



OVERCOMING IMPLEMENTATION CHALLENGES FOR SHARIAH GOVERNANCE IN THE MALDIVES

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ABSTRACT

Since its introduction to the country in 2003, Islamic finance has found its place in the Maldives. However, it was only recently that a comprehensive Shariah Governance Framework (SGF) was enacted by the Maldives Monetary Authority (MMA) for the Islamic financial institutions. This study delves into the landscape of Shariah governance prior to the framework's establishment, while also examining the key gaps and challenges encountered during the implementation of this framework. By utilising qualitative methods, the study uncovers that the objectives of the SGF primarily focus on ensuring Shariah compliance, closely resembling Malaysia's framework. Noteworthy challenges encompass a lack of independence, awareness, transparency, competency, and consistency. To address these issues, the study puts forth several recommendations. These include leveraging a proactive regulatory approach through the involvement of the MMA, seeking governmental support, formulating external Shariah audit prerequisites, strengthening fit and proper criteria, enforcing more stringent requirements, allocating funds for continuous training initiatives, creating standardised operating procedures and templates, and systematically evaluating the implementation of the Shariah governance framework.

Keywords: Shariah Governance Framework, Maldives, Shariah Compliance, Challenges, Gaps

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INTRODUCTION

The global Islamic finance industry has recently been experiencing rapid growth and revealing its significant potential. However, the prevailing worldwide financial system does not easily accommodate the principles of Shariah, particularly due to the prevalent interest-based system applied to borrowing and lending. The distinctiveness of the Islamic financial system lies in its adherence to Shariah laws. Some fundamental tenets of Islamic finance encompass the prohibition of *riba* (interest), *gharar* (excessive uncertainty), and *mysir* (gambling), along with the safeguarding of wealth, life, intellect, lineage, and religion.

Shariah Governance, as defined by the IFSB, pertains to the institutional and organisational arrangements that ensure effective, independent oversight of Shariah compliance concerning the issuance of relevant Shariah pronouncements, information dissemination, and internal Shariah compliance assessments (IFSB, 2009). This structure





ensures that entities providing Islamic financial services consistently adhere to Islamic teachings' principles.

Given that the Islamic finance industry is still evolving, and for various reasons, Islamic financial products are predominantly offered within a dual banking system, where the parent entity is often a conventional bank. This situation presents challenges in segregating and differentiating activities between conventional and Shariah-compliant domains. To guide, supervise, and protect stakeholders in Islamic financial institutions, many countries are establishing centralised Shariah governance frameworks to oversee compliance mechanisms.

Despite being 100% Muslim, the Maldives faces multiple challenges in advancing its Islamic finance sector. The demand-driven nature of the industry has led to the establishment of a full-fledged Islamic financial sector. While Islamic finance in the Maldives began in 2003 with the introduction of Amana Takaful, an insurance company offering Shariah-compliant services, the sector has expanded to include various organisations providing Islamic financial services, as well as banks with Islamic windows and takaful companies (Muneeza, 2020).

The Central Bank of Maldives, known as the Maldives Monetary Authority (MMA), and the Capital Market Development Authority (CMDA) are both legally mandated to regulate the country's financial sector, with the latter overseeing the money market industry. As Islamic finance is still relatively new to the citizens of Maldives and in its developmental stage, the proper implementation of Shariah governance is crucial. In 2011, the MMA introduced the Islamic Banking Act, which established the Shariah Advisory Council of MMA as a central governing body, along with legislative and regulatory frameworks. This Council is responsible for ensuring that authorised institutions conform to Shariah principles. Consequently, the Shariah governance framework was officially implemented on January 1, 2023. Before this, the Maldives practiced Shariah governance and compliance without a centralised framework.

Since the inception of the Islamic finance industry until January 2022, the Maldives operated Islamic financial activities without a centralised Shariah governance framework. The Islamic Banking Regulation 2011 governed Shariah non-compliance issues. The Maldives Monetary Authority, responsible for regulating banks and financial institutions, recently introduced a new Shariah Governance Framework in January 2022. However, limited context is available on the development of Shariah governance practices and the evolution of the MMA's framework. Given that many other countries encountered gaps and challenges in implementing their Shariah Governance Frameworks, similar issues may arise in the Maldives, warranting further investigation.

Key stakeholders in the Maldives' Islamic finance sector, particularly Shariah committee members of Islamic Financial Institutions (IFIs), are keen on advancing the Shariah governance system. A well-established Shariah governance framework serves as a reference point and protection against non-compliance. Policymakers can enhance and strengthen their effectiveness by addressing implementation challenges and areas of insufficiency within the framework.

This study aims to explore challenges in implementation and gaps within the Shariah governance framework of the Maldives within the context that comprehensive Shariah governance was only enacted recently in January 2022. The paper is structured into five sections. Following this introduction, the second section provides a literature review on the Shariah governance frameworks of the Maldives, Malaysia, Bahrain, and Pakistan while highlighting challenges other countries face in implementing similar frameworks. The third section outlines the research methodology, including data collection methods, research design, and respondent profiles. The fourth section presents the findings and data analysis. Finally, the fifth section concludes the paper by summarising the findings and offering recommendations based on the study.





LITERATURE REVIEW

Shariah Governance Structure of MMA

As per Soualhi (2016), two types of Shariah governance systems exist: centralised and decentralised systems, contrasting the decentralised Shariah governance system. The centralised system is overseen by the country's central bank, functioning as either a one-tier or a two-tier framework. In the case of the Islamic finance industry in the Maldives, a dual (two-tier) Shariah governance system is in place. This consists of the Central Shariah Advisory Council of MMA with four members, alongside Shariah Committees established within each Islamic Finance Institution, requiring a minimum of three members (Mansor, 2018).

The Shariah framework established by the MMA comprises three chapters and appendices outlining the introductory details, the Shariah governance mechanism, and the stipulated reporting and disclosure requirements. This framework offers guidance and directives regarding the pivotal roles and prerequisites of the board of directors, the Shariah committee within Islamic Finance Institutions, and the operational aspects of Shariah control. Additionally, it provides guidance for addressing conflicts. The primary objective of this framework is to offer comprehensive guidance for Shariah governance mechanisms and practices within Islamic Finance Institutions. This framework was officially implemented on January 1, 2022 (MMA, 2022).

Chapter I serves as an introduction, while Chapter II delves into general requirements and the pivotal responsibilities of key stakeholders, including the Board of Directors, Management, and the Shariah Committee. These roles are characterised by a brief highlight of their accountability and obligations. For instance, the board is entrusted with the diligent oversight of the institution's Shariah governance mechanism, ensuring its effective operation. Similarly, the Shariah Committee is tasked with delivering precise and high-quality decisions. This chapter also touches upon Shariah control functions, their overarching prerequisites, and a brief overview of conflict resolution. Chapter III is dedicated to reporting and disclosure requirements, emphasising the mechanics of Shariah non-compliance reporting. The appendices complement the framework by illustrating various aspects. These include the model structure of Shariah control functions, specifics regarding the Secretariat of MMA, guidelines for the product development process, and an illustrative sample of the Shariah Audit Guideline (MMA, 2022).

Shariah Governance Structure in Selected Countries

Malaysia operates under a mixed legislative system where the jurisdiction of the civil court pertains to matters of common law, while the Shariah court determines cases involving Shariah. Following this context, the federal constitution of Malaysia designates matters related to Islamic banking to be under the authority of the civil court (Lateh, Adil, & Rejab, 2010). In 1993, Bank Negara Malaysia (BNM) introduced interest-free banking, permitting conventional banks to offer Shariah-based products through an Islamic window. This development led to the establishment of Shariah Boards to ensure Shariah compliance. The need for standardised and coherent Shariah interpretation prompted the establishment of a centralised Shariah Advisory Council in 1997 (Hasan, 2011). In 2011, Malaysia enacted the Shariah Governance Framework for Islamic Finance Institutions (Shariah Governance Framework), governed by Bank Negara Malaysia (BNM). This framework comprises two parts and plays a pivotal role in reinforcing Shariah governance (Bank Negara Malaysia, 2011). To enhance Shariah governance further, Malaysia introduced the Shariah Governance Framework for Islamic Financial Institutions





(SGF) in 2010. This framework underscored the significance of Shariah compliance and mandated Islamic Financial Institutions (IFIs) to establish robust internal controls and comprehensive remedial measures in response to Shariah non-compliance incidents. The SGF facilitated the rapid advancement of IFIs in Malaysia, fostering confidence among stakeholders that these institutions adhered to Shariah principles. In light of the industry's evolving complexity, Malaysia introduced the Shariah Governance Policy (SGP) in 2019 as a replacement for the SGF. The SGP strengthens board oversight, enhances requirements for the Shariah Committee, and promotes a culture of Shariah compliance within the board and senior management (Bank Negara Malaysia, 2019).

Bahrain had Shariah Law as the main source of legislation since 1971, leading to a prohibition on interest-based transactions. However, the Commercial Law of 1987 allowed interest to be charged based on the rate determined by the Bahrain Monetary Agency (Hasan, 2011). The Central Shariah governance body of Bahrain is the Shariah Advisory Board of CBB, following the standards set by AAOIFI. With the establishment of a Centralised Shariah Supervisory Board in 2015, the Central Bank of Bahrain issued their Shariah Governance Module and began implementation in August 2017 (Alkhan, Hassan, & Al-Saadi, 2022). The Shariah Governance Module (SG) requires a Shariah Supervisory Board (SSB), an Internal Shariah Advisory, and an Internal and External Shariah Advisory Council, and includes guidelines and disclosure requirements (Central Bank of Bahrain, 2017).

Pakistan initiated Islamic banking operations in 2002 through Meezan Bank and has five fully-fledged Islamic banks. The country established and implemented its Shariah governance framework in 2015, overseen by the State Bank of Pakistan (SBP), with revisions in 2017 (Ahmed, Hassan, & Uddin, 2021). The framework covers aspects such as accountability of the Board of Directors, roles of the Shariah board, requirements for meetings, reports, a Shariah Compliance Department, Internal and External Shariah Audit, and includes templates like the Shariah Board report and Fit and Proper Criteria (Pakistan, 2018).

Challenges in Implementing Shariah Governance Framework

There are seven standards on the Shariah Governance of Islamic Finance Institutions released by the Accounting and Auditing Organization for Islamic Financial Institutions (AAOIFI). AAOIFI has established rules for Shariah Supervisory Board (SSB) members to ensure members' independence and reduce cross-memberships. These strategic areas demand careful attention from Islamic finance regulators regarding responsibility, transparency, and adherence to Shariah standards. These aspects are essential for building public trust in the integrity and sanctity of Islamic Finance Institutions' business practices (Hassan, Sohail, & Munshi, 2022).

Lack of Competency

A study conducted in Oman by Alnofli and Ali (2019) discovered that while the Shariah Supervisory Board in Oman has stringent competency requirements as per the Shariah Governance Framework, the Central Bank of Oman is more lenient in appointing SSB members due to limited Islamic banking experts. Similarly, research from Bangladesh by Alam et al. (2020) revealed that some members of the Shariah Supervisory Board lack qualifications, experience, and knowledge of Islamic finance. Moreover, language barriers, limited English proficiency, and a lack of exposure to international norms were also noted.





Lack of Awareness

Hassan et al. (2012) conducted research demonstrating that respondents' knowledge of the Shariah Governance Framework 2010's goals, its application assessment, and Islamic Finance Institutions' acceptance of the framework is strong and encouraging. This reflects that the launch of the Shariah Governance Framework 2010 has been effectively implemented by Islamic Finance Institutions, which value its importance.

Lack of Transparency

A survey by Hasan (2011) found that among Islamic Finance Institutions, only 23% in the GCC, 42% in Malaysia, and none in the UK properly examined the Shariah board's performance and contribution to Shariah compliance issues. This highlights a deficiency in governance practice, as regular evaluation of Shariah board members' performance is essential to maintain competence and prevent conflicts of interest.

Lack of Independence

Farook and Farooq (2011) concluded that the appointment of scholars by management or shareholders of Islamic banks, financial institutions, or funds, and their remuneration by the same entities raises concerns about conflicts of interest. Mohamed, Sori, and Rashid (2016) also highlighted the significance of the Shariah committee's independence from managerial interference to ensure objective decision-making, free from undue influence.

Lack of Consistency

In Bangladesh, Alam et al. (2020) found no designated Shariah audit firm, established Shariah audit rules, or Centralised Shariah Supervisory Board (CSSB) overseeing Shariah compliance. Furthermore, due to gaps in the central bank's regulations, Islamic banks are not mandated to achieve 100% Shariah compliance, and there are no standardised obligatory rules for Shariah conformity set by the central bank.

METHODOLOGY

This study adopts qualitative research as it is relevant to discuss challenges and gaps on a practical level due to the new adoption of the Shariah governance framework in the Maldives. Content analysis is employed to address research objectives related to comparing Shariah Governance Frameworks. This method systematically reviews available Shariah Governance Frameworks from the Maldives and other countries to identify commonalities and distinctions between the Maldives' framework and those of other nations. Content analysis is utilised for investigating the evolution of Shariah governance practices, challenges faced, and gaps in the framework. This necessitated transcribing the recorded interviews, followed by the coding phase. The transcriptions of the recorded interviews identified potential themes from the interviews that related to the main objectives of the research, categorised into the challenges and gaps in implementing the framework and presented with the findings and discussions of this report. The structured interviews are conducted with key stakeholders, including respected members of Shariah Committees and regulatory authorities in the Maldives' Islamic finance landscape. The number of interviews sums up to a total of 6 due to the lack of availability and response and due to the limited number of Islamic financial institutions in Maldives. Ethical





considerations ensure the well-being and privacy of respondents, while triangulation and member checking enhance validity and reliability. This research acknowledges limitations stemming from its focus on a specific industry and the potential bias introduced through document analysis and interviews.

The interviews utilise a semi-structured format involving the use of predetermined open-ended questions along with follow-up inquiries aimed at delving deeper into the respondents' perspectives. As King and Horrocks (2010) outlined, research questions can fall into six categories: background or demographic questions, experience or behaviour questions, opinion questions, feelings questions, knowledge questions, and sensory questions. This paper primarily employs opinion questions and knowledge questions in alignment with the research objectives, which necessitate a comprehensive and expansive exploration of current challenges, gaps, and recommendations within the subject matter. Table 1 presents the questions posed, but this list is not exhaustive, while Table 2 presents the list of interviewers.

Table 1: List of Questions Designed for Interviews

No.	Questions
1	What was the Shariah governance practice prior to the Shariah Governance Framework, and how did it come into existence?
2	How do the board and the senior management of IFI view the Shariah Governance Framework.?
3	What are the Gaps in the Shariah Governance Framework of MMA?
4	What are the challenges that you have faced in implementing the Shariah Governance Framework of MMA?
5	Do you face any conflict of interest within the IFI? If so, how is it resolved?
6	In other countries, one of the main challenges faced in implementing the SGF is a lack of independence. From your experience, to what extent are you able to practice independence? Does the SGF need to establish better guidelines regarding independence?
7	The SGF encourages conducting training to increase the knowledge of SC Members. This is one of the objectives of Shariah. To what extent do you receive training opportunities from your IFI?
8	In terms of competency, do you believe that there is a lack of demand for labour or a lack of supply for labour?
9	Due to a lack of transparency, what are the challenges faced in implementing the framework?





Table 2: List of Respondents for Interview

No.	Respondent	Position	Institution	Interview Date
1	Dr. Ismail Nizam	Shariah Committee Member	CMDA/SDFC	April 10, 2023
2	Dr. Ziyaad Mahomed	Shariah Committee Member	BML/Ayady Takaful	April 13, 2023
3	Uz Azmeen Rasheed	Shariah Committee Member	SDFC	April 17, 2023
4	Prof. Dr. Aishath Muneeza	Shariah Committee Member	Ayady Takaful	April 15, 2023
5	Uz Ahmed Firas	Shariah Committee Member	MMA	April 12, 2023
6	Mr. Ibrahim Shaugee	Manager, Islamic Finance Section	MMA	April 20, 2023

DISCUSSION AND FINDINGS

This section of the paper delves into the primary findings obtained through interviews. The interviewees provided valuable insights into the Shariah Governance Framework (SGF) genesis within the Maldives Monetary Authority (MMA). They underscored that prior to the establishment of the SGF, Shariah governance practices were carried out in an ad hoc manner, displaying variation across different institutions.

The Islamic finance industry in the Maldives emerged in 2010, accompanied by minimal regulatory requirements from the oversight body. The inception of the Islamic Banking Act laid down initial stipulations, including the mandate for three members to serve on internal Shariah Committees. In the case of non-banking entities such as HDFC Amana, the MMA merely issued letters indicating no objection to initiating Islamic finance activities.

Notably, explicit guidelines governing the internal conduct of Shariah Governance within Islamic financial institutions were absent. Consequently, when specific issues arose, the MMA would release resolutions to address these concerns. Preceding the establishment of the SGF, ad hoc Shariah review and control functions were promoted by the MMA, albeit not in a mandatory manner. Additionally, internal Shariah compliance manuals were implemented in parallel.

In 2020, scattered guidelines were amalgamated and systematically integrated into the structured framework of the MMA's SGF. Respondents attested to the historical practice of ad hoc Shariah governance and highlighted the necessity to streamline the diverse approaches across various Islamic financial institutions. The implementation of the SGF aimed to establish uniformity and coherence in Shariah governance practices before it was formally introduced. Below are the challenges detected in the implementation of SGF in the Maldives.

Lack of Independence

The interviewees serve on the Shariah Committees of various Islamic financial institutions and were queried about the extent of independence exercised in implementing the Shariah Governance Framework. Interestingly, it is worth noting that no issues regarding independence





arose among the Shariah Committee members, diverging from the findings in the existing literature.

The interviewees elucidated the reasons underpinning their lack of such issues. One Shariah Committee member underscored that their employment contracts significantly differ from conventional contracts, positioning the Shariah Committee in an external context. Consequently, there is no undue pressure to provide biased opinions. Moreover, this respondent highlighted that the compensation earned serves as supplementary income, reducing dependency on it. Another member of the Shariah Committee emphasised that all members uphold ethical values, prioritising Shariah compliance. Deviations from these principles could potentially tarnish their reputation and credentials, given that most members are Shariah scholars.

This points towards a commendable practice within the Maldivian Islamic finance sector, where there is minimal interference with the decisions made by the Shariah committee members. Consequently, it suggests effective implementation of the Shariah Governance Framework in terms of maintaining independence and addressing conflicts of interest, as stipulated in Chapter II (11), thereby upholding the credibility and reputation of the institutions.

In summary, the findings of this study offer a valuable perspective on the independence of Shariah Committee members, insights into the independence of Shariah Committee members, particularly through innovative contractual arrangements, contribute to the advancement of Shariah governance by highlighting effective mechanisms for upholding ethical standards in the Islamic finance industry.

Lack of Awareness and Perspective of the Board of Directors and Senior Management

Upon assuming their roles, the interviewees noted that they undergo induction and training to familiarise themselves with operational procedures, manuals, laws, and regulations governing Shariah activities.

To gauge the awareness level within institutions at the corporate level, respondents were asked about their perspectives on the MMA Shariah Governance Framework. The majority of respondents observed a gap in understanding the framework between the board of directors and senior management. This is understandable, as these stakeholders equipped to handle Shariah requirements, governance, and compliance independently could potentially render the need for Shariah Committee Members unnecessary. As a result, their awareness of obligations within the framework is limited. However, changes implemented in management and board structures require newly appointed individuals to undergo training in laws and regulations related to corporate governance, including the Shariah Governance Framework. Hence, it can be inferred that they are conscious of the regulators' expectations.

Concerning institutions like SDFC that are yet to commence operations, it is too early to ascertain how higher-level personnel perceive the Shariah Governance Framework. However, as SDFC is the only entity established in line with the framework's guidelines, its management and board have encountered challenges in meeting the costs associated with adhering to Shariah compliance, in contrast to establishing a conventional financial institution.

Certain respondents indicated that higher-level personnel still possess a mindset geared towards conventional business operations, displaying indifference and a lack of awareness regarding adherence to Islamic principles. There is also a reluctance to fully embrace the seriousness of the Shariah Governance Framework and its regulatory body, the MMA. This mindset stems from a belief that the MMA might not impose penalties for neglecting necessary changes during the framework's implementation. Nonetheless, they acknowledge the existence of new regulations and their obligation to adhere to them. This awareness should not be





confined to the corporate level alone but should permeate the entire organisational hierarchy, encompassing human resources, marketing, and customer services. Each function should embody Shariah compliance.

In essence, the corporate level's limited awareness and appreciation of the Shariah Governance Framework signify a disregard for the framework's requisites. This is particularly evident in the partial adherence to the roles and responsibilities of the board of directors and management, as outlined in Chapter II (7) and (9). The lack of awareness might contribute to the subdued appreciation, as stakeholders may fail to grasp the gravity of Shariah non-compliance fully.

The significance of this issue lies in the risks of reputational damage, regulatory penalties, and a lack of trust among stakeholders associated with non-compliance. To address this challenge, the study underscores the need for comprehensive training and awareness programs across all organisational levels to ensure a thorough understanding and integration of SGF principles and obligations. Such initiatives can enhance the industry's commitment to Shariah compliance, bolster its reputation, and promote sustainable growth while upholding Islamic principles.

Lack of Transparency

A majority of the respondents concur that there exists a lack of transparency on the part of the regulator, which could potentially hinder the effective implementation of the Shariah Governance Framework. Shariah Committee Members noted that relevant laws and regulations, including the Shariah Governance Framework, are provided and internally circulated at the corporate level. However, they pointed out that this practice hampers the dissemination of awareness about the Shariah Governance Framework among other relevant stakeholders.

One respondent highlighted a possible reason for this lack of transparency: to avoid market disruption, which has been an issue in the past. However, a discernible shift has been observed with the implementation of the Shariah Governance Framework, where the MMA is striving to enforce certain measures concerning controversial matters. In addition, individuals lacking qualifications, experience, and knowledge of Islamic finance might also struggle, especially if they lack proficiency in Arabic or English. This observation underscores the limited English language proficiency of Shariah Supervisory Board (SSB) members and their difficulty in comprehending international norms. Given that Shariah education in Bangladesh is typically conducted in Arabic, Farsi, or Urdu, a deficiency in Arabic proficiency creates a knowledge gap among SSB members due to language barriers.

From the regulatory standpoint, there is agreement that MMA falls short in keeping the information about Islamic finance updated. However, they ensure that relevant resolutions are disseminated to the appropriate Islamic Finance Institutions. The regulatory body is currently redeveloping the MMA website to incorporate a dedicated section for Islamic finance-related information and documents. The revamped website aims to include statistics related to Islamic Finance, organisational structures, approved manuals, and a repository of resolutions addressing general issues. The lack of transparency in this context could lead to diminished trust in the industry among stakeholders such as customers and investors.





Lack of Competency

Given that the respondents of this research primarily consist of Shariah Committee Members and experts in Islamic finance, their understanding of Shariah governance and the Shariah Governance Framework was conveyed professionally and proficiently.

From a regulatory standpoint, the MMA staff is adequately equipped and trained to fulfil their roles. However, it's worth noting that there is a constraint on their budget, limiting their ability to hire employees with specific qualifications and expertise.

A majority of the respondents identify a lack of expertise in the field as a central challenge in implementing the Shariah Governance Framework. For instance, one respondent highlighted that graduates might not possess the qualifications required to conduct a Shariah review, a task stipulated by the Shariah Governance Framework. This requirement demands that officers understand pertinent Shariah requirements applicable to Islamic Financial Institutions. Due to this gap in expertise, allocating dedicated staff for each internal function becomes challenging.

Furthermore, respondents noted instances where institutions lacked the necessary knowledge of Islamic finance when submitting documents for advice and approval by the Shariah Committee. Consequently, Shariah Committee members had to review and rectify the documents.

Several respondents have encountered situations where certain members lack relevant expertise in the field of Islamic finance. This discrepancy manifests in members possessing either Shariah expertise or expertise in Islamic finance, but not both. This might stem from the fact that Shariah scholars typically receive training and experience in areas such as family law, criminal law, prayer, and fasting rather than business. As a respondent emphasised, the absence of a business-oriented education among Shariah scholars underscores the need to revise primary and secondary education curricula. By providing both basic and advanced education in Islamic finance, this revision could encourage specialisation in Islamic finance among the upcoming generation.

In conclusion, the lack of transparency and the associated scarcity of human resources and expertise in Islamic finance underscore the difficulties and obstacles faced in ensuring the proper implementation of the Shariah Governance Framework. These issues can compromise the integrity of Islamic financial institutions and their ability to serve their stakeholders in accordance with Islamic principles. Efforts to address these challenges may involve investing in education and training for Shariah scholars and finance professionals, improving reporting and disclosure practices, and enhancing oversight and governance mechanisms within Islamic financial institutions.

Lack of Consistency

The respondents concur on the necessity to streamline the Shariah rulings issued by various Shariah committees within different institutions. This effort would foster harmonisation and uniformity across the industry. Moreover, a majority of respondents assert that the Shariah Advisory Council of the MMA should adopt a more proactive role in shaping the rulings related to specific authorities conferred by individual Shariah Committees.

From the regulator's standpoint, the primary role of the Shariah Advisory Council is to grant approvals for product development and ensure that institutional activities adhere to Shariah principles, guided by the fundamental directives provided in the Shariah Governance Framework. The regulatory body's tendency to remain reserved on certain matters stems from the advisory nature of the Shariah Advisory Council, which is not established as a statutory





body with governing authority over Shariah rulings. The respondents emphasise that although the Shariah Advisory Council currently offers guidance on matters unresolved within institutions, the resolutions issued are not published publicly.

In essence, a prevailing sentiment highlights the need for achieving greater cohesion among the diverse rulings issued by different institutions' Shariah committees. This alignment is vital to mitigate potential confusion among stakeholders such as investors and customers, thereby enhancing transparency and trust within the Islamic finance industry.

Gaps in the Shariah Governance Framework

Implementing the SGF marks the initiation of efforts to streamline Shariah governance practices. Notably, one respondent emphasised that the SGF established by the MMA closely parallels the internal Shariah compliance manual, leading to the observation that no significant gaps are evident. This respondent further indicated that, as of now, the framework adequately caters to the industry's requirements and anticipates potential adjustments in response to industry growth and evolution.

In contrast, other respondents identified specific gaps and areas requiring improvement, which encompass:

Insufficient Details on Guidelines on Procedures

The respondents noted that the SGF outlines general requirements, which, in their view, should be augmented with greater specificity in certain areas. They recommended that the SGF elaborate on particular aspects, such as delineating the necessary procedures and elements for effective Shariah risk management. Similarly, respondents pointed out that the guidelines pertaining to product development approval should be more comprehensive, considering the challenges institutions encounter during this stage.

Some respondents advocated for a more stringent approach, emphasising the need for increased detail in the Shariah compliance functions. They proposed the inclusion of clauses specifying consequences in the event of a breach of the SGF, thereby establishing a clear framework of repercussions for non-compliance by Islamic finance institutions. This, they argued, would contribute to the proper governance and growth of the industry, particularly given the growing number of new entrants.

However, differing opinions surfaced among the respondents. While some echoed the sentiment that the existing level of detail is sufficient for the current state of the Maldives market, others asserted that the framework should be adaptable to accommodate the industry's evolution and expansion.

Insufficient details on guidelines for window operations

One respondent emphasised that the current SGF lacks specific guidelines on how the operation of a window should be governed. Institutions operating as windows within conventional companies presently face challenges distinguishing their documentation and adhering to general guidelines that apply to the entire company. The SGF needs to differentiate between the Islamic and conventional mechanisms in terms of supervisory and operational aspects to address these issues effectively.





Insufficient Shariah audit requirements

The respondents have pointed out a significant gap within the SGF, specifically the lack of explicit guidelines or requirements for conducting external Shariah audits. While the framework does offer some direction on how internal Shariah audits should be carried out, it is important to note that even these guidelines are not mandated. This absence of clear directives for both external and internal Shariah audits raises concerns about the consistency and effectiveness of the Shariah governance process across Islamic financial institutions in the Maldives. It also leaves room for interpretation and variation in the implementation of Shariah compliance measures, potentially leading to discrepancies and challenges in ensuring a uniform standard of compliance within the industry. The inclusion of comprehensive and well-defined guidelines for both external and internal Shariah audits could significantly enhance the overall effectiveness and credibility of the Shariah governance framework.

Limited Frameworks to Complement Shariah Governance Framework

The respondents concur that the enhancement of the SGF could be achieved through the establishment of specific regulatory frameworks. Currently, the Islamic finance industry in the Maldives operates under a limited number of regulatory frameworks and acts, including the Banking Act of 2010 and the guidelines for product approval set forth by the Shariah Advisory Council of the MMA. However, the respondents acknowledge that this existing framework landscape poses certain challenges that need to be addressed at a constitutional level.

Regulators emphasised that efforts are underway to address these limitations. For instance, the development of an Insurance Act is in progress and awaits endorsement by the parliament. Once this act is enacted, the MMA intends to introduce a dedicated framework within the SGF to govern takaful operations. This highlights a proactive approach to expanding the regulatory framework to encompass a broader range of Islamic financial activities, ultimately contributing to a more comprehensive and robust Shariah Governance Framework that aligns with the evolving needs of the industry.

Insufficient Standard Operating Procedures (SOPs) and Templates

The respondents, including the regulators, are in consensus that the inclusion of specific templates within the SGF would greatly enhance its effectiveness. These templates are envisioned to establish standardised procedures, thereby fostering consistency and streamlining the reporting process across various Islamic Financial Institutions.

The respondents emphasised the need for a range of templates and Standard Operating Procedures (SOPs) to be integrated into the SGF. These proposed templates encompass various aspects such as the methodology for conducting Shariah reviews, standardised formats for Shariah review reports and Shariah audit reports, guidelines for establishing a Shariah committee, and a framework for practicing Shariah compliance. By providing these templates, the SGF can play a pivotal role in promoting adherence to best practices and facilitating the adoption of uniform processes throughout the industry.

In addition to enhancing consistency, these templates would serve as essential tools for compliance mechanisms, ensuring that IFIs are well-equipped to meet Shariah governance requirements effectively. Moreover, the respondents, particularly the Shariah Committee members, highlighted a noteworthy recommendation for the regulator to transition Islamic windows into separate subsidiaries. They suggest that Islamic windows have fulfilled their





intended purpose and, therefore, advocate for the development of SOPs to guide the transformation process.

These proposed enhancements underscore the commitment to ensuring a robust and comprehensive Shariah Governance Framework that aligns with industry needs and supports the industry's growth and development.

CONCLUSION AND RECOMMENDATIONS

Based on the comprehensive analysis of the SGF implementation challenges in the Maldives, several key recommendations emerge to strengthen and enhance the framework's effectiveness:

1. **Proactive Regulatory Approach:** To address the challenges of vagueness and generalisation within the current SGF, the MMA should adopt a proactive regulatory approach. This entails taking the initiative in dictating rules and standards rather than solely responding to issues brought forward. The framework's provisions should be more specific and comprehensive, providing clearer guidelines for Shariah compliance and governance practices. Publishing resolutions and advice on general matters would serve as a valuable resource for Islamic financial institutions, aiding their pursuit of effective Shariah governance and compliance.
2. **Development of External Shariah Audit Requirements:** To align the Maldives with international best practices, the implementation of external Shariah audit requirements within the SGF is essential. This will ensure an independent assessment of IFIs' adherence to Shariah principles, enhancing accountability, credibility, and stakeholder protection.
3. **Government Support:** Recognising the constitutional constraints that hinder the establishment of comprehensive standards and frameworks, the government's active involvement is crucial. Collaboration between regulatory bodies and the government is needed to formulate robust Shariah governance regulations, thereby promoting the stability and growth of the Islamic finance industry.
4. **Enhancement of Fit and Proper Criteria:** Strengthening the SGF's fit and proper criteria for Shariah committee members, board, and management teams is vital. Introducing additional attributes such as minimum experience, exposure to the market, track record, enhanced academic qualifications, and good behaviour will bolster key decision-makers' expertise and ethical standards.
5. **Enforce Stricter Requirements:** The current SGF serves as a basic foundation but requires augmentation with mandatory requirements. Detailed roles for boards, management, and Shariah committee members need to be defined. Additionally, guidelines for control functions like risk management and Shariah review processes should be more specific, outlining core areas that must be addressed. Enforcing the mandate for external Shariah audits will promote accountability, stakeholder protection, and compliance with legal and Shariah standards.
6. **Allocation for Continuous Training Programs:** Addressing the knowledge gap and lack of qualified human resources requires a dedicated effort. The SGF should stipulate fund allocation for continuous training programs for Islamic department staff and personnel in related departments. This initiative will enhance competency, foster awareness, and contribute to a shift in the institutions' overall mindset.





7. Development of SOPs and Templates: To streamline reporting and governance processes across IFIs, the SGF should incorporate standardised templates and SOPs. These could cover various aspects like Shariah audit reports, Shariah review assessment reports, and other documentation. This will facilitate consistency, promote effective communication, and expedite regulatory assessments.

8. Assessment of SGF Implementation: To gauge the effectiveness of the SGF and its impact on IFIs, conducting comprehensive assessment is recommended. This evaluation should measure the extent of implementation, identify gaps, and assess the framework's ability to achieve its intended objectives.

In conclusion, the study on overcoming implementation challenges for Shariah Governance in the Maldives highlights both the progress made and the areas that require enhancement in the Islamic finance industry. The Shariah Governance Framework of the Maldives Monetary Authority (MMA) is a significant milestone in promoting Shariah compliance and fostering growth within the sector. However, challenges such as lack of independence, awareness, transparency, competency, and specific guidelines persist. The gaps identified within the SGF underscore the need for further refinement.

The Maldives can fortify its Shariah governance ecosystem by embracing a proactive regulatory approach, developing external Shariah audit requirements, and enhancing fit and proper criteria. Collaborative efforts between regulatory bodies and the government will play a pivotal role in advancing the industry's standards. Stricter requirements, continuous training programs, standardised templates, and a comprehensive assessment mechanism collectively pave the way for a robust and progressive Shariah Governance Framework.

Addressing these recommendations will not only propel the Maldives' Islamic finance industry to new heights but also ensure the preservation of Shariah principles, stakeholder confidence, and sustainable growth. As the industry evolves, the commitment to strengthening Shariah governance will remain paramount for its enduring success.

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