

Evaluation of the work of the Sharia Supervisory and Audit Board in Islamic banks

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Abstract---The study aims at clarifying the nature of the work of the supervisory and auditing authority and the important role it plays in the transactions of Islamic banks and financial institutions, which gave it a distinguished personality from the traditional financial institutions (ribawiya), and we highlighted the most important objectives and tasks carried out by the supervisory board in Islamic banks. We tried to answer the problem of the study by clarifying the role of the Shari'a Supervisory Board in Islamic banks, in addition to pointing out some of the negatives directed at the work of the Commission.

Keywords---Shari'a Supervisory, Sharia Auditing, Islamic Banks, Traditional Banks.

Introduction

Auditing and monitoring, in general, play an important role in economic life. It is a topic of particular importance to professional associations around the world, and its study is considered an advanced topic in academics. As for the Sharia Supervisory Board, it is one of the most important bodies operating in Islamic financial institutions. It has contributed significantly to the success of these institutions, distinguishing them from those operating with financial instruments that are not subject to Sharia guidance. Furthermore, it has become a desired objective for a significant number of private and public institutions, both individual and collective. It is considered one of the bodies that automatically and periodically ensures the application of the objectives of Islamic Sharia in the transactions of Islamic banks and financial institutions.

Based on the above, the problematic aspects crystallize within the following question:
To what extent can the Sharia Supervisory and Audit Board fulfill its role in Islamic banks?

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To answer this problem, we address the following topics in this research paper:

Axis One: The nature of the Shariah Board and its components;

Axis Two: The origin and legitimacy of the Shariah Board;

Axis Three: The objectives, tasks, and components of the Board;

Axis Four: Similarities and differences between Shariah oversight and auditing.

Axis Five: Evaluating the work of Shariah oversight and auditing bodies in Islamic banks.

I. The Nature and Components of the Shariah Board

Shariah boards are perhaps one of the most important bodies operating in Islamic financial institutions. They have greatly contributed to the success of these institutions and have even distinguished them from those operating with financial instruments that are not subject to Shariah guidance.

1. Definition of the Shariah Board

The Shariah Board derives its name from the nature of its work, which is primarily to implement or/and ensure the application of Islamic Shariah rulings to the business and activities of the financial institution in question.¹

The Shariah Board in Islamic banks generally consists of the following:²

- The Fatwa Board: which is primarily concerned with issuing fatwas and studies the theoretical aspects of banking operations;
- The Shariah Audit and Supervision Board: which is concerned with the practical aspect of monitoring the Board's fatwas;
- A higher body at the Central Bank, which serves as the supreme court for all fatwa boards in Islamic banks;
- In addition, external Shariah audit offices.

2. The Concept of Sharia Supervision

2.1 Definition of Sharia Supervision

Sharia supervision is defined differently from Sharia auditing. We distinguish between internal and external oversight.

2.1.1 Internal Oversight: Dr. Abdul Bari Mashal defined internal oversight as follows: "It is the system, not the audit department or the review department. This system is established and designed by the institution's management in light of the Sharia requirements approved by the Sharia Board of the institution and other approved Sharia bodies. This system has its own components and tools."³

2.1.2 External Sharia Supervision: Dr. Abdul Bari Mashal defined it as: "The Sharia requirements that an institution must adhere to. Therefore, it must be included in the internal Sharia supervision system in all its dimensions, with the aim of fulfilling the institution's responsibility to comply with the provisions of Islamic Sharia. It is the result of the work of Sharia supervisory boards, or other bodies, if their decisions and directives are legally binding on those financial institutions."⁴

2.1.3 Definition of Sharia Supervision in Islamic Banks: It is noteworthy that there is no consensus on a precise definition of the concept of Sharia supervision in Islamic banks. It can be defined as: "Sharia supervision is all the supervisory elements and activities used to ensure that an Islamic bank's operations comply with Sharia."⁵

3. Definition of Shari'a Audit

First Definition: Shari'a audit can be defined as: "An independent, objective, and consultative assurance activity within an organization designed to monitor and improve the achievement of the organization's objectives. This activity involves verifying the organization's adherence to the controls and rulings issued by the Shari'a Board, as well as the policies, plans, and procedures necessary to implement Shari'a-compliant products. It also proposes necessary improvements to achieve optimal Shari'a compliance."⁶

Second Definition: Shari'a audit is: "A periodic review conducted from time to time to provide an independent assessment, objective and reasonable assurance, provide added value, and improve the degree of Shari'a compliance within an Islamic financial institution's operations, ensuring the integrity and effectiveness of Shari'a oversight and compliance as a primary objective."⁷

II. The Origin and Legitimacy of the Shariah Board

Islamic financial institutions have emerged, providing various financial services, including financing, investment, brokerage, insurance, and more, committed to avoiding prohibited financial transactions. However, the most significant challenge facing these institutions is that they operate under laws that are incompatible with their nature, creating numerous obstacles and, in some cases, conflicting interpretations. For this reason, the so-called Shariah Board has emerged within Islamic financial institutions.

1. The Basis for the Existence and Legitimacy of the Shariah Board

The idea of establishing a Shariah Supervisory Board emerged from the inception of Islamic banks. This stemmed from the urgent need to ensure the legitimacy of the transactions a bank adopts in its operations. This means ensuring that the bank's transactions with its clients, correspondent banks, and other parties do not conflict with the principles of Islamic Shariah.⁸

The Shariah Board derives its basis for existence and legitimacy from three aspects:⁹

1.1 Articles of Association and Articles of Association:

The articles of association and articles of association issued to establish the Islamic financial institution must explicitly state the Shariah Board, its mandatory existence, its operating procedures, its composition, and the binding nature of its decisions. This provision is often based on the financial institution's obligation to prohibit dealing in interest, whether taking or giving, or on the institution's commitment to applying the provisions of the noble Islamic Shariah.

1.2 The legal system: If any, regulating Islamic financial institutions—regarding their establishment, operating procedures, and the pursuit of their activities, including prohibited and licensed activities, registration and delisting procedures, and penalties imposed on them, etc.

1.3 The Shariah Board's own bylaws: These bylaws are established by the board itself and issued by the board of directors as one of the financial institution's basic documents. They include: the Shariah Board's operating procedures, its powers, responsibilities, independence, the organization of its relationship with the institution's other departments and divisions within the organizational structure, and the board's comprehensive annual report.

There is no doubt that the existence of these basic documents is the primary basis for:¹⁰

- Define/classify the Shariah Board's relationship with the financial institution and its independence;
- Determine the nature and scope of its work;
- Clarifying its jurisdiction and the binding nature of its decisions, which constitutes a renewal and development at the core of the organizational structure of Islamic financial institutions and their administrative and technical systems? This is illustrated in the following illustration:¹¹

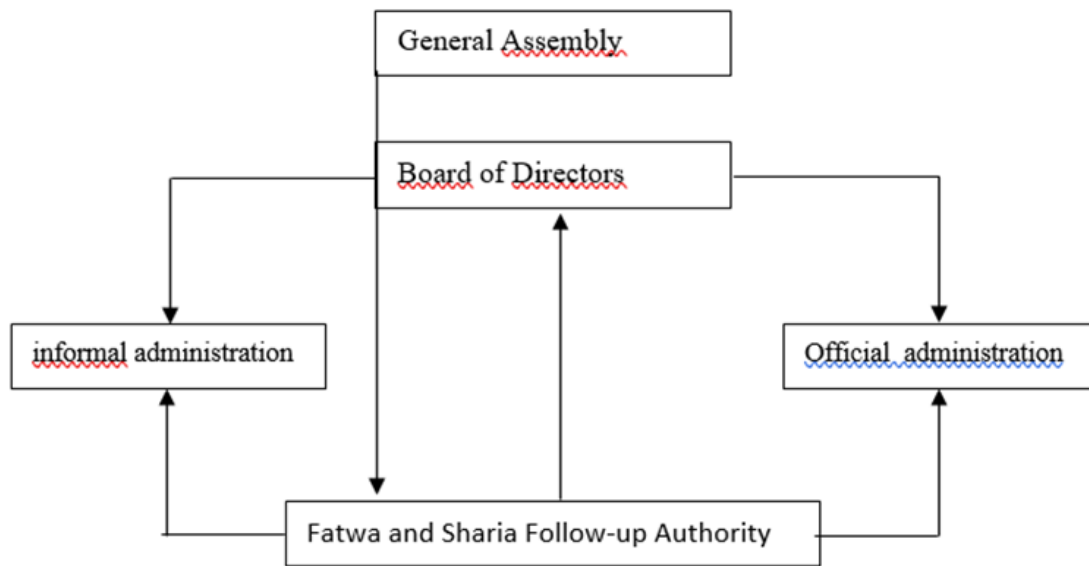


Figure 1: The organizational structure of Islamic financial institutions and their administrative and technical system

Source: Abdul Hamid Al-Baali, *Fundamentals of Islamic Banking: Reality and Prospects: A Comparative and Balanced Study of Legal, Banking, and Jurisprudential Aspects*, 1st ed., Wahba Library, Cairo, p. 62

2. The Legal Framework of the Sharia Supervisory Board

The legal form of the Sharia Supervisory Board's binding nature depends on its composition, appointment, and position within the institution's bodies. The more its composition stems from the general assembly and is based on the number of shareholders, rather than the number of shares, the more effective and influential its role will be, bolstering shareholders' and customers' confidence in its members. This is something Islamic banks must ensure to avoid accusations and dispel doubt.

If it is appointed by the board of directors, its impact is less than its predecessor, although it is preferable to appointing the general manager or the director of human resources, as this would be a mundane function that fails to achieve its intended purpose and fails to gain the trust of shareholders and customers.¹²

The number also has a role in the impact of this supervision on Islamic financial institutions, because the multiplicity of opinions and discussions with the application of the rules of preference reassures those in charge of the institution and reassures the clients, because most of the rulings are based on *ijtihād*, and the *ijtihād* ruling is conjectural. Therefore, it is necessary to diversify the specializations, and consult with those who have knowledge in the practical aspect of any transaction. Here, the presence of a Sharia, economic, financial, banking and legal specialist is necessary. Here, it is necessary to point out that the number of members of the Sharia Supervisory Board should not be less than three members in any case, to be consistent with the number of members of the Board of Directors, or more, and this number is governed by several considerations:¹³

- Its position within the organization's organizational structure;
- Its assigned responsibilities and duties;
- Its presence at work sites to achieve two objectives:
 - ✓ To monitor the reality of ongoing contracts, transactions, and actions;
 - ✓ To ensure the integrity of implementation and enforcement, and to address any problems that

arise, to prevent violations of Sharia law or misapplication.

3. Sharia Board Regulations

The Sharia Board shall establish its own working regulations, including its work procedures and, in particular, its methodology for conducting its work, including:¹⁴

- Its methodology for issuing fatwas and Sharia supervision, thereby defining its powers;
- These regulations also include the procedures for its meetings, the persons it may assist when necessary, and the recording of its minutes;
- It also regulates its relationship with all other departments and divisions of the relevant financial institution;
- The regulations also include the internal Sharia review and audit system, ensuring that the financial institution's transactions, investments, activities, and contracts comply with the principles and provisions of Islamic Sharia and the fatwas and Sharia opinions issued by the Sharia Supervisory Board;
- The regulations also include the preparation of periodic reports submitted to management and the annual report submitted to the General Assembly, as well as the components of these reports.

The Board of Directors approves and issues these regulations as a basic document for the financial institution. This procedure (approval) achieves two essential objectives:

- ✓ Mandatory coordination between the Authority and the financial institution's administrative bodies.
- ✓ The regulations are also mandatory for the administrative bodies.

III. Objectives, Tasks, and Components of the Shari'ah Board

The Shari'ah Board has received a degree of attention from the Islamic financial industry, particularly in the theoretical and research aspects. Perhaps the series of annual conferences dedicated to the Shari'ah Boards of Islamic financial institutions is an indication of the extent of the interest the Shari'ah Board receives in terms of oversight and auditing, one of the most important supportive institutions in the Islamic financial industry. The objectives, tasks, and components of the Shari'ah Board are represented in the following points:

1. Objectives of the Shari'a Board

Many Islamic banking literature and experts in Shari'a supervisory boards have addressed the objectives of the Shari'a Supervisory Board. Dr. Abu Ghuddah believes that the Board's objectives include:¹⁵

- Ensuring that banks and institutions adhere to Shari'a rulings and principles;
- Establishing and implementing Shari'a-approved formulas, contracts, and models, developing existing ones in the banking sector or offering Shari'a-compliant alternatives whenever possible;
- Enriching the jurisprudence of financial transactions by developing established formulas, creating new formulas and products, and developing research in Islamic economics and Islamic banking;
- Ensuring that employees in Islamic banks and financial institutions adhere to the Shari'a provisions that must be observed in Islamic banking activities;
- Monitoring and evaluating the institution's activities according to Shari'a standards to ensure their compliance with Shari'a;¹⁶
- Reassuring the public, both those dealing with the bank and others, of the legitimacy of the activities undertaken by Islamic banks and financial institutions;
- Assisting in the qualification and training of employees, and developing research in Islamic economics and Islamic banking;¹⁷

- Ensure that forms, systems and records are designed in accordance with Islamic law.¹⁸

1. Sharia Audit and Oversight Tasks:

It is no secret that Sharia audit and oversight operations directly aim to verify the bank's compliance with the fatwas and instructions of the Sharia Board. This is achieved through the following tasks:¹⁹

- Examining and reviewing documents, records, contracts, agreements, and all bank operations to ensure the integrity of Sharia compliance;
- Monitoring errors in practical application as soon as they are discovered and proposing the necessary corrective measures to ensure sound Sharia compliance;
- Responding to inquiries from branches and departments regarding the daily implementation of Sharia instructions and referring inquiries regarding emerging application matters to the Sharia Board for issuance of the necessary fatwas;
- Monitoring the compliance of relevant branches and departments with the proposed corrective measures to resolve identified Sharia violations;
- Studying areas of work and contracts and drafting them to comply with the provisions of Islamic jurisprudence;
- Monitoring the implementation of contracts and transactions to ensure that employees comply with Sharia compliance.
- Studying the questions submitted to it for further consideration and providing its legal opinion on them. It also studies the legality of contracts before signing them to ensure that no clauses conflict with the provisions of Islamic jurisprudence (fiqh al-muamalat).
- Identifying issues or activities that require special attention from a full-time Shariah supervisor and requesting the preparation of detailed studies that the Board deems important.
- Preparing an annual report from the Board stating its opinion that the Islamic bank's operations during the previous year are in accordance with the provisions of Islamic Shariah, and that the Board has not identified any evidence to the contrary.
- Supervising the compilation of fatwas and organizing the process of referencing them. Published fatwas are considered a legal reference and official document that the Islamic bank must adhere to and refrain from violating, unless the Board retracts its objection.
- Participating in Shariah conferences, preparing employee education programs, and delivering and following up on the necessary lectures and seminars.²⁰

2. The Importance of Shari'a Supervision and Audit

Shari'a supervision is the second component of the Shari'a framework for Islamic financial institutions. The Shari'a Board represents the first component, primarily concerned with issuing fatwas, standards, and Shari'a controls for all activities of Islamic financial institutions. The importance of Shari'a supervision and audit is highlighted by the²¹ significant role it plays within an Islamic bank, which is to highlight the extent of an Islamic financial institution's commitment to Shari'a provisions in all its financial and banking transactions. The importance of Shari'a supervision and audit is highlighted by the following points:²²

- The Islamic bank's affirmation of its distinct Shari'a banking identity, as stated in its bylaws and approved by regulatory authorities. This identity requires the bank to adhere to all Shari'a provisions in all its banking and investment transactions and services, and to refrain from dealing in interest, whether taking or giving.
- Ensuring the bank's compliance with Shari'a controls and the decisions of the Shari'a Board, monitoring the implementation of these decisions, and submitting reports to the Board on the extent of the bank's management's compliance with these decisions.
- The presence of a Sharia Supervisory Department within the bank reassures customers about the bank's commitment to Sharia controls in all banking transactions provided to stakeholders.

- Responding to inquiries from employees and customers about the Sharia controls for the banking products and services offered by the bank.
- The foundation upon which Islamic banks were established is to provide a Sharia-compliant alternative to conventional banks. It is no secret that Sharia Supervision is a vital necessity for Islamic banks. It is the body that monitors and oversees the operation of Islamic banks and their compliance with Sharia provisions in their transactions.²³

IV. Similarities and differences between Shari'a oversight and auditing

As we previously discussed the Shari'a Board, its components, and its work in Islamic financial institutions, it is clear that there are similarities and differences between Shari'a oversight and auditing, as evidenced by the following elements:

1. The Difference Between Control and Auditing

Generally, scholars in management, accounting, and auditing distinguish between the concepts of control and auditing, based on the fact that control is a broader concept than auditing, such that control includes auditing, not the other way around. Control, regardless of its type—financial, administrative, banking, or Sharia—is an ongoing process that accompanies, precedes, and follows implementation. This concept is considered a system designed to encourage positive results, prevent undesirable results, and detect and address errors. In general, it is necessary to:²⁴

- Establish a strong and effective Sharia-compliant internal control system that ensures business operations are conducted in accordance with established standards. Deviations from these standards are detected, accountability is determined, and the necessary corrective measures are taken.
- Based on the above, all requirements of Sharia-compliant external and central control systems are reflected in Sharia-compliant internal control systems. This is because these requirements can only be implemented if they are integrated within a set of books, documents, automated systems, administrative policies, and other components of the internal control system. Auditing is an administrative unit or a team of employees concerned with verifying the effectiveness of the control system in achieving its objectives, through subsequent examination and auditing. This meaning is a key element that no control system, regardless of its type, “internal, external, or central,” is devoid of. It is the tool that those concerned with the control system rely on to conduct direct examination and testing to ensure that the workflow is carried out in accordance with the specified standards.²⁵

1. Similarities and differences between auditing and oversight in conventional and Islamic systems

There is no difference in the overall objective and scope of auditing and oversight processes in financial, industrial, commercial, and other establishments, whether in establishments with Islamic systems or establishments with conventional (non-Islamic) systems. However, the scope of auditing and oversight in Islamic establishments expands to include auditing and oversight in light of specific Shari'a standards. A comparative analytical look at auditing and oversight under the Islamic system and auditing and oversight under the traditional system reveals similarities between the two systems. There are also some differences stemming from the specific requirements of a Sharia nature required by operational processes. We will highlight the most important areas of agreement and disagreement as follows: ²⁶

2.1 Areas of agreement: The points of agreement between oversight and auditing under the traditional and Islamic systems are evident in the following:

- ✓ The standards governing the auditing and oversight profession or industry in both systems do not differ. They are general standards that address the auditor's qualifications, the quality of their professional performance, and their independence. Fieldwork standards also do not differ

between the two systems in terms of proper planning for the audit and oversight process, determining the scope and timeline, obtaining sufficient and appropriate assurances, and preparing reports. The audit process in both systems also aims to examine the internal control system and its reliability.

- ✓ In both systems, examining and evaluating the internal control system is the cornerstone for identifying strengths and weaknesses.
- ✓ In both systems, the internal auditor's objective in examining and evaluating the system is to determine the extent to which the system achieves its objectives.

2.2 Differences: The differences between oversight and auditing in the traditional and Islamic systems are evident in the following:

There is a difference in the internal control structure in the traditional system and the internal control structure in the Islamic system. The scope and content of the internal control structure under the Islamic system expands to include the function of verification and Sharia control of all operational processes within the facility, despite the general lack of differences in the objectives and basic components.²⁷

Table No. 01: Functions of the Shariah control system in the Islamic financial services industry compared to a conventional financial institution

Additions to the Islamic financial services industry	traditional financial institution	Tasks
Sharia Board	Board of Directors	Controls
Internal Sharia Audit Unit External Sharia Auditor	Internal Auditor External Auditor	Monitoring
Internal Unit for Monitoring Sharia Compliance	Financial or regulatory compliance unit/department/officers	Commitment

Source: Abdul Bari Mashal, Evaluation of the Contributions of Central Banks to Shariah Compliance, Supervision and Regulation of the Islamic Financial Industry, a research paper presented to the Eighth International Conference of Shariah Scholars, Kuala Lumpur, Malaysia, October 29-30, 2013, p. 7.

As we note from the previous table, there must be harmony between Islamic Sharia controls and traditional auditing and oversight principles in the Islamic financial industry. This harmony rests on three main foundations:²⁸

The first foundation: Leveraging some of the foundations and standards of oversight and auditing in the conventional financial industry, with the aim of incorporating them into the auditing and oversight principles of current Islamic financial institutions;

The second foundation: Implementing the foundations and standards of oversight and auditing for conventional financial institutions, after eliminating any violations of Sharia principles and controls in Islamic financial institutions;

The third foundation: Bridging the gap between the foundations and principles of auditing and oversight for conventional financial institutions and Islamic financial institutions, by highlighting the commonalities between the two systems and eliminating any elements that might hinder the parallel operation of the two systems.

Among the conditions for harmonization between the two systems, which are essential, we can summarize them in the following points:²⁹

- Maintaining the distinct character of Islamic jurisprudence in terms of the nature of its rulings, premises, and objectives;
- Limiting the scope of benefit to the formal aspect related to classification, division, and numbering;

- Not using conventional economic terms as an authentic alternative to jurisprudential terms. Their use should be limited to the field of clarification and interpretation of original jurisprudential terms with specific meanings, given the importance of preserving Shari'a terminology.

V. Evaluating the Work of Shari'a Supervisory and Audit Boards in Islamic Banks

The compliance of Islamic banks with the provisions, rules, and objectives of Islamic Shari'a is a legal obligation. There is no doubt that Shari'a supervision and auditing plays a significant role in ensuring that Islamic banks and financial institutions comply with the Shari'a objectives. If Islamic banks fail to comply with the provisions, rules, and objectives of Islamic Shari'a, this means that the Shari'a Supervisory Board has not fulfilled its mandate.

It should be noted that in this section, we will address the positive evaluation of the work of Shari'a supervisory and audit boards in Islamic banks, followed by the negative evaluation of the work of Shari'a supervisory and audit boards in Islamic banks. While we do not question the integrity of the Shari'a boards in all Islamic banks, we cannot ignore some of the negative aspects of the board in general.

1. Positive Evaluation of the Work of Sharia Supervisory and Audit Boards in Islamic Banks

Sharia supervision is the second component of the Sharia framework for Islamic financial institutions, of which the Sharia Board represents the first component. Sharia supervision is primarily concerned with issuing fatwas, standards, and Sharia controls for all activities of Islamic financial institutions. The importance of Sharia supervision and audit is highlighted by the significant role it plays within an Islamic bank, which is to highlight the extent of an Islamic financial institution's commitment to Sharia provisions in all its financial and banking transactions. The role of Sharia supervision and audit is highlighted through the following points:³⁰

- The Islamic bank's affirmation of its distinct Sharia banking identity, as stated in its bylaws and approved by regulatory authorities. This definition stipulates that the bank is committed to applying all Sharia provisions in all its banking and investment transactions and banking services, and refraining from dealing in interest, whether taking or giving.
- Ensuring the bank's compliance with Sharia controls and the decisions of the Sharia Board, monitoring the implementation of these decisions, and submitting reports to the Board on the extent of the bank's management's compliance with these decisions.
- The presence of a Sharia Supervisory Department within the bank reassures customers about the bank's commitment to Sharia controls in all banking transactions provided to stakeholders.³¹
- Responding to inquiries from employees and customers about the Sharia controls for the banking products and services offered by the bank.
- The foundation upon which Islamic banks were established is to provide a Sharia-compliant alternative to conventional banks. It is no secret that Sharia Supervision is a vital necessity for Islamic banks. It is the body that monitors and oversees the operation of Islamic banks and their compliance with Sharia provisions in their transactions.³²

2. Negative Evaluation of the Work of Sharia Supervisory and Audit Boards in Islamic Banks

2.1 Internal Negatives

These negatives relate to the responsibilities of Sharia supervision in some banks. These negatives are evident from the review of regulations and laws by some researchers specializing in Sharia supervision and auditing, as well as the reports of the Board of Directors of many Islamic banks. They also included a review of the 1993 report of the Committee for Evaluation of the Sharia Role in Islamic Banks at the Higher Institute of Islamic Thought in Cairo. These negatives were summarized as follows:³³

- ✓ The Board's failure to participate in developing employee selection systems;
- ✓ Its failure to fulfill its role in reviewing and monitoring matters related to zakat and qard hasan;
- ✓ Its failure to participate in developing executive instructions for operations within the bank;
- ✓ Its failure to express an opinion on the guarantees provided by bank clients;
- ✓ The Board's failure to participate with management in projects, activities, feasibility studies, and contract conclusions;
- ✓ Not expressing an opinion on overdue debts, and determining whether the bank's client is insolvent or is delaying payment and the consequences thereof.

2.2 External Negatives

2.2.1 Weak Sharia Supervision of Local Investments Outside the Bank:

This weakness is evident when some Islamic banks engage in investment transactions with third parties, such as contributing to the establishment of a project or entering into partnerships or speculations with some of the bank's clients. Sharia supervision often limits itself to reviewing contracts and responding to inquiries. There is no subsequent follow-up or monitoring to ensure the legality of these investments. This also applies to the Sharia-compliant investment of funds by some official bodies. Examples include the following:

Faisal Islamic Bank invests more than 30% of its total investments in speculations with the Central Bank of Egypt. This is a large percentage, necessitating the Sharia Supervisory Board's oversight to ensure the legality of the Central Bank of Egypt's implementation of speculations in accordance with the contracts concluded between it and Faisal Islamic Bank of Egypt. The Sharia Supervisory Board should not be limited to reviewing contracts and notifications received from the Central Bank.³⁴

2.2.2 Absence of dedicated Shariah supervisory boards, with some form of higher review:

There are no dedicated Shariah supervisory boards for each financial institution, nor is there a central Shariah supervisory board. This model is exemplified in Iran and Pakistan. The role of the central Shariah supervisory board is played by the Council of Islamic Thought in Pakistan and the Federal Shariah Court, which is authorized to review all laws to determine their compliance with Shariah. In Iran, the Council of Guides sets guidelines in this regard.³⁵

2.2.3 Conflict of interest in Shariah boards:

A conflict of interest in Shariah boards could arise due to the board's failure to adhere to certain principles of transparency and disclosure, which could jeopardize the board's independence as a result of a member or members receiving financial or moral benefits that accrue to them in any form other than the remuneration stipulated in the employment agreement between the parties or other than what is stipulated in the internal regulations governing the board's work.³⁶

2.2.4 The Conflict Between the Independence of Sharia Boards and Their Members Receiving Financial Remuneration

This subheading suggests that members of Sharia boards receiving financial remuneration from institutions that issue fatwas would affect the independence of these bodies and, in turn, their Sharia decisions.

The Sharia board's role is partly to issue fatwas for financial institutions. This has led some to question the permissibility of members of Sharia boards receiving fees for issuing fatwas. This is because fatwas are considered acts of worship, such as leading prayers and adhan (call to prayer), and therefore, those performing them are not permitted to stipulate remuneration for themselves.

There is a perception among some that Sharia boards enjoy numerous privileges and exercise religious influence over Islamic financial institutions. On the other hand, some believe that Islamic financial institutions' payment of financial remuneration to Sharia boards has clearly influenced the decisions of these boards, as they have begun to issue fatwas that satisfy these institutions in exchange for the remuneration they receive.³⁷

2.2.5 Lack of laws regulating the work of Shariah boards:

Shariah boards in most countries still struggle with legal regulation of their work. Even in countries that have enacted laws specific to Islamic banking, most have neglected to regulate the Shariah oversight profession and establish laws, regulations, and codes of conduct governing their work. This makes it difficult to ensure the principles of independence and objectivity, along with their implications, such as conflicts of interest, due to the absence of a body mandated to monitor such situations.³⁸

2.2.6 Shariah board members receive a fee from the profits generated by the Shariah-compliant products they authorize for financial institutions.

The fee that Shariah board members receive from the profits generated by the Shariah-compliant products they authorize is either a fixed sum for each Shariah-compliant product they authorize, regardless of the return the institution will receive from using that Shariah-compliant product, or a percentage of the profit generated from using that Shariah-compliant product.

Linking fees to the percentage of profits implies a direct interest for board members in maximizing the institution's profits, which may lead them to neglect their duties, shifting from strict oversight to laxity. It also fosters suspicion and opens the door to the devil's influence in people's hearts toward Shariah boards.³⁹

Conclusion

In this paper, we have sought to shed light on the largest body relied upon by Islamic banks: the Shariah Board (Shariah Supervision and Audit). This body monitors the bank's activities and the extent to which it adheres to the Shariah guidelines agreed upon by the Shariah boards. Without this body, Islamic banks would be considered like other conventional banks. We concluded that the Shariah Board is one of the most important bodies, as it monitors the bank's activities. Thanks to this body, the bank achieves the objectives of Shariah with regard to its financial affairs. At the same time, we noted a number of criticisms directed at these bodies, which must be addressed.

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