perspectives in *Sharī'a* Supervision

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## ABSTRACT

As Islamic alternatives are developed for a variety of financial services, *sharī'a* supervision finds itself increasingly challenged. The need for *sharī'a* supervision to keep abreast of technological change is a part of that challenge. The development of the Internet facilitates the role of *sharī'a* supervision as consumer advocate to ensure that financial products are *@alāl*, and as consumer educator to increase awareness of Islamic financial alternatives. Technology also allows *sharī'a* supervision to promote competition, transparency, and accountability, benefiting consumers and businesses alike. Another challenge facing *sharī'a* supervision is to harness its capacity to promote socially responsible investing. Proactive *sharī'a* supervision can bring attention and respect to firms by encouraging social responsibility while simultaneously fulfilling the spiritual, financial, and social rewards of investors.

## I. INTRODUCTION

As the Islamic financial industry evolves, the role of *sharī'a* supervision evolves with it. Thus, as Islamic finance moves into new markets, offering new financial alternatives to new sets of consumers, *sharī'a* supervisors turn their attention to new issues. This is clearly as it should be, when we look at *sharī'a* supervision as a sort of religious and ethical audit. However, if we look at *sharī'a* supervision as a form of consumer advocacy, then there will certainly be instances when it is *sharī'a* supervision that will lead Islamic financial institutions to turn their attention to new issues.

## II. INDUSTRY DEVELOPMENT

The Islamic financial industry is a developing industry. For that matter, nowadays, what industry is not? But Islamic finance is essentially alternative finance and, as it develops new products and moves into new markets, it finds itself confronted by new sets of circumstances, many of which present *sharī'a* supervision with new issues. This paper briefly speaks of how, as Islamic alternatives are developed for a variety of financial services, *sharī'a* supervision finds itself increasingly challenged.

A significant element in the challenges to come, and in meeting those challenges, is technology. Let's begin with the World Wide Web. The opportunities offered to business through the Web are still somewhere out beyond imagination. Otherwise, why should those technology stocks continue to attract so much attention? In the past year alone, a number of significant Islamic institutions have established a presence on the Web. From a *sharī'a* supervision standpoint, many positive developments have taken place as a result, and many more appear to be on the way. For example, in the matter of portfolio selection and screening, it is now a relatively easy matter for *sharī'a* supervisors to find relevant information on virtually any security traded on any exchange in the world. Likewise, the all-important auditing function has been made considerably easier by brokerages that offer their customers online access to their portfolio accounts. Many of these are offered in real time, or near about. Obviously, the challenge for *sharī'a* supervision is to keep abreast of the technology, and to learn how to put it to use. Remarkably, in some instances, the challenge is to convince management that it needs to provide its *sharī'a* supervision with access to this technology.

## III. *SHARĪ'A* SUPERVISION AS CONSUMER ADVOCACY

If we understand *sharī'a* supervision as consumer advocacy, we may expect that supervision to urge the use of the Web for purposes related to transparency, and to the correlate of consumer advocacy, which is consumer education.

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What is meant when we speak of *sharīʿa* supervision as consumer advocacy? By taking every possible step to ensure that an Islamic financial product is *@alāl*, the services performed by *sharīʿa* supervisors are directed toward the investor. Undoubtedly, as a result of these efforts, Islamic financial institutions and their management will also benefit. But the primary beneficiary is the Muslim consumer, who can rest assured that his/her money is being put to use in ways that accord with the teachings of Islam and its message for all of humanity. At the same time, of course, *sharīʿa* supervisors act as advisors to management. While the scope for cooperation there is enormous, we are speaking here of their role as consumer advocates.

So, while the functions of *sharīʿa* supervision may be compared to those of an independent financial auditor, in the sense that it is concerned with regulatory compliance, there is a further and far more vital aspect to the role of *sharīʿa* supervision. By assuming responsibility for the *sharīʿa* compliance of an Islamic financial institution, including its policies and practices, *sharīʿa* supervision places itself in a position of directly representing the religious interests of the investor.

Promoting the use of technology for purposes of compliance and transparency is one way that *sharīʿa* supervision represents consumer interests. When it is said that the correlate of consumer advocacy is consumer education, reference is made to the world of possibilities for enhancing Muslim consumer awareness of, and appreciation for, Islamic financial products. The effort at Dow Jones University, on the Internet, to promote understanding of Islamic finance through the course offered on the “Principles of Islamic Investing,” is certainly a positive development. However, every institution offering Islamic financial services needs to concern itself, to one degree or another, with issues of consumer education. Obviously, the chief concern there will be to provide information about the institution’s own products. Consumers need to know that Islamic financial alternatives exist. They need to know that these alternatives are viable, from both a religious viewpoint and a practical one. And they need to know that these are competitive and worthy of their trust. These are the basics of such an education. Of course, there is much more that can be done.

#### IV. THE SOCIAL REWARDS OF ISLAMIC INVESTING

Another of the challenges for *sharīʿa* supervision as consumer advocacy, particularly in today’s increasingly retail environment, comes from a focus on Islamic investing that includes three classes of rewards: spiritual, financial, and social. At present, there is very little appreciation for the social rewards of Islamic investing; and here lies another challenge to *sharīʿa* supervision, and to management as well.

“*Sharīʿa* Supervision of Islamic Mutual Funds,” the author’s other paper in this volume, discusses socially responsible investing at some length. But suffice it here to point out that Islamic finance has an opportunity, through attention to social issues, to develop a great deal of respect and appreciation for itself, for Islam, and for Muslims. By interpreting the Qur’anic imperative to enjoin good and prohibit wrong, *sharīʿa* supervision can contribute significantly to socially responsible initiatives to work for the environment, promote human rights, encourage diversity, and generally bring about greater appreciation for corporate ethics. Moreover, through proper use of the processes of corporate democracy, issues of specific concern to the Muslim community, and to the *umma* as a whole, may be highlighted and addressed in a positive manner. By undertaking these sorts of initiatives, Islamic finance may ally itself to the growing mainstream movement for socially responsible investing, and thus position itself as a positive influence on the society of the future. Responsible and enlightened *sharīʿa* supervision will have an immense role to play in bringing all of this about.

#### V. FUTURE DIRECTIONS

Thus, in regard to the future of *sharīʿa* supervision, it is possible to discern a direction. There can be no doubting the importance of understanding the role, or the different functions, of *sharīʿa* supervision. Obviously, the better a task is understood, the better it will be performed. But, in addition to a definition, there must also be an objective. Knowing what something is equates to only one half of knowledge about that something. In order to understand it fully, you must also know where it is going and why. With Islamic finance heading into retail markets, *sharīʿa* supervision will expand its responsibilities to include consumer advocacy and all that that entails.

Let us consider this from different perspectives. In a service-oriented market that is driven by competition, the firms with the better services will have the most success. *Sharīʿa* supervision that engages in consumer education enhances service. It is also better business because it promotes competition, accountability, and transparency—call this the business perspective. Businesses will recognize that it is to their advantage to have *sharīʿa* supervision that is sensitive to consumer needs.

Likewise, in a market with the potential, through the various channels of corporate democracy, to effect change in the ways that corporations do business, the Islamic financial institutions, and particularly the mutual funds that work those channels effectively, will be the ones that gain the most respect from Muslim investors. Proactive *sharī'a* supervision will bring appreciation and respect. We can call this the social perspective. From this perspective, no Muslim can fail to recognize that effective *sharī'a* supervision can play an important role in society.

Finally, in a market where the mandate from consumers is that transactions and returns must be *@alāl*, the sort of *sharī'a* supervision that is responsive to the needs of consumers, and takes advantage of every technological advance to improve itself, is therefore the most reliable supervision. If we call this the religious perspective, then from this viewpoint, too, it is clearly to everyone's advantage to have efficient, professional, and forward-looking *sharī'a* supervision.

## VI. CONCLUSION

The continued attention to the *sharī'a* and the appreciation of its importance to Islamic finance demonstrated at the Harvard University Forum on Islamic Finance is beneficial, as there are many issues to be dealt with, and many remain unresolved. Forums such as this are ideal for the exchange of ideas between scholars, practitioners, and concerned professionals. At a theoretical level, at least, the identification of problems and issues is the first step toward solving them. In this context, one is reminded of a quote by Imam Muhammad ibn Idris al-Shafii. He said, "A good question may be accounted one half of knowledge."

